Should I Place My House into a Trust?

Services

Estate Planning

- Trusts

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Owning a home is one of the most significant financial investments many people make in their lifetime. As a homeowner, you may have considered placing your house into a trust, but you might not be sure whether this is the right option for you. Trusts can offer a variety of benefits, but determining whether this legal tool aligns with your specific goals requires careful consideration. Below, we discuss some of the primary advantages of placing your house in a trust and why it's important to seek experienced legal guidance.

What Are the Benefits of Placing Your House in a Trust?

1. **Avoiding Probate**
   One of the most compelling reasons to place your home in a trust is to avoid probate. When property is transferred through a will, it must go through the probate process, which can be time-consuming, costly, and public. By transferring your house into a trust, you can bypass probate, allowing for a quicker and more private transfer of assets to your beneficiaries after your passing.
2. **Protection from Creditors**
   Certain types of trusts can protect your assets from creditors. If your home is placed into an irrevocable trust, it is no longer considered part of your personal estate, which can safeguard it from creditors' claims. This can be particularly advantageous if you are concerned about protecting your home for your family in the event of financial difficulties.
3. **Preserving Eligibility for Government Benefits**
   If you anticipate needing long-term care and wish to preserve eligibility for Medicaid (MassHealth in Massachusetts), placing your home in a trust may be beneficial. An irrevocable trust can help protect your home from being counted as an asset when determining eligibility for Medicaid long term care benefits. However, the rules surrounding Medicaid planning are complex, and it's crucial to set up this type of trust well in advance to ensure compliance with Medicaid's five year "look-back period."
4. **Control and Flexibility**
   A revocable living trust allows you to maintain control over your property during your lifetime. You can sell the house, refinance, or remove it from the trust at any time. Upon your passing, the property will be distributed to your beneficiaries according to the terms you've outlined, without the need for probate. This flexibility makes a revocable trust an attractive option for many homeowners who want the benefits of a trust while retaining control of their assets.

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Selecting the Right Type of Trust

While the advantages of placing your home in a trust are clear, selecting the correct type of trust is essential. Trusts come in various forms—revocable, irrevocable, and special needs, to name a few—and each type serves different purposes.

- **Revocable Trusts** offer flexibility and control but do not protect assets from creditors or Medicaid recovery.
- **Irrevocable Trusts** provide asset protection but limit your ability to make changes once the trust is established.
- **Special Needs Trusts** can help preserve assets for a disabled beneficiary without affecting their eligibility for government benefits.

Choosing the wrong trust could lead to unintended consequences, such as losing control of your property or disqualifying yourself from necessary benefits. For these reasons, it is essential to have an experienced attorney guide you through the process.

Why You Need Experienced Legal Representation

Placing a house in trust is a significant decision, and the legal process can be complicated. Understanding the nuances of different trust types, ensuring the proper documentation is filed, and meeting all state and federal legal requirements are critical to ensuring your trust functions as intended. A knowledgeable attorney will:

- Help you identify the most appropriate type of trust based on your individual needs and goals.
- Ensure that your trust is properly drafted, funded, and executed.
- Provide guidance on how the trust affects other aspects of your estate plan.

Working with an experienced legal team ensures that your trust is set up correctly and provides the protection and benefits you seek.

Contact Us for a Free Consultation

If you own a house, condominium, townhouse, or mobile home and are considering placing it into a trust, we encourage you to contact Cohen Cleary, P.C. at 508-880-6677 for a free consultation. Our experienced attorneys are here to help you explore your options, make informed decisions, and create a trust that meets your unique needs. Let us help you protect your home and ensure your estate plan is fully optimized for your future and your family's well-being.

