

Don't believe all you hear about living trusts

Many people worry that a large portion of their life savings will go towards taxes when they die or that their assets will be tied up in probate. In the last few years, the living trust has been marketed as an estate-planning device that helps consumers avoid probate problems. While a living trust can be a valuable financial planning tool for some people, we caution consumers about misleading claims or exaggerations.

With a living trust, you designate a trustee with financial expertise to manage your assets and allow for a smooth transition of property when you die. Probate of the estate may not be required, so court costs and lengthy waiting periods might be avoided. But a living trust can't eliminate tax liability and there is no guarantee the trust won't be legally challenged.

Protect Yourself

Prepared forms or kits used to establish living trusts are

currently being sold through magazines and door-to-door contacts. Other companies offer free seminars or workshops to lure customers. Senior citizens are particularly targeted. Consumer complaints indicate that some companies automatically send a salesperson to the home of people who return cards indicating they'd like more information. Exercise caution. Consider the following when obtaining information:

- Company representatives may misrepresent the advantages or effectiveness of trusts in order to make a sale.
- Background material provided on living trusts may omit or misrepresent information related to probate procedures, estate taxes, marital property laws and guardianship. Make sure you get accurate information about all your concerns.

- A living trust should be customized to meet individual needs. For some people, a living trust may not be worth the effort. Others may consider using the trust in conjunction with a will. How a particular trust is drawn up depends on the type of property being placed in the trust and the purposes for which the trust is formed. Do-it-yourself kits which contain standard forms and language may not address your individual needs.
- Mail order trusts can be just as expensive (sometimes more expensive) as trusts drafted by an attorney.
- If you are asked to make a down payment when making arrangements for a trust, be sure to find out how long it will take for delivery of the completed documents and exactly what other fees and payments will be required.

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If you purchase a living trust from a door-to-door seller you have three days to cancel the purchase. The seller should provide two copies of a notice of cancellation.

Living trusts may be marketed by insurance agents, financial planners, accountants or attorneys. Check credentials. If not executed properly, a trust may result in costly legal fees for survivors. Trusts are legal documents and should be developed or reviewed by someone who is highly trained. Consult a qualified attorney who can evaluate the use and legality of a trust in the context of other legal issues and your personal situation.

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection.

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