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A Living Trust Primer

A living trust is a popular consideration in many estate strategy conversations, but its appropriateness will depend upon your individual needs and objectives.

What is a Living Trust?

A living trust is created while you are alive and funded with the assets you choose to transfer into it. The trustee (typically, you) has full power to manage these assets. But using a trust involves a complex set of tax rules and regulations. Before moving forward with a trust, consider working with a professional who is familiar with the rules and regulations.

A living trust will also designate a beneficiary, or beneficiaries, much like a will, to whom the assets are structured to automatically pass upon your death.

If you create a revocable living trust, you may change the terms of the trust, the trustee, and the beneficiaries at any time. You can also terminate the trust altogether.

Why Create a Living Trust?

The living trust offers a number of potential benefits, including:

- **Avoid Probate** – Assets are designed to transfer outside the probate process, providing a seamless, private transfer of assets.
- **Manage Your Affairs** – A living trust can be a mechanism for caring for you and your property in the event of your physical or mental disability, provided that you have adequately funded it and named a trustworthy trustee or alternative trustee.
- **Ease and Simplicity** – It is a simple matter for a qualified lawyer to create a living trust tailored to your specific objectives. Should circumstances change, it is also a straightforward task to change the trust's provisions.
- **Avoid Will Contests** – Assets passing via a living trust may be less susceptible to the sort of challenge you might see with a will transfer.

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The Drawbacks of a Living Trust

Living trusts are not an estate panacea. They won't accomplish some potentially important objectives, including:

- A living trust is not designed to protect assets from creditors. It is also considered a "countable resource" when determining your Medicaid eligibility.
- There is a cost associated with setting up a revocable living trust.
- Not all assets are easily transferred to a living trust. For example, if you transfer ownership of a car, you may have difficulty obtaining insurance, since you are no longer the owner.
- A living trust is not a mechanism to save on taxes, now or at your death.

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