

PUTTING FAITH IN TRUSTS AND DISPELLING THEIR MYTHS

Trusts are an important part of an overall estate plan, but as helpful as they can be, there are a fair number of misconceptions about them. We dispel those myths.

Trusts are an important part of an overall estate plan, and should not be overlooked

For the average investor, setting up a trust with your estate attorney as part of estate planning can make a lot of sense. For wealthy investors, it can be nearly essential. So why then do only 33% of Americans have a will or living trust?¹ Truth is, as helpful as trusts can be, there are a fair number of misconceptions about them — and those misconceptions can get in the way of taking action.

The beauty lies in the benefits

Trusts come with benefits for both the trustor as well as their heirs. The latter part of this makes sense when you think of the purpose of a trust. Trusts don't simply ensure your assets are distributed according to your wishes, they ensure how the assets are distributed.

Unlike a will, the provisions of a trust are private and not subject to probate. This means:

- Privacy — for you and your beneficiaries. Your information and legacy remain confidential, out of the public eyes of a court.
- Potentially improve the distribution of assets. Going through the court process can take a fair amount of time. In addition to that, it comes with its own share of fees.
- Setting up a trust may be less expensive than the cost your loved one may incur with the probate process. That's because probate-related fees to the attorney and the court can add up quickly.

Beyond avoiding probate court, protection is another benefit of setting up a trust. This protection can play out in two ways with a revocable trust. First, when you pass away, the assets can continue to be held for the benefit of your beneficiaries — protected from creditors and divorcing spouses.

A trust is controlled by you while you're living. Should you become incapacitated, the successor trustee should ensure you have the care you need. The responsibility of the successor trustee is to manage the assets and make payments on your behalf.

Common misconceptions about trusts

Because of the complexities that go with trusts — from the different kinds to the highly detailed laws that govern them, there are a number of myths that are associated with trusts.

Myth 1: Trusts are expensive

Truth is, when you compare the cost of creating a trust to the costs associated with probate (e.g. probate court and lawyer fees), probate may be the more expensive of the two.

Myth 2: All assets should be put in a trust

Not necessarily. There's a process for distributing the assets in a trust, so it will take time. If there are loved ones who will need money immediately, those funds may be something to leave out of the trust. The most common designations are to individuals — for example, all to a spouse or in equal shares to children. However, a trust also can be named as an IRA beneficiary, and in many instances, a trust is a better option than naming an individual.

Myth 3: If you have a trust, you don't need a will

Continuing the idea from myth two, a will is needed to deal with any assets left out of a trust that do not convey via beneficiary or transfer on death designation. So to be sure all assets are distributed as intended, even those left out of trust, a will should always be in place.

Myth 4: Trusts ensure that my heirs will avoid probate court

Trusts can enable your estate to avoid probate, but a poorly drafted trust can result in probate court. Similarly, assets owned outside of the trust may still be subject to probate. As mentioned earlier, working with an experienced estate attorney is key.

Myth 5: All trusts offer tax advantages

Remember, there are different kinds of trusts. So while some do offer tax advantages, not all do. Revocable trusts in particular offer no tax advantages and do not require a separate income tax return during the trustee's life.

These are a handful of just some of the myths that create an air of confusion. And given the technical complexity of trusts, it's easy to see how myths lead to misconceptions. If anything, that's all the more reason to talk with your financial professional, who can partner with you and your trust attorney in this area. Reach out to them to learn more.

1. [Caring.com 2022 Wills and Estate Planning Study](#)

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