

The Importance of Understanding your Living Trust Agreement

by
Denise P. Cambs, Esq.
The Cambs Law Firm, LLP

Living Trusts, both revocable and irrevocable, have become increasingly popular in recent years. Yet, many individuals engage in Living Trust planning without fully understanding the Trust documents which are created on their behalf.

This can be problematic, because like Wills and Durable Power of Attorney documents, the Living Trust Agreement is designed to 'speak' on a client's behalf, when the client, for any reason, is unable to meaningfully communicate on his own.

Before signing on the dotted line, therefore, it is important that the individual who creates the Living Trust (often referred to as the 'Grantor'), fully understands the language of the Trust Agreement and its intended purposes, as well as any consequent income, gift and estate tax impact. For this reason, use of clear, concise Trust language which is customized to accurately reflect client wishes and intentions, is of paramount importance.

A number of key drafting elements exist which are designed to incorporate flexibility in even an Irrevocable Living Trust Agreement, and which promote a clear understanding of the Trust's intended purposes, while at the same time providing guidance and direction to the Trustee and beneficiaries.

If you already have a Living Trust (whether revocable or irrevocable), you should check to see whether the following key elements are already included: