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MATSUMURA LAW FIRM

Wills, Trusts, Probate
And Estate Planning

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A Living Trust Is A Structure to Organize the Management of Your Assets for Your Benefit

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How Do Living Trusts Work? Part I

Putting Down Your Intent for Your Assets on Paper

A revocable living trust is a flexible tool to ensure that your property is managed how you wish. The ultimate goal of your trust is to fulfill your intent for to your assets during both your lifetime and after your passing by writing your wishes down on paper. In writing your wishes down, it is a good idea to get legal help to make sure that the trust properly considers laws.

Simply put, a trust is a contract. There is nothing mystical about it.

arise mostly when family members disagree as to a deceased person's intent. When a loved one passes, family members search for any and all instructions regarding last wishes. Without this guidance, the family is left guessing and sometimes, fighting, about what those desires might be. Specifying your intentions in a trust document can preserve a legacy of family harmony and ease a difficult time for your family.

Your Trust is Revocable Contract. Your living trust is a "revocable" contract, meaning that after you sign the trust contract, you can change it, add to it or terminate it at any time. All the terms of the trust can be reversed and undone by you. This absolute freedom is consistent with your wishes, because you do not want your trust to restrict your control over your assets. Your trust is basically your "alter-ego".

Parties to The Trust. Just like a corporation has a CEO and shareholders, there are three (3) main parties to a trust, as follows:

1. Settlor (also called grantor or trustor). The settlor is the creator of the trust. If you set up your trust, you will always be the settlor.

2. Trustee. The trustee is the "manager" of the assets owned by the trust. You will be trustee of your own trust while you are able. If you are unable, you will select your successor trustees to help you. The trustee is the "tool" to

(continued on reverse)

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A Trust Carries Out Your Intent For Your Assets (continued)

carry out your intent for your assets, if you cannot do it yourself.

3. **Beneficiary.** The beneficiary of the trust will be you during your lifetime, and when you pass away, the beneficiaries will be your children or other individuals or charities which you specify.

This step is called “funding” your trust. You fund your trust by removing your name from your assets and placing your trust’s name on instead. There are no adverse income, gift or property tax consequences to “funding” your trust. Although your trust will end up owning your assets, you own the trust, so you remain the owner with full control over your as-

A Trust Is Your Handbook for Your Management Control Over Your Assets

You Retain Full Control Over The Trust Assets. When you set up your trust, you will serve as ALL parties to it—settlor, trustee and beneficiary. The trust is a private contract. Since you are all parties to it, you can actually ignore the terms of the contract—since you are not going to sue yourself for breach of contract. The trust becomes an enforceable and binding contract only to others that may serve as trustee or beneficiary of your trust.

The Trust Entity is a “Basket” for Your Assets. Practically speaking, the trust is an entity, much like a corporation or partnership. Since the trust is not a “for-profit” entity, I prefer to think of the trust as a “basket”. When you sign your trust contract, the basket comes into existence. The trust is a “handbook” for management of your assets.

Funding The Trust—Your “Handbook” Can Govern Only What It Owns. After the trust document is signed and the “basket” exists, the next step is to place your assets into the basket.

(next column above)



sets. The trust can only control what your trust owns. If an asset is not owned by your trust, then the trustee does not have any authority to manage it, and cannot carry out your wishes as to that asset. The funding step involves a lot of paperwork, but it is a critical step, and your trust cannot properly function with being funded.

No Separate Tax Filings. Because you retain full control over your assets, the IRS does not want to know about your trust and no separate tax filing are required for your trust. Your own SSN is used for the trust’s taxpayer identification number (TIN). You file your tax returns as if the trust did not exist.

Why Go Through The Trouble? Creating a trust entity and re-titling your assets into it seems like it is a lot of work, unless there is an upside. In fact, there are HUGE dollar savings and administrative savings. Trusts are the only way to preserve your own management control over your assets and ensure probate avoidance. I will discuss these benefits and others in my next newsletter, to put it all together.

I have practiced exclusively in the area of estate planning, probate and trust administration for approximately nine and a half years.

In my non-work hours, I support Cal athletics, the SF Giants, the Sacramento Kings, and play tennis! ☺

Next Issue: Living Trusts, Part II