

A Trust is a pivotal element in many estate plans, acting as the core strategy for clients aiming to bypass probate, reduce or eliminate estate taxes, support a disabled family member, protect assets from creditors, and maintain Medicaid eligibility. Often serving a similar function as a Will, a Trust achieves these goals without the cost and delay associated with the probate process.

Understanding Trusts

Trusts can be designed as either **revocable** or **irrevocable**, depending on the client's specific objectives. I will define the two types below. No matter the type of Trust chosen, a well-crafted Trust agreement enables clients to distribute their assets as they see fit, in a private manner that avoids court intervention. Whether the client is living but incapacitated, deemed incompetent, or has passed away, a Trust outlines the method for gathering and allocating their assets for their benefit or the benefit of their loved ones and charitable organizations. At the Law Office of Andrew Rowe, P.A., we offer tailored solutions that align with our clients' aims by strategically applying various Trust structures.

Revocable Trusts

Known alternatively as a Living Trust, a Revocable Trust grants clients the flexibility to maintain control over their assets, with the option to alter or nullify the Trust's terms at any point during their lifetime. The primary advantage of such a Trust is its ability to circumvent the probate process, thereby relieving families from the complexities and financial burdens often associated with estate settlement through probate courts. Here are the Benefits of Revocable Trusts:

- ✓ **Avoiding Probate:** Assets held in a Revocable Trust are not subject to probate, allowing for a quicker and more private transfer of assets to beneficiaries.
- ✓ **Control and Flexibility:** The Grantor can modify or revoke the Trust as circumstances change, ensuring the estate plan remains current.
- ✓ **Incapacity Planning:** In the event of the Grantor's incapacity, the successor trustee can manage the Trust assets without court intervention.

Irrevocable Trusts

Once established, an Irrevocable Trust differs from a Revocable Trust in that it cannot be altered or dissolved. These are very rare, and are usually only created in narrow circumstances to accomplish very specific purposes. Typically, the person creating the Trust (known as the Grantor) places their assets into the Trust but does not act as the Trustee, who is responsible for executing the Trust's instructions. Once assets are transferred into an Irrevocable Trust, the Grantor relinquishes access and control over these assets, which then fall under the Trustee's purview. Depending on the trust's objectives, While the Grantor may retain the right to some benefits from the Trust, such as income, they generally cannot access the bulk of the Trust's assets (the principal). It is possible, however, for a Grantor to retain some level of influence over the Trust by reserving the ability to alter the Trust's beneficiaries through their Will. Here are the most common objectives in utilizing Irrevocable Trusts:

- ✓ **Medicaid Planning:** Irrevocable Trusts are often used to protect assets and qualify for Medicaid benefits while preserving the Grantor's estate for heirs.
- ✓ **Asset Protection:** These Trusts protect assets from creditors and legal judgments, providing security for the Grantor's wealth.
- ✓ **Estate Tax Reduction:** Irrevocable trusts can reduce estate taxes by removing assets from the Grantor's taxable estate, benefiting future generations.
- ✓ **Blended Families/Second marriages:** If clients are part of a blended family and have separate children, when one spouse dies before the other, the first spouse may wish for their estate to benefit the surviving spouse, but be ultimately paid to the first spouse's separate children, without giving the surviving spouse the ability to redirect where that property would be distributed.

Avoiding Probate

Probate is a detailed and often prolonged process involving the judicial system in transferring and retitling a deceased individual's assets to a new owner. A client can circumvent the probate process through proper planning, including Trusts, thereby avoiding its public exposure, time-consuming nature, and associated costs. It's important to note that merely having a Will does not exempt an estate from undergoing probate. Advantages of Avoiding Probate:

- ✓ **Privacy:** Probate is a public process, whereas Trusts allow for the private transfer of assets.
- ✓ **Required notice to all parties:** In Kansas, all heirs (those who would have received the property if there was no Will) have to be notified by law of all proceedings in the probate process, even if that person was disinherited in the Will. All parties, including disinherited heirs, are notified of all court hearings, and have the ability to object to any of the proceedings, including to the admission of the very Will that disinherits them!
- ✓ **Efficiency:** Bypassing probate means that beneficiaries can receive their inheritance more quickly.
- ✓ **Cost Savings:** Avoiding probate can save on court fees, legal fees, and other associated costs.

If you're considering incorporating a Trust into your estate plan, or if you have any questions about how a Trust can benefit you and your loved ones, we're here to help. While we're always on hand for urgent situations, such as last-minute decisions in critical moments, please be aware that the typical process from consultation to finalizing the paperwork usually spans a month.

Call us at The Law Office of Andrew Rowe, P.A., today at **316-202-0131** or contact us online to schedule an initial consultation. Our team looks forward to assisting you in making informed decisions about your estate plan, helping to secure your legacy and the well-being of your loved ones for years to come.