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Wills vs. Trusts: What You Need to Know in Order to Protect Your Legacy

Most people have heard of Wills and Trusts; and know that they are two popular estate planning tools that are used. Even many who have an estate plan in place, however, aren't really familiar with what each of them are and what the major differences are between them. Understanding what Wills and Trusts are and how to best use them as a part of your estate plan will help ensure you are making the right decisions for yourself and your loved ones.

When Do Wills & Trusts Go into Effect?

One of the most important differences between a Will and a Trust is when they take effect. A Will is only able to go into effect after you pass away. You can't have Wills take any action prior to your death, and they also can't remain in effect long after you pass away. Your death will trigger the Will, and then as soon as all the instructions contained within are executed, that is all it is needed for.

A Trust, on the other hand, will go into effect as soon as it is created and can remain in effect long after you pass away. This makes the Trust much more versatile since it can contain instructions to take specific actions while still living, upon your death, and continue to do things even years after you pass away.

Are Wills & Trusts Treated the Same in Probate Court?

This is another major difference between these two tools. While a Will has to go through the probate courts and will be a matter of public record, the same is not true of Trusts. In almost all cases, Trusts can be used to keep many of your assets out of probate altogether, which will save your loved ones a lot of time, money, and heartache. Additionally, since Trusts don't need to go through the probate process, they are not a matter of public record. This makes it possible for you to maintain family privacy when passing your assets on to your loved ones.

Is a Will Sufficient for Your Estate Plan?

Virtually all estate plans will need a Will in place so that specific actions are carried out upon your death. Things like instructions for your funeral, for example, are ideally outlined in a Will. If you have very few assets and want what you do have to be passed on to a very small number of people, a Will may be all you need for your estate plan. Younger people who are just starting their careers often find that a Will is the only estate planning tool they need. As your estate grows, however, it usually becomes necessary to begin adding Trusts to get the best results.

What Types of Trusts Are Available?

A Will is a specific type of document that you can put in place, and it can cover a variety of different things. A Trust, on the other hand, can come in many different types. In addition, many people

will require multiple Trusts in order to accomplish all of their estate planning goals. The following are some of the most popular types of legal Trusts:

- **Charitable Trust** – When established, this trust will contain assets that are intended to benefit a specific charity or the public. You can manage the assets within as you see fit while you are living, and appoint someone to manage the trust after you are gone.
- **Special Needs Trust** – If you have a loved one with special needs, you can establish a Trust that will help take care of their needs. By keeping these assets in a Trust, your loved one won't lose most types of government benefits that are based on need.
- **Living Trust** – Living Trusts take effect while you are still alive and can help provide significant protections for your assets. They are especially common for protecting real estate from lawsuits and other threats.
- **Firearms Trusts** – If you are leaving firearms to a loved one, using a trust can help them avoid legal complications. Having the firearms owned by the trust rather than any individual may also make it easier for multiple people to use them legally.

There are other types of trusts that can be used. Speaking with an attorney can help you determine which ones will be right for you.

Will You Benefit from Having Both a Will and Trusts?

For many people, having both a Will and one or more Trusts is the ideal way to go. In fact, you can actually include Trusts within a Will if that is appropriate for your situation. There may be significant benefits to using both of these estate planning tools. Looking at all of your options carefully today will help ensure your loved ones, and your estate, are properly protected no matter what the future holds.

For example, if you have minor children, a Will is likely the right instrument for identifying who you want to take care of them should you pass away. If you have money to leave them (including life insurance policies), it is almost certainly going to be best to leave their inheritance in a Trust rather than just granting it to them through a Will. A Trust will allow you to control when and how the money is distributed to your children, which is often very important.

What Estate Planning Tools Are Right for You?

In the end, finding the right estate planning tools is going to require a close examination of your specific situation. Additionally, the estate planning that is right for you today may change significantly over the years. Working with an experienced attorney will help ensure you get the exact setup you need to get the results you desire. Whether you are looking to start estate planning for the first time, or you need to update your plan, please contact Elder Care Law Firm and schedule a free consultation today.