

The “Daily Plan-It™”

ESTATE & BUSINESS LAW GROUP, P.C.

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Trust Terminology Part 3: Showing Your Clients Several Ways to Trust

This year, our office provided you with a kind of “cheat sheet” that explained some basic Trust terminology, followed by a second article that defined an Irrevocable Life Insurance Trust (ILIT), a Qualified Terminable Interest Trust (QTIP), and an Intentionally Defective Grantor Trust (IDGT). This is the third installment in our series on basic Trust terminology.

The goal is for you to talk to clients about estate planning and asset protection with confidence and without feeling tripped up by complicated legal words or phrases.

Complex by Design, but Easy to Understand

There are many different kinds of trusts in the marketplace that can accomplish everything from shielding a client’s heirs from creditors and divorce, to protecting a special needs child long after his parents are gone.

As complex as their functions may be, these Trusts are not difficult to understand.

Here are definitions for some of the most common Trusts that your clients might ask you about:

1. **Lifetime Protective Trust:** When a client leaves an inheritance to a child outright, it can be subject to the child’s creditors, former spouses, addiction problems, inability to manage money, and a Federal Estate Tax on the child’s estate.

Leaving an inheritance in a protective trust will shield these assets from such predators. They can be designed to become dynasty trusts, which can provide protection for generations.

2. **Testamentary Trust:** This trust is contained in someone’s will. It comes into existence upon a Trustmaker’s death and is subject to probate proceedings.
3. **Special Needs Trust:** This is established to benefit a child with disabilities who is entitled to government assistance such as Social Security disability payments.

An inheritance held within a special needs trust will not disqualify the child from receiving the assistance. Distributions are made at the discretion of the Trustee for the child’s special needs. The trust can be stand-alone or be a sub-trust of a revocable living trust.

4. **Asset Protection Trust:** When a Trustmaker puts assets into a revocable trust, the assets are not protected from claims by the Trustmaker’s creditors or lawsuits. Several states now permit Domestic Asset Protection Trusts (DAPT), which allow a Trustmaker to transfer property into an irrevocable trust of which he is the beneficiary. If the statutory requirements are met, then the assets within are protected from predators, usually after a certain time period has passed.

Online Estate Planning Dictionaries

Here are some great resources for Trust term definitions:

- NOLO.com’s online wills and estate planning dictionary: <http://tinyurl.com/cuflru>.
- FindLaw.com’s online estate planning and probate dictionary: <http://tinyurl.com/ch7t5o>.

I hope this article helps you and your clients. If you have suggestions for other terms you’d like to see defined, please let me know. As always, if you have a question or concern about a specific case, please contact our office.

Workshop Schedule

The Truth about Estate Planning
Tuesday, September 8 – 7:00 pm



IRA Preservation Planning

Learn how to properly protect your IRAs and what the IRA Preservation Trust can do!

Thursday, October 15 – 7:00 pm OR at a mutually convenient date in your office – you are welcome to invite your clients!

On February 8, 2006, President Bush signed into law the Deficit Reduction Act of 2005 (DRA 2005), which included the most sweeping changes to Medicaid laws ever enacted.

Medicaid Planning Workshop

The new Medicaid laws and some of the planning options that are still available, even in light of these sweeping changes.

Tuesday, September 15 – 7:00 pm

Registration: Contact Mary Lang at (847) 367-4460
<http://eblawgroup.com>

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We invite you also to direct your clients to
http://eblawgroup.com/FAQ_medicaid.htm
for more information on Medicaid Planning.