

Estate Planning Information



Provided by Liberty Trust Preparation
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The Pitfalls of Probate

Have you ever wondered what will happen to your estate after you die? How long will it take for your loved ones to receive the estate you've left them? Will each receive what you'd like them to have?

If you're like most people, your estate will go through a lengthy probate process.



What is Probate?

Probate consists of those court proceedings that conclude all your legal and financial matters after your death. The probate court distributes your estate according to your wishes and acts as a neutral forum in which to settle any disputes that may arise over your estate, if you leave a valid Will.

The probate process we have today is based largely on the medieval English legal system. In feudal times, only powerful families owned land. These large estates were normally passed down from father to son. This transfer was naturally a matter of great political consequence and thus of great interest to the king. So the proceedings were made formal, complicated, and costly.

Over the years, while much of the legal system has been made easier and more

accessible, the probate process has remained lengthy and complex.

There are a number of problems with the probate process that make it worth avoiding.



Time

The probate process takes a great deal of time. The settlement time frame for most estates is from nine months to two years. Complex or contested estates can take much longer.

With few exceptions, your heirs will have to wait until probate is concluded to receive the bulk of their inheritance.



Cost

Of course, all the probate court's "help" with your affairs comes at a price. Probate can be very expensive. Depending on the state, probate and administrative fees can consume between 5 and 10 percent of your estate.

That percentage is calculated before any deductions or liens are taken out.



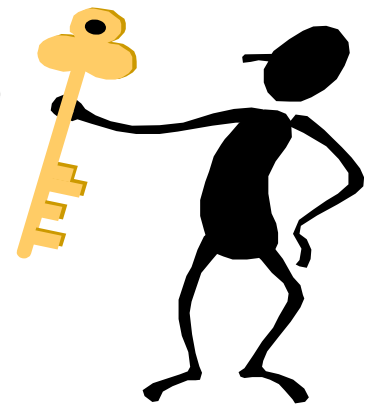
Lack of Privacy

The proceedings of the probate courts are a matter of public record. Anyone with the time and inclination can go to the county courthouse and find out exactly how much you left to each heir and to whom you owed money. This leaves your heirs with little or no privacy. And it makes it easy for just about anyone to contest your Will.

There Are Answers

Fortunately, there are strategies you

can use to



avoid the probate process altogether. A Trust may enable you to pass your estate on to your heirs without ever going through probate at all.

Proper estate planning could enable you to pass your estate to your loved ones privately, without undue delay or expense.

Understanding Living Trusts

Living Trusts enable you to control the distribution of your estate and may enable you to reduce or avoid many of the taxes and fees that will be imposed upon your death.

A Trust is a legal arrangement under which one person (the Trustee) controls property given by another person (the Trustor) for the benefit of a third person (the beneficiary). When you establish a Trust, you are allowed to be the Trustor, Trustee, and the beneficiary of that Trust.

When you set up a living Trust, you transfer ownership of all the assets you'd like to place in the Trust from yourself to the Trust. Legally, you no longer own any of the assets in your Trust. Your Trust now owns your assets but as the Trustee, you maintain complete control. You can buy or sell as you see fit. You can even give assets away.

Upon your death, there isn't anything to probate because the assets are held in a Trust. Therefore living Trusts completely avoid probate. If you use a living Trust, your estate will be available to your heirs upon your death, without any of the delays or expensive court proceedings that accompany the probate process.

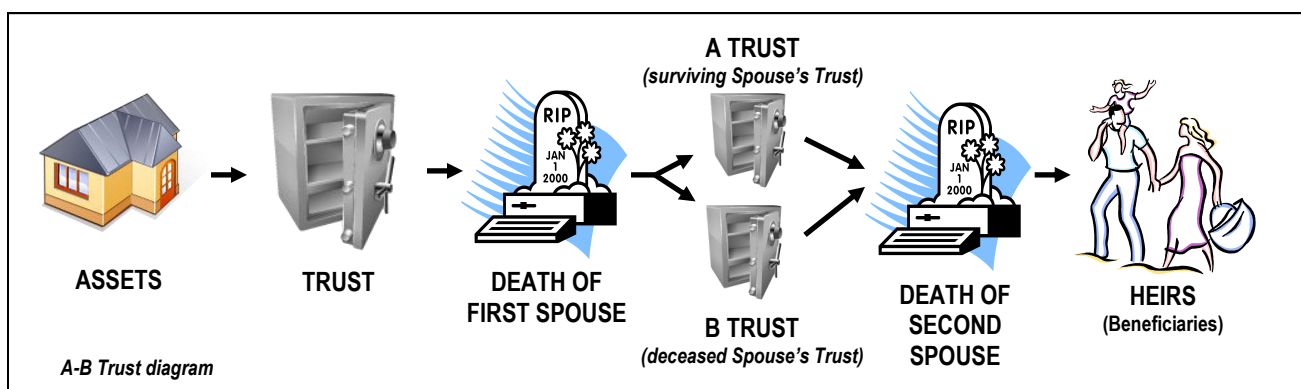
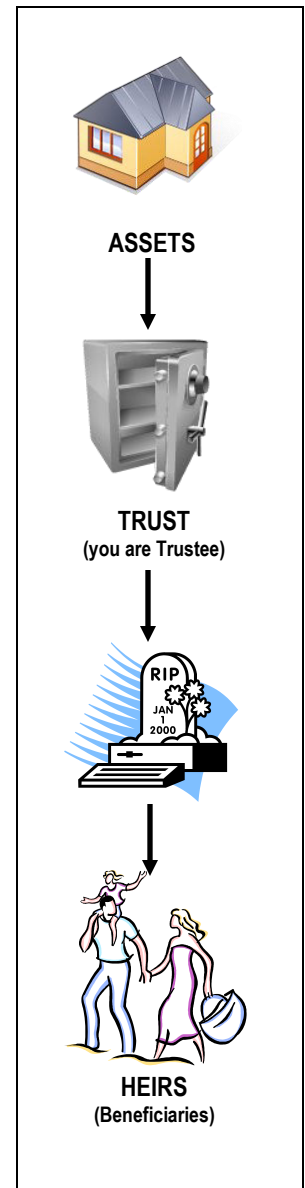
There are some Trust strategies that serve very specific estate needs. One of the most widely used is a living Trust with an A-B provision. An A-B Trust enables you to take a Federal Estate Tax Exemption on each death.

When an A-B Trust is implemented, two subsequent Trusts are created upon the death of the first spouse. The assets will be allocated between the survivor's Trust, or "A" Trust, and the decedent's Trust, or "B" Trust.

This will create two taxable entities, each of which will be entitled to use a personal exemption that exists at the time of death.

The surviving spouse retains full control of his or her Trust. He or she can also receive income from the deceased spouse's Trust and can even withdraw principal from it when necessary for health, support, or maintenance.

On the death of the second spouse, the assets of both Trusts pass directly to the heirs, completely avoiding probate. There will be no federal estate tax if surviving spouse's trust is less than the current exempt amount.



How does a Living Trust Work?

Just like a Will, a Living Trust will enable you to control the distribution of your estate. It also enables you to reduce or avoid many of the fees and taxes that will be imposed upon your death.

A living Trust also completely avoids probate. Your estate will be available to your heirs immediately upon your death, without the delays or expensive court proceedings that accompany the probate process.

What's a Trust?

A Trust is a legal arrangement under which one person or institution controls property given by another person for the benefit of a third party. The person

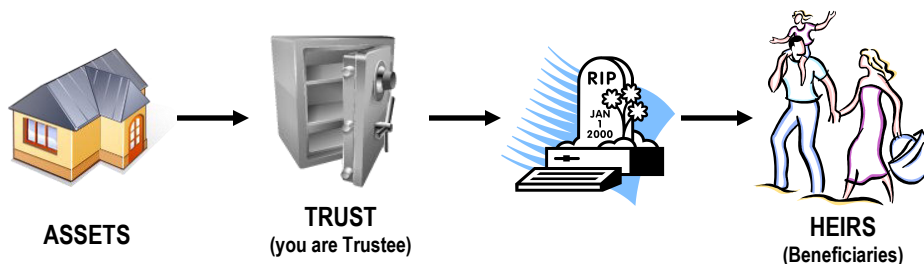
giving the property is referred to as the Trustor, the person controlling the property is referred to as the Trustee, and the person for whom the Trust operates is referred to as the beneficiary. A living Trust is simply a Trust that is established while you are still alive. A Trust that is established upon your death is called a "testamentary" Trust.

Before you panic at the thought of giving up control of your assets to a stranger, remember this: you are allowed to be the Trustor, the person giving the property, and the Trustee, the person controlling the subsequent Trust. This means that you can maintain full control over all assets that you place into the Trust.

How Does It Work?

When you set up a Living Trust, you transfer ownership of all the assets you would like to place in the Trust from yourself to yourself as Trustee of the Trust. Legally, your Trust owns the assets with you as Trustee. With the assets no longer in your personal name, there is nothing to probate when you die.

And since you are the Trustee, you maintain full control over the assets within the Trust. You can buy or sell as you see fit. You can even give assets away. Trusts have been in use for decades. Establishing a Trust is almost always less expensive than going through probate.



Your Living Trust will include...

- ◆ Consultation and analysis of your Estate Planning needs
- ◆ Custom drafted Trust with extra planning features
- ◆ Abstract of Trust
- ◆ Pour-Over Will
- ◆ Durable Power of Attorney, Health Care
- ◆ Durable Power of Attorney, Asset Management
- ◆ Preparation of Grant Deeds
- ◆ Trustee Instructions
- ◆ Personal Property Directives
- ◆ Transfer Letters
- ◆ Burial Instructions
- ◆ Document Location List

How does an A-B Trust Work?

There are some trust strategies that serve fairly specific estate planning needs. One of the most widely used is the A-B trust. An A-B trust enables you to double the exempt amounts for estate tax purposes.

Exemptions

Virtually every estate is subject to estate taxes. But there are a couple of notable exceptions.

The first is the unlimited marital deduction. The federal government has exempted all transfers of wealth between a husband and wife from federal estate and gift taxes. Regardless of the size of the estate, there will be no federal estate tax liability when a husband or wife dies and leaves his or her wealth to the surviving spouse.

In addition to the unlimited marital deduction, there is a personal exemption. If the total value of your estate is less than the personal exempt amount upon your death, there will be no federal estate tax liability.

By taking some careful steps in advance, you will be able to take advantage of this exemption equivalent twice. Once on the death of the first spouse, and then again on the death of the second.

How Does It Work?

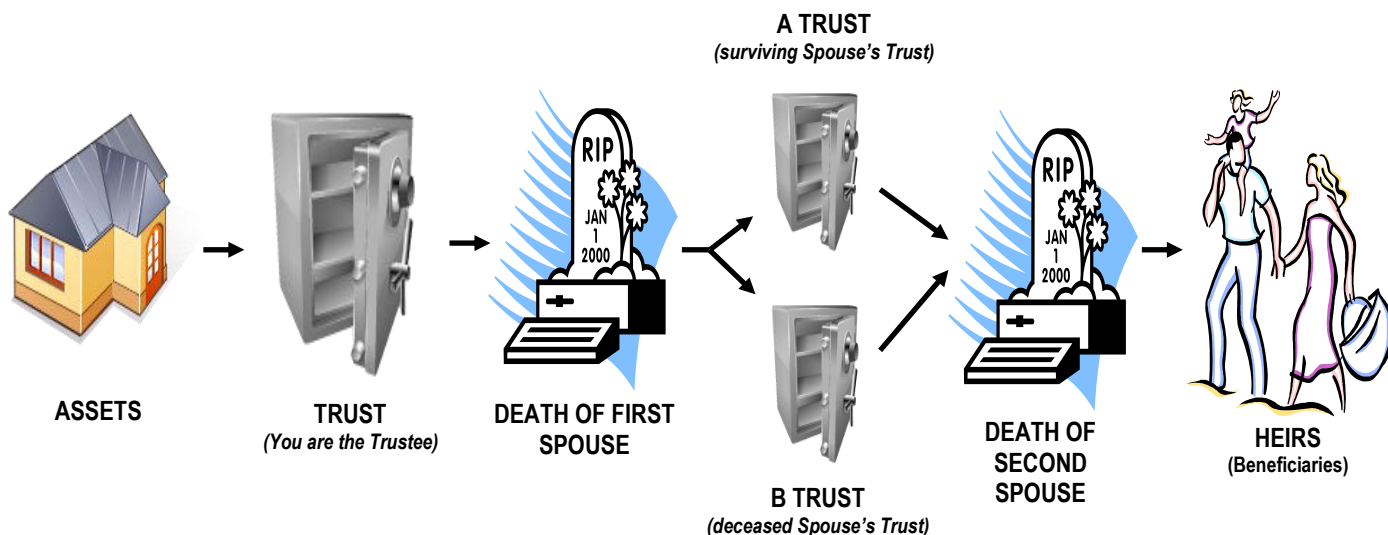
In an A-B trust, you and your spouse establish a single trust with an A-B provision.

Upon the death of the first spouse, two separate trusts are created. The assets of the surviving spouse are placed in

the A trust and the assets of the deceased spouse are placed in the B trust. This then creates two taxable entities, each of which is entitled to use the exempt amount available at the time of death.

The surviving spouse retains complete control of the assets in his or her trust. He or she can also receive income from the deceased spouse's trust and can even withdraw principal from it when needed for health, support, or maintenance.

Upon the death of the second spouse, the assets of both the A trust and the trust pass on directly to the heirs, completely avoiding probate. If each of the trusts contains an amount equal to, or less than the exempt amount available at the time of death, these assets will pass on to the heirs free of federal estate taxes.



Controlling Your Estate Distribution

There are a number of ways your estate can be distributed to your heirs after your death. Each allows a different degree of control over distribution and with it different challenges and opportunities.

Intestacy

If you die without a Will or trust in place, it is called "dying intestate".

In these situations, the probate court will order your debts paid and your possessions distributed according to the intestacy laws of your state. Since the state doesn't know your preferences, the probate court is not likely to distribute your assets according to your wishes.

Your heirs may have to endure a long and costly probate process that could easily take one to two years. They will have to wait



until this process is concluded to receive the bulk of their inheritance.

And, depending on the state, probate and administrative fees could easily consume between 5 and 10 percent of your entire estate.

Also **remember** that probate proceedings are a matter of public record. Your heirs will not have any privacy.

In short, by doing nothing, you'll accomplish nothing, and you may bring undue hardship to your heirs.

Wills

A Will is your personal outline of how you would like to have your assets distributed after your death. Using a Will as your primary estate planning tool virtually guarantees probate.

Upon your death, the probate court will rule on the validity of your Will and then order your debts paid and possessions distributed according to the terms of that Will.

As with intestacy, your heirs could easily wait for one to two years before receiving the bulk of their inheritance.

By using a Will, you still maintain quite a bit of control over the distribution of your assets but remember, Wills are easily contested.

Probate is time-consuming, costs a great deal of money, and basically eliminates any privacy you may have hoped to provide for your heirs.

Trusts

A trust is a legal arrangement under which one person or institution, the trustee, controls assets given by another person, the Trustor, for the benefit of a third person, the beneficiary.

It's important to point out that you are allowed to be the Trustor, the trustee, and the beneficiary of a trust.

At your death, your debts will be paid and your possessions distributed to your written instructions. You'll main-



tain complete control over the distribution of your assets.

If you use a "living" trust, there are *no* probate proceedings. That will enable your heirs to avoid the disadvantages of probate.

Your heirs will likely receive their inheritance in a few weeks rather than the months or even years that probate could take. Since they will avoid probate, they will completely avoid probate fees.

Since the distribution of an estate according to the terms of a trust is *not* a matter of public record, they will have complete privacy.

