Why Setting Up a Living Trust May Be Unnecessary

Living trusts are a great way to leave your loved ones property without having to go through the expensive hassle of probate. Probate refers to the process of a special court distributing one’s property to heirs after death. This can be a very lengthy and expensive process, especially with larger estates. There are a number of ways to avoid probate, including pay-on-death bank accounts, holding joint tenancy with your partner, life insurance policies, gifting assets before death, and naming beneficiaries on your retirement accounts. All of these are limited to certain types of property. A living trust has no such limitations. Living trusts allow you to avoid probate, work within the broad planning flexibility a will offers, and gift pretty much all of the property of your estate to trusts.

However, a living trust still may not be necessary in your case, depending on your age, size of your estate, and marital status. As wonderful and beneficial as they are, living trusts do have drawbacks. Setting up a living trust takes longer to establish, involves more routine upkeep and maintenance, and is harder to alter, compared to a last will and testament. It is best to use a lawyer when setting up a living trust, but this can cost more than $1,000. Even after setting up a living trust, you still should create a last will and testament, as a back-up. The benefits of a living trust can still outweigh the drawbacks, however, if setting up a living trust is right for your situation. Consider the following factors and decide if you should set up a living trust.

Age

Because of the cost and energy of maintaining it, setting up a living trust may not be right for you if you are under the age of 55 and relatively healthy. A living trust serves you no benefit during your lifetime. A young, healthy person will probably not have to worry about the costs of probate for years to come. Until then, creating a will that is easier to create and maintain will suffice in transferring your property should something happen to you unexpectedly. Furthermore, recent techniques in avoiding probate are becoming more and more accepted. As you get older, these techniques will more than likely become even more common, mooting the need for you to worry about living trusts.

Size of your estate

The bigger your estate, the more assets you have at risk of losing in probate. Therefore, the wealthier you are, the more you can potentially save by avoiding probate. The types of assets also make a difference. If you own something, like a business that would be harmed if tied up in probate proceedings, going forward with creating a living trust might be sensible. Even if you are young and healthy, it would be smart to avoid risking your executor having to report any on your business to a judge for a long length of time.

Marital status

Married couples who plan on leaving their property to each other have less of an interest in setting up a living trust, especially if you own your large assets jointly. Probate is not necessary for those types of assets. For property that is not owned jointly, most probate procedures are pretty good at speeding up the process for surviving spouses, which also makes it cheaper.
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