

TRUSTS AND ESTATE PLANNING

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Trusts & Estate Planning

Many people have preconceived notions about trusts and believe that they are only for the very wealthy who wish to leave large trust funds to their children. However, this is far from the truth; trusts are invaluable tools in the estate plans of millions of individuals, regardless of their age, health or net worth.

Trusts are simply an arrangement where one party holds property on behalf of another party. In an estate planning context, trusts are created by the person doing the estate planning (the trustmaker), who authorizes another person (the trustee) to manage the assets for the benefit of a third party (the beneficiaries). There are many reasons for establishing trusts including estate tax minimization or providing for the needs of underage or disabled beneficiaries.

Some types of trusts are frequently used in estate planning are:

- **Trusts for Minors.** Many people leave money to their children or their grandchildren in a trust as part of a comprehensive estate plan. This is typically done to ensure the money is there for the children's benefit while they are younger-for support, education, medical expenses, etc. Once the children reach a certain age or achievement level (such as obtaining a bachelor's degree), they may receive money from the trust to do with as they please.
- **Special Needs Trusts.** Special needs or supplemental needs trusts are tools that enable a person to leave property to an individual with special needs. Many individuals with special needs receive government benefits. If they were to suddenly inherit money, they would be disqualified in most cases from those benefits until the inheritance was spent. Special needs

trusts protect those individuals' government benefits while allowing them to have money for any extras they may need.

- **Marital Trusts.** Married couples sometimes include trusts in their wills, or separately, for the benefit of their spouse, typically for two reasons: (1) taxes, and (2) property protection. In some cases, marital trusts are needed for some couples to take advantage of federal or state estate tax exemptions, and they may be needed in the future as the laws are expected to change. Marital trusts can also protect property from a spouse to ensure that it ultimately goes where it needs to go. For example, a husband with grown children from a previous marriage may decide to let his wife use his property after he passes, but puts it into a trust so that after she passes away it goes to his children.
- **Revocable Trusts.** Revocable trusts are documents completely separate from wills although they often work hand in hand with wills to carry out the decedent's wishes. Revocable living trusts are primarily used to avoid probate. Often times a revocable trust is used to complete estate tax minimization planning for a married couple.
- **Irrevocable Life Insurance Trusts.** Irrevocable life insurance trusts (or ILIT's) can be used in order to move a person's life insurance proceeds outside his or her estate for estate tax purposes.
- **Spendthrift Trusts.** Spendthrift trusts are generally established to protect the beneficiaries' assets from both themselves and creditors. These trusts usually have an independent trustee which has complete discretion over the distribution of assets of the trust.

As you can see, there are many different types of trusts, each of which can be customized to serve a valuable purpose in accomplishing the wishes of those

making gifts or planning an estate. An experienced estate planning attorney can help you assess your finances and goals to determine the best vehicles to preserve your wealth and your legacy.

Anthony V. Feroci, Jr. is an attorney in Leominster, Massachusetts. He is a member of the National Academy of Elder Law Attorneys, Wealth Counsel and the Massachusetts Bar Association, and he is admitted in all Massachusetts courts, the Federal District Court for Massachusetts, and the United States Court of Appeals for the First Circuit.

Anthony Feroci's law practice is concentrated in estate planning, long-term care, Medicaid planning, and asset protection.

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