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Irrevocable trusts protect loved ones, assets

This article is Part 2 of a series exploring the various types of trusts that may benefit your clients. Today's topic is irrevocable trusts.

Signing away ownership of assets can feel antithetical to clients when they start to think about creating an estate plan that gives them control of what happens to their accumulated assets and meets their goals for financially protecting loved ones.

However, certain clients might wish to create an **Irrevocable Trust** for many purposes, such as reducing taxes, gifting, and asset protection. Assets placed inside cannot be easily removed later because your client essentially relinquishes ownership of those assets to the trust.

Control without Ownership

Property owned by an Irrevocable Trust is not subject to estate taxes. Just as creditors and judgment holders can't reach it because your clients no longer own it, the Internal Revenue Service cannot tax the assets in the trust. The assets have become the legal property of the trust for the Trustee to hold and manage for the beneficiaries.

As the trust-maker, your client determines the exact terms of the trust. For example, he could specify assets are disbursed only when used for a specific purpose, such as paying for college, a new home, or a wedding.

The trust can be written so that heirs receive their entire inheritance at once or in certain amounts over a period of years, such as when they reach a certain age or achieve a milestone (i.e., marriage or graduating college).

Long-Term Care Protections

Assets placed in *Revocable* Living Trusts are generally exposed to a nursing home or long-care providers and may disqualify your client from being eligible for Medicaid (Medi-Cal in California) benefits. When set up correctly, certain Irrevocable Trusts can shelter assets and protect them for a surviving spouse or other beneficiaries.

We advise clients who want to shelter assets in an Irrevocable Trust that it's too late to do so when they're already disabled, because doing so could be construed as a fraudulent conveyance.

Special Considerations

In every trust we draft, our office recommends that clients consider all the possible tax consequences a large disbursement from an Irrevocable Trust might have on beneficiaries. Distributions are taxable to beneficiaries at ordinary income tax rates.

If a child later becomes disabled, an automatic disbursement of a certain size may exceed the income limits allowed for the child to qualify for government benefits needed to cover the cost of medical or long-term care.

There's also the possibility that any money your clients put into an Irrevocable Trust might be needed later in an emergency but would be unavailable to them.

A Variety of Options

There are several variations of Irrevocable Trusts that are written to accomplish specific goals. Among the various types are Special Needs Trusts, Charitable Remainder Trusts, Irrevocable Family Trusts, Generation-Skipping Trusts, Irrevocable Life Insurance Trusts, etc. Each carry different benefits. If you or your clients have questions about these strategies, please contact us and we'd be happy to review them.

We hope this information is useful to you and helps your client and their families. If you have a specific case or question, please don't hesitate to call our office.