

WHY WOULD I USE A NORTH DAKOTA TRUST INSTEAD OF A WILL?



*Living Trust
&
Estate Planning*

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Before you look into the subject thoroughly, you may automatically assume that you should use a last will as your vehicle of asset transfer. A trust can seem like something that is just a glorified will if you do not know all the facts.

In reality, there are many different compelling reasons why a trust can be a better choice. Plus, there are multiple different types of trusts that can be utilized. The optimal choice or choices will depend upon the circumstances.

WILLS VS. REVOCABLE LIVING TRUSTS

If you use a last will to state your final wishes regarding the distribution of your personally held resources, you would be allowing for lump sum distributions to the inheritors. This can potentially be disconcerting if you have someone on your inheritance list who is not a good money manager.

People who are prone to overspending are typically going to need financial assistance from time to time throughout their lives. A spendthrift family member could experience future hardships after squandering his or her inheritance too quickly.



On the other hand, with a revocable living trust, you can instruct the trustee that you name in the document to distribute assets to a beneficiary in a measured fashion over an extended period of time. You can prevent an inheritance burn-through, and in so doing, you will be protecting your loved one over the long haul.

The ability to include spendthrift protections is one benefit, but there are others. One of them is the facilitation of timely asset distributions.



When a will is used as an asset transfer vehicle, it must be admitted to probate after the death of the testator. This is a legal process that takes place under the supervision of a court. Probate is time-consuming; it will take around nine months to a year, even if there are

no complications. The heirs to the estate cannot receive their inheritances while the process is underway.

Conversely, assets that are contained within a living trust can be distributed to the beneficiaries outside of probate. As a result, assuming there is adequate liquidity, the beneficiary can start to receive distributions in a timely manner.

ASSET PROTECTION AND ESTATE TAX EFFICIENCY

If you maintain direct personal possession of your property through to the time of your death, and you use a will to arrange for postmortem transfers, your assets would not be protected if you were sued.



Plus, if you left a direct inheritance to a loved one without any protections, the inheritance could be targeted if the inheritor was the subject of a lawsuit.

There are trusts that can be used to provide asset protection.

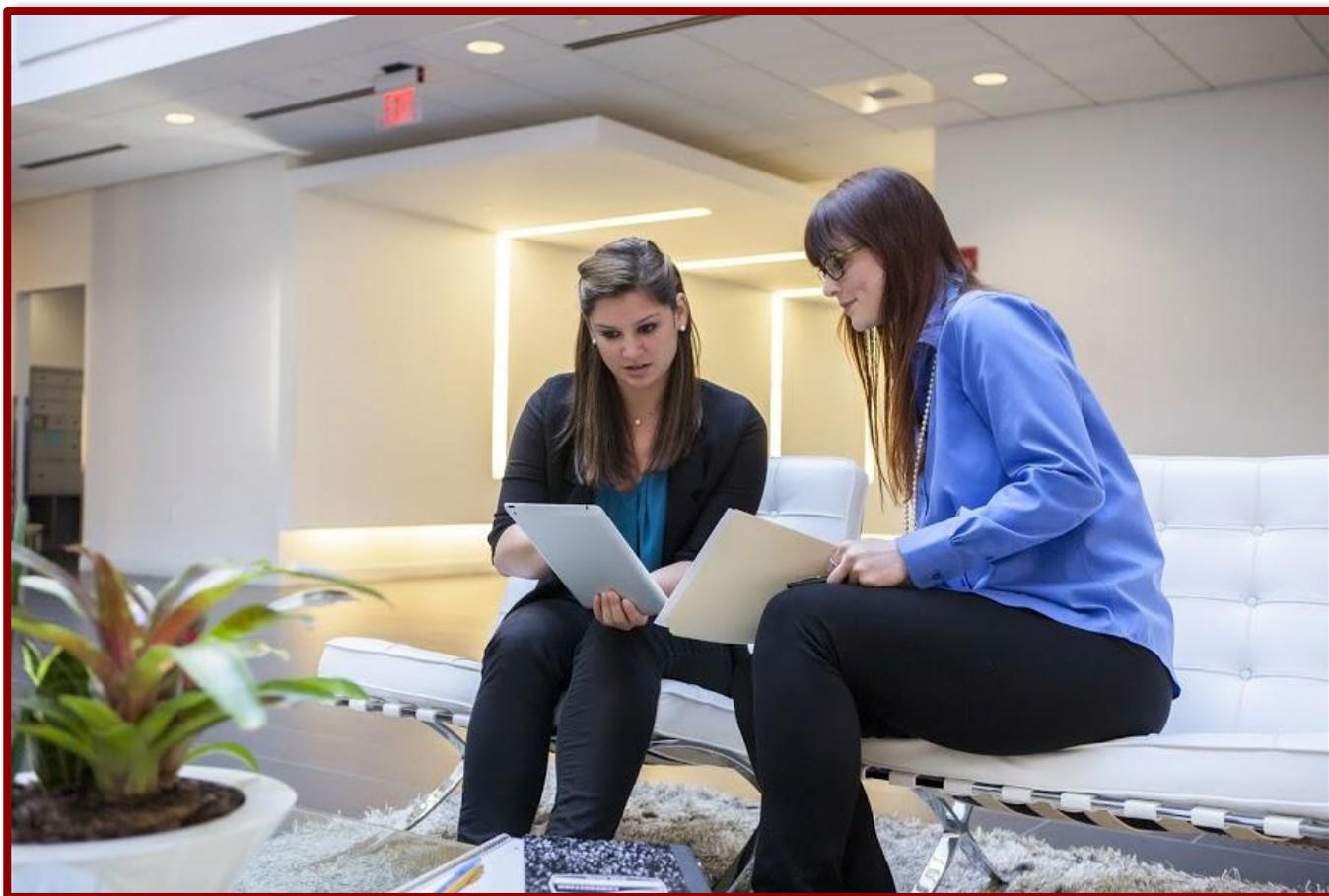
The federal estate tax can be a factor as well if you have been particularly successful from a financial standpoint. This tax carries a 40 percent maximum rate, and in 2015, it

is potentially applicable on asset transfers that exceed \$5.43 million in value.

If you arrange for your personal property to be distributed through the terms of a will, the estate tax can take a heavy toll on your legacy. However, if you convey assets into a wealth preservation trust, you can preserve resources for the benefit of your loved ones.

SUMMARY

We have looked at a handful of the reasons why a person may want to use a trust instead of a will, but there are others. It is important to understand all of your options when you are planning your estate so that you don't make any uninformed decisions that ultimately yield negative consequences.



If things are not done correctly, your family members will be the ones who wind up paying the price.

If you sit down and discuss your unique personal situation with a licensed estate planning attorney, your attorney will become apprised of your situation and your family dynamic. Your attorney will make recommendations, and if you decide to go forward, you can work with your lawyer to create a custom crafted estate plan that ideally suits your needs.

Many estate planning attorneys will offer free initial consultations, so you can get the ball rolling without taking on any firm financial obligations.

REFERENCES

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About the Author

Raymond J. German



As an attorney in Minnesota and North Dakota, Raymond J. German provides a wide range of estate planning services to his clients, with a primary focus on helping them provide for the security of their loved ones, reduce estate taxes and avoid or at least minimize the costs and delays of probate, all with a well-crafted estate plan. Mr. German defines the mission statement for German Law Group, PC, as "Helping one family at a time pass on values, beliefs and finances, which can be shared for generations to come." Mr. German is well aware of the growing importance of estate planning and dedicates himself to informing the public of the need for careful attention to their specific situations. He is a frequent speaker on a variety of estate planning topics, regularly presenting educational seminars for the public as well as private groups.

Raymond J. German approaches each challenge with not just solid expertise, but also remarkable enthusiasm and vigor. By constantly seeking simpler, better, and more effective ways of doing things, he continues to make a real difference in the lives of families and on the way estate planning is practiced by attorneys around the country.

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