

# Del Mar Times

## *The importance of living trusts*



### *Financial Thoughts*

*by John Schooler*

I am submitting this article on behalf of my friends from CHCC. One of the most important objectives of estate planning is being able to define how your assets are distributed after your death. One way to do this is through a trust. Living trusts are the most common types of trusts.

The most common type of living trust is an A-B living trust. There are two parts to the A-B trust. The A trust is the marital trust and the B trust is the credit shelter trust.

One of the benefits of the A-B trust is that it minimizes estate taxation. When the first spouse dies, the decedent's property is divided between the two trusts. The remaining amount of the decedent's lifetime exclusion is allocated to the credit shelter trust. This year's exclusion is \$675,000. The credit shelter trust then becomes irrevocable. The rest of the decedents assets are placed in the marital trust.

Generally, the surviving spouse is the beneficiary of the marital trust and the children are beneficiaries of the credit shelter trust. This is to allow for the deceased spouse to utilize his or her lifetime exemption from estate taxes. The surviving spouse also has limited access to the credit shelter trust. An ascertainable standard is used to allow the surviving spouse to receive payments from credit shelter trust property for his or her health care, welfare, education, and for maintenance. When the surviving spouse dies the beneficiaries receive both the credit shelter trust and the marital trust property.

Another benefit to living trusts is that property held in the living trust avoids the probate process. This means the property is distributed to the beneficiaries by the trustee without requiring the approval of the court. This saves both time and money as there are no court costs or executor fees.

Besides reducing estate taxes and probate, there are other benefits of using a trust. The grantor, the person creating a trust, can dictate how things are handled once they

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pass away or become incompetent. This would be done with a durable power of attorney for assets and a durable power of attorney for health-care.

I often tell people that if they really want to get back at their children they can simply die without a trust. The only thing worse than having a parent die without a trust is to be named the executor of their will. A will is too short an article to cover all the attributes and structures to a trust.

All estate planning should be done in conjunction with your financial planner and estate planning attorney. They will help you determine what will work best for you.

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