

ESTATE PLANNING WHITE PAPER

There are many legal strategies involved in estate planning, including wills, revocable living trusts, irrevocable trusts, durable powers of attorney, and health care documents. New clients often say that they do not have an estate plan. Most people are surprised to learn that they actually do have a plan. In the absence of legal planning otherwise, their estate will be distributed after death according to Arizona's laws of intestacy—by a Probate Court Judge. Of course, this may not be the plan they would have chosen. A properly drafted estate plan will replace the terms of the State's estate plan with your own.

Trusts: Revocable Living Trusts, Irrevocable Trusts, Testamentary Trusts, Special Needs Trusts, etc.

Trusts come in many "flavors," they can be simple or complex, and serve a variety of legal, personal, investment or tax planning purposes. At the most basic level, a trust is a legal entity with at least three parties involved: the trust-maker, the trustee (trust manager), and the trust beneficiary. Oftentimes, all three parties are represented by one person or a married couple. In the case of a revocable living trust, for example, a person may create a trust (the trust-maker) and name themselves the current trustees (trust managers) who manage the trust assets for their own benefit (trust beneficiary).

Depending on the situation, there may be many advantages to establishing a trust, including avoiding probate court. In most cases, assets owned in a revocable living trust will pass to the trust beneficiaries (or heirs) immediately upon the death of the trust-maker(s) with no probate required. Certain trusts also may result in tax advantages both for the trust-maker and the beneficiary. Or they may be used to protect property from creditors, or simply to provide for someone else to manage and invest property for the trust-maker(s) and the named beneficiaries. If well drafted, another advantage of trusts is their continuing effectiveness even if the trust-maker dies or becomes incapacitated.