

WILLS, TRUSTS & ESTATES PLAIN & SIMPLE

Trusts -What are they?

By: Patricia C. Marcin, Esq. ©2012

Trusts and Estates lawyers talk about trusts as if everyone knows what they're talking about. Once you get some basic trust ideas under your belt, it becomes much easier to understand the area of trusts.

A trust is a private legal arrangement in which you change ownership of some or all of your assets (ex: cash, securities, real property, life insurance, and any other type of asset) to the trust's name and direct the trustee (someone you choose) to hold these assets "in trust" for the benefit of certain persons you designate (the "beneficiaries"). The person who puts the assets in the trust is called the "Grantor" or the "Settlor". Think of the trust as a separate person. In fact, generally, the trust has its own tax identification number and files its own income tax return.

There are many different types of trusts, but it's easiest to break them down into a few basic types. An "inter vivos" trust is simply a trust that's created by a written agreement between you and the trustee during your life. A "testamentary" trust is a trust that is created in your Will and does not become effective until your death; there is no separate agreement, as all the trust terms are in the Will. An inter vivos trust can be either a revocable trust (one which can be revoked) or an irrevocable trust (you can't get back whatever you put in the trust's name).

Trusts are created for many reasons, including to create an estate plan to reduce estate taxes, to care for family members (including special needs trusts), and to manage various business entities under a single umbrella for the benefit of the beneficiaries. Trusts can be extremely flexible, even allowing the grantor, and after the grantor's death, the beneficiaries the power to remove and replace the trustees.

In the next few columns, I will explore some of the different types of trusts, such as life insurance trusts, credit shelter trusts, marital trusts, "defective" grantor trusts, special needs trusts and charitable trusts.

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