

ESTATE PLANNING MATTERS



DO I STILL NEED A LIVING TRUST?

Most of my clients have a Revocable Living Trust as the centerpiece of their estate plan. For many of them, a major reason they created the trust may have been the significant *estate tax* benefits it provided. But as you may have heard, recent tax law changes have essentially eliminated the danger of an estate tax for more than 99% of us. Thus, for most of my clients the Living Trust no longer provides any *estate tax* benefits. So it is reasonable for folks to wonder if their Living Trust now serves any beneficial purpose and to ask: “Do I still need a Living Trust?”

I can honestly say that in over 37 years of practice, I have never drafted a Living Trust for a client based solely on tax reasons. So, I cannot imagine any reason why someone who has an existing Living Trust would now want to get rid of it. In any event, if something you read or hear prompts you to ask if you still need a trust, here are some questions to ask:

Do you want to provide the most efficient means to ensure that if you become incapacitated, the person(s) you choose will be able to manage your property and assets for you and use those assets to provide for the health and support of you and your dependents?

If you are married, do you want to provide protection against your spouse re-marrying after your death and avoid the risk of having the children of a second marriage inherit your estate rather than your children?

If you are married, do you want to provide that after your death, if your surviving spouse becomes incapacitated, someone will be able to manage your estate assets for your spouse’s benefit without resorting to costly guardianship litigation?

If you have minor children, do you want to make sure someone you select will be able to manage any inheritance your children might receive and provide for their education and support?

If you have grandchildren, do you want to ensure that your estate will pass to them if your child dies – rather than to your son- or daughter-in-law?

Do you have any adult children who, due to substance abuse, disability, special needs, financial irresponsibility or some other reason, would benefit from having someone else manage their inheritance for them so it is not squandered?

Do you want to make it easier and less expensive for your heirs to administer your estate by avoiding probate?

Do you want to ensure that the administration of your estate will be private and not a matter of public record?

The bottom line is that a Living Trust serves many purposes and can help achieve many objectives that have absolutely nothing to do with taxes. So, if you have a Living Trust, there is no reason why you would want to get rid of it. And if you don't already have a Living Trust, there are still many reasons why you should.

If you have questions about the usefulness of a Living Trust, or any other estate planning issue, please feel free to give me a call.

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