5 Things to Know about Irrevocable Trusts

By Matthew T. Kikta, CELA
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Building an estate plan that is appropriate for your family means being familiar with the basics of various strategies. This will enable you to better identify your concerns and goals with your Certified Elder Law Attorney. This is the second article of a two-part series that takes a popular estate planning strategy and explains some of its key concepts. Article one discussed the basics on Revocable Living Trusts. Here are 5 things to know about Irrevocable Trusts:

1. Irrevocable Trusts Also Help Assets Avoid Probate

Probate in Pennsylvania can be summarized as the court assisted process of proving one's Last Will and Testament, as well as identifying, inventorying and providing a forum for creditors to make claims against an estate. Probate is expensive, inefficient and public. An Irrevocable Trust is an entity that can transition assets upon the death of the Grantors (creators of the trust) to heirs without the need for probate. Therefore, making the process more efficient, private and less expensive for your heirs.

2. Restrictions on Trust Assets for Grantors but Still Flexible

Irrevocable Trusts typically have more restrictions on the Grantors than a Revocable Trust. First, a Grantor cannot on their own nor be compelled by others to terminate an Irrevocable Trust, which gives an elevated level of asset protection. Grantors also may not be able to directly remove Trust principal from the trust and place it directly back into their name. However, an Irrevocable Trust is still flexible in some ways for the Grantors. They maintain the ability to change their trust distribution and management through limited powers granted by the Trust. Some Irrevocable Trusts continue to be even more flexible for the Grantors by allowing direct access to Trust income and by making their social security number the Trust tax identification number. This allows tax reporting to remain relatively the same as before executing the Trust.

3. Grantors May Serve as their Own Trustees

Just because Grantor are unable to terminate an Irrevocable Trust or have direct access to Trust principal does not mean they lose all control. Some Irrevocable Trusts allow the Grantors to serve as their own Trustees, granting them the ability to manage the Trust, continue to make investment decisions, and make Trust distributions to beneficiaries. Maintaining control is an important factor for potential clients and Irrevocable Trusts can accommodate this desire.

4. Protection from Long Term Care Exposure

One major benefit of an Irrevocable Trust that a Revocable Trust does not have is the potential for Long Term Care exposure protection. Assets funded into an Irrevocable Trust after 5 years become protected from long term care spend down and are not considered a countable resource for Medical Assistance in Pennsylvania. With the average monthly skilled nursing facility cost around $10,700 in Pennsylvania, it is evident why a client would desire to protect assets from this potential expense and preserve their estate for as long as possible for both themselves and their heirs. Incidentally, similar types of trusts can be used for Veterans Benefits eligibility, which now has a 3-year gift look-back period.

5. Protect Your Heirs

Like a Revocable Living Trust, an Irrevocable Trust can also be a great platform to create inheritance protection for beneficiaries upon the death of the Grantors. Smaller beneficiary trusts can be created and established from an Irrevocable Trust to protect the inheritance from complications that squander wealth, such as: divorcing spouses, bankruptcy, creditors, spendthrifts or other bad decisions a beneficiary may make.

Ask a Certified Elder Law Attorney if am Irrevocable Trust plan is right for your family.