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Frequently Asked Questions about Living Trusts

What are the advantages of a living trust?

- 1) You may manage this Trust yourself and act as your own *trustee*. In a joint trust, your spouse may continue full management control after your death.
- 2) A living trust offers an opportunity to avoid possible *estate taxes* by allocating the family assets into two separate (A-B) trusts. A living trust offers flexibility: it may limit its use to one kind of asset or combine all of your holdings for ease in personal financial management. While there may be no immediate tax benefits upon forming a living trust, there are no tax disadvantages either.
- 3) A living trust operates as an excellent "transition" document. When you are no longer able or willing to manage your financial affairs, your trustee can assume management by following the steps outlined in your Trust. No outside intervention is necessary.
- 4) By setting up a living trust, your heirs avoid the much greater expenses of probate and the delays and public scrutiny associated with the probate system. However, the Trust assets may still be subject to state and federal estate taxes.
- 5) For those who wish to remember a favorite charity at their death, the living trust retains all of the tax-saving benefits of leaving property by way of a Will.

Is a living trust the right thing for me?

If you own real property worth more than \$20,000, or have total assets with a gross value of more than \$100,000, a probate proceeding will likely be required if you do not have your assets in a living trust when you die.

Does a living trust replace a Will?

No. A living trust may accomplish many of the same purposes that a Will does, but it does not allow for the transfer of assets not held in the Trust (such as *tangible personal property*) and does not appoint guardians for your children. A Will should "pour over" your remaining assets into the Trust for disposition according to the Trust provisions.

What is the difference between funding a living trust and designating a beneficiary of a living trust?

Funding deals with the change of legal title of assets which then legally makes them part of the Trust. A beneficiary designation merely instructs where the proceeds of the Trust are to be distributed at death.

What are the disadvantages of a living trust?

The disadvantages, if any, are usually minimal. There might be occasions where the family would prefer a Court-supervised probate instead of a private trust administration. But, the power of the Courts can be brought to bear to redress any irregularity during a trust administration.