

Do I need a Trust?

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Whenever we do an estate plan for a client, we always explain the differences between a Last Will & Testament and a Living Trust. While some people believe everyone needs a Trust, we have a different opinion in our office.

For a married couple, a Trust can increase the amount of assets or money that can be passed on to someone other than a spouse. (There is no limit on the assets that can be left to a spouse.) Arizona residents can pass on \$2 million in assets to someone other than a spouse without incurring estate tax. Those kinds of trusts are often called an “AB” Trust and they can double the amount you can leave on a tax free basis.

Another advantage of a Trust is that all assets that are titled in the Trust should avoid the filing of a probate. That is very important if assets are held outside of Arizona . For example, if you own land in Michigan that is not titled in the Trust, a probate will need to be opened in Michigan , as well as in Arizona .

It is of crucial importance that you actually re-title your assets into the Trust. If you pass away and all the assets are held in your name, you will have spent money for a big binder and will still need to file a probate action. Re-titling your assets means going to the bank and contacting all of the other entities where your money is invested, and having the account changed from your individual name to the name of the Trust (other than retirement funds). It is such a shame when a family comes to me after the death of a loved one and finds out that none or few of the assets were actually moved to the Trust. Do not procrastinate—Re-Title Your Assets!!

If one spouse passes away or someone other than the original Trustee needs to take over the Trust and there is real property in the Trust, be sure and record an Affidavit of Successor Trustee in the appropriate county. This puts the world on

As you may be realizing, a Trust is not just a lot of paper, but also quite a bit of responsibility on your part.

The probate process in Arizona is not particularly complex or expensive. Additionally, as we have explained in previous newsletters, there are other actions you can take to avoid probate. You may not need a Trust if your only goal is to avoid probate.

Some people mistakenly think that a Trust will protect assets from creditors—it will not. Also, the State of Arizona will not “freeze” your assets if a probate is required.

In my opinion, a Trust is not for everyone. You should analyze your situation and your needs before determining which document will best suit your estate.

It is **as** important to be an educated consumer when you purchase an estate plan as it is when you buy a car—which do you think you will have for a longer period of time?

This article provides a brief over view of the new changes, but does not cover all of the changes.

Making the decision about purchasing any type of investment is important. We do not provide financial, tax or investment advice. If you would like such advice, we recommend you seek the advice of a professional who can provide such advice and information.

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notice that the successor Trustee has the right to handle the real property.

Also, after one spouse passes away, in order to take advantage of the tax issues, the Trust assets must be allocated to the various trusts. That means that additional tax returns might be required to be filed each year.

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