
Living Trusts

In recent years, the need for Living Trusts has recently skyrocketed. No longer perceived as a tool intended exclusively for the wealthy; the population at large is realizing the innumerable advantages that come with a Living Trust. People are starting to recognize that this legal document is nothing short of an essential component to all families across the board, no matter what their personal or financial situation may be.

At Phancao & Shaffer, LLP, it is our personal mission to bring this awareness at the doorstep of every family we can reach.

The Parties Involved

The Living Trust document itself names three different parties. The individual (or couple) that establishes the Trust is named the **Grantor** (also referred to as the **Trustmaker**). The **Trustee** is the person named by the Trust as the controller of the Trust's assets (and in many cases, the Trustees are the same people as the Grantors/Trustmakers).

On the receiving end, the **Beneficiaries** are the heirs that will benefit from the Trust once the Grantor's have passed away.

Who Needs A Living Trust?

Almost anyone with an estate of \$100,000 or more needs a living trust – especially California residents. Estates of \$100,000 or more are subjected to probate in their state of residence, which costs anywhere from 2%-4% of the estate's total value in court and legal fees. This estimation does *not* include additional fees for work considered outside the “norm”.

Please keep in mind that California remains one of the nation's worst Probate Court. This factor is not only caused by the cost alone, but also due to the time frame involved, the numerous formalities that need to be respected, and the simple fact that your private affairs are now open to the public.

The living trust is also useful for individuals subject to estate taxes. Through a living trust, a couple is able to maximize the Unified Credit to its fullest extent. It also accomplishes protection for individuals wanting to avoid conservatorships, allows individuals to designate guardians for their minor children, and designates agents to act for an individual's financial affairs and health matters.

Advanced living trusts can be structured for complicated family situations. Re-married spouses, with children from a previous marriage, can use an advanced revocable trust to ensure kids receive their proper inheritance.



Avoiding Probate

Living Trusts avoid probate, since they are completely private. Because a trust is recognized as a separate legal entity, distributions can be made by a Trustee to named beneficiaries without any involvement from the courts.

The courts maintain no control over the Trust's assets, and do not tie up the assets in a lengthy (and costly) probate process. The Trustee simply distributes assets to named heirs, but only if those assets have actually been placed inside the Trust.

Funding Your Living Trust

Once established, almost anything can be placed in a trust: savings accounts, stocks, bonds, real estate, life insurance, and personal property. In "funding" the trust, you must change the name or title on your assets to the name of your Trust. This procedure is unfortunately grossly neglected by many Firms, causing individuals to be left with an incomplete legal document. At Phancao & Shaffer, LLP, we ensure our Clients properly accomplish this procedure by taking them through the process step-by-step, or simply handling the entire task with our Funding Team.

Many people worry about losing control of assets; however, that is not the case with a carefully-constructed Living Trust.

Always There For You

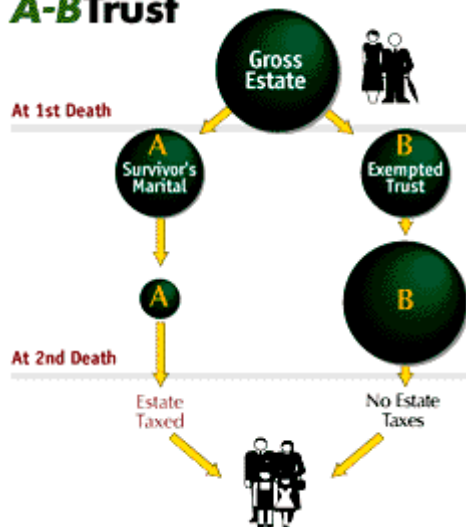
Because the Trust is essentially controlled by one individual (the Trustee); that person can carry out and maintain your affairs status quo in the event of your absence, or fulfill your wishes in the event of death. For instance, if you have children from a previous marriage and wish to leave them an inheritance, specific instructions to the Trustee will ensure that they receive what you had requested.

If you're institutionalized or unable to care for yourself anymore, the Trust can still function and make distributions as needed. The Trustee has a fiduciary responsibility to see that your requests are fulfilled exactly. He or she can even provide care and protection for disabled relatives or handicapped children in accordance with your wishes.

Reducing Estate Taxes

The Living Trust also minimizes estate taxes by fully utilizing every individual's Unified Credit. The Estate Tax Credit, as mandated by Congress, currently shelters up to \$3.5 million from estate taxes. With only a will in place, a married couple will receive a single \$3.5 million exemption.

A-B Trust



However, if a Living Trust with "A-B Provisions" is in place and one spouse dies, the Living Trust separates into two separate trusts (commonly referred to as an **A-B Trust**).

In an A-B Trust, each of the two separate trusts receives its own \$3.5 million exemption, meaning a total of \$7 million is sheltered from estate taxes.

Any amounts over that \$7 million will be subject to estate taxes, with rates climbing as high as 48%.

Living Trusts are easy to start-up and require little on-going maintenance. They afford an extra measure of protection against loss of control, and ensure that your assets remain out of the public record even after your death. However, they do not provide protection against creditors or divorce, and do not reduce estate taxes for estates over \$3.5 million in value (\$7 million if married).

In the event you fall in the category of individual(s) that would need Advanced Estate Planning, Phancao & Shaffer, LLP would be able to provide you with an array of different business structures, as well as Domestic and Offshore Asset Protection features. This discussion would exceed the purpose of this informative brochure, however please do not hesitate to contact our office if this situation applies to you.

Be Sure You Set Up a Living Trust

At the very least, no matter how much you want to give your family, friends, or charities, consider setting up a Living Trust. Living Trusts allow you to avoid probate, maintain privacy, maintain control over your health choices, and facilitates the transferring of assets you have acquired during your lifetime.

Qualified Estate Planning attorneys in Orange County on average charge approximately \$2,500 - 3,500 to create a complete Living Trust (the cost can increase based on the complexity of the estate). However, the costs of not having a Living Trust far out weigh the costs of establishing one - a decision you will not regret.

Please contact our office or visit us at www.pslawyers.com, you will see that we provide the proper legal documents *no matter* what your legal needs *or* budget may be.

Disclaimer: The information provided herein is educational, and is not intended to be taken as legal advice. Please contact a licensed attorney or Phancao & Shaffer, LLP to discuss the best options for you.



COST OF PROBATE WITHOUT A TRUST:

Statutory Probate Fees

The State of California has established the “minimum” cost of probate which is set forth below. However, it is most unusual to complete the probate process at such a low fee because this does not include extraordinary fees granted by the court for sales of assets during probate, preparation of death tax returns (Form 706), litigation expenses, and other unexpected costs.

Probate Assets:	Probate Fees:
\$200,000	\$14,000
\$300,000	\$18,000
\$400,000	\$22,000
\$500,000	\$26,000
\$600,000	\$30,000
\$750,000	\$36,000
\$1,000,000	\$46,000
\$1,500,000	\$56,000
\$2,000,000	\$66,000
\$5,000,000	\$126,000

- **In excess of \$ 5,000,000 add 2% of the excess to \$ 126,000**

Note: Probate fees are based on the total market value of all of your assets.