

## **Protecting the Surviving Spouse**

(Part 1 of 2)

Leaving property outright to a spouse seems like a loving act. It is easy, natural, and comfortable. It's also a mistake. When assets are left outright to a spouse, the survivors may face the uncertainties of living probate (conservatorship), unforeseen expenses, and delays. Such problems can be overcome through revocable living trust planning – when a marital trust is established. This is a special sub-trust created on the death of the first spouse within that deceased spouse's living trust.

The advantages of a marital trust are that it avoids probate, provides the surviving spouse with various forms of assistance, ensures all the rights of that spouse, and saves death taxes.

**Spousal trusts avoid both a living and a death probate for a surviving spouse, and can offer a measure of creditor protection.**

The property that passes into a surviving spouse's marital trust will avoid probate on the first death, and will therefore not be reduced by the attorney fees and court costs inherent in that process.

If the survivor is disabled or incapacitated and unable to care for him or herself, the marital trust eliminates the dangers of a conservatorship. The instructions in the marital trust (not the orders of a probate judge) become the guidelines that determine the financial care of that spouse. There are no unnecessary costs and no delays in providing care.

Probate, whether a conservatorship or a death probate, is public. A marital trust is private: no courts, no prying eyes.

Also, because the marital trust is irrevocable after the death of the first spouse, it offers a measure of creditor protection for the survivor. If the surviving spouse is involved in a traffic accident, for example, his or her own assets are totally at risk – as are any assets left to that spouse outright. But assets left in trust for the surviving spouse may be protected from his or her future creditors.

On the death of the second spouse, all the money and property in the marital trust again avoids probate as it passes to other loved ones.

## **Help and guidance**

Many spouses are not financial experts. For one reason or another, they have never participated in handling either money or property. When their spouse dies, these survivors have no idea what to do or where to turn. By leaving proper instructions in a marital trust, and by naming a competent trustee and advisors, the client can ensure that his or her surviving spouse will receive the very best financial advice and guidance.

Even if a spouse has the financial ability and knowledge to carry on, the emotional trauma of death can make day-to-day planning a burden. By naming a trustee and other helpers, the burden is substantially reduced for the surviving spouse. Even after time passes, a financial partner can remain a continuing source of help and advice. More benefits in Part 2.



**KETRA A. MYTICH, LTD.**

*'Providing Peace of Mind for your and your loved ones'*

## **August is Advisor Appreciation Month!**

During the month of August, any client that makes an appointment with our office and tells us you referred them will receive \$100.00 off their planning fee.

For every five clients you refer to our office in the month of August you will receive \$200.00 off your own planning fee if you need to update or complete your own Estate Plan.

To make an appointment contact our office at (309) 673-1805.

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