What You Need to Know About The

Living Trust Plus™

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Giving our clients peace of mind today by planning for tomorrow.

Introduction

Whether you're rich, poor, or somewhere in between, you cannot afford to ignore the potentially devastating costs of nursing home care and other types of long-term care. Nursing homes are the most likely creditors, and often one of the most expensive creditors, that most Americans are likely to face in their lifetimes.

Consider the following statistics:

- About 70% of Americans who live to age 65 will need long-term care at some time in their lives, over 40 percent in a nursing home.

- As of 2008, the national average cost of a private room in a nursing home was $212 per day or $77,380 per year, and the national average cost of a semi-private room was $191 per day or $69,715 per year.

- On average, someone age 65 today will need nursing home care for approximately three years. Twenty percent of individuals will need nursing home care for more than five years.

- Fifty percent of all couples and 70 percent of single persons become impoverished within one year after entering a nursing home.

- Long-term care is not just needed by the elderly. A study by a large insurance company found that 46 percent of its group long-term care claimants were under the age of 65 at the time of disability.

Contrast the above long-term care statistics with statistics for automobile accident claims and homeowner's insurance claims:

- Between 2005 and 2007, an average of only 7.2% of people per year filed an automobile insurance claim.

- Between 2002 and 2006, an average of only 6.15% of people per year filed a claim on their homeowner's insurance.

Almost everyone who drives has auto insurance, and almost everyone who owns a home has homeowners insurance, yet only about 10% of the population have Long-Term Care Insurance. The other 90% are totally at risk for winding up financially destitute because of the need for nursing home care.

Won't a Revocable Living Trust Protect My Assets from Nursing Home Care and Other Creditors?

No. A revocable living trust protects your assets from the expenses of probate, but does not protect your assets from the expenses of long-term care while you're alive. A revocable living trust can be designed to protect assets from the creditors of your beneficiaries after you die, but this does not help you while you're alive. A revocable living trust provides NO asset protection at all for you while you're alive. Since you have total access to the assets inside your revocable living trust, so do your creditors, including the most likely and most expensive creditor of all – nursing homes.

So What's the Solution?

In response to this problem, I can offer you a unique solution – a special type of asset protection trust called the **Living Trust Plus™** that functions very similarly to a revocable living trust and maintains much of the flexibility of a revocable living trust, but protects your assets from the expenses and difficulties of probate **PLUS** the expenses of long-term care while you're alive, **PLUS** lawsuits and a multitude of other financial risks during your lifetime. The **Living Trust Plus™** Asset Protection Trust protects your assets from lawsuits, auto accidents, creditor attacks, medical expenses, and -- most importantly for the 99% of Americans who are not among the ultra-wealthy -- from the catastrophic expenses often incurred in connection with nursing home care. For most Americans, the **Living Trust Plus™** is the preferable form of asset protection trust because, for purposes of Medicaid eligibility, this type of trust is the only type of self-settled asset protection trust that allows a settlor to retain an interest in the trust while also protecting the assets from being counted by state Medicaid agencies.

Even though the **Living Trust Plus™** is "irrevocable," it can still be revoked so long as the trustee and all of your beneficiaries agree to revoke it. Additionally, you retain a very high degree of control over your trust assets because:

- you can be the trustee if desired;
- you retain the right to receive all of the trust income;
- you retain the right to live in and use your real estate;
- you retain the right to change trustees; and
- you retain the right to change beneficiaries.

Frequently Asked Questions About The Living Trust Plus™

Q: I'm still healthy. Why should I care about avoid nursing home expenses?

A: Because 70% of Americans who live to age 65 will need long-term care at some time in their lives, and because 50 percent of all couples and 70 percent of single persons become impoverished within one year after entering a nursing home. You can't just hide your head in the sand and hope that you are never going to need nursing home care. The best estate plan in the world is useless if you wind up in a nursing home, all of your money spent on long-term care.

Q: What exactly is the **Living Trust Plus™** and how does it work?

A: The **Living Trust Plus™** is an irrevocable asset protection trust that you create while you are living, that allows you to receive all income from the trust assets, including the right to live in any trust-owned real estate, but you can not have direct access to principal. If either you or your spouse has direct access to principal, the assets in the trust would be deemed "countable" for Medicaid eligibility purposes and would be completely available to almost all other creditors. Prohibiting direct access to principal is the key to why the **Living Trust Plus™** works.

Q: You say I can't have direct access to my principal. Does this mean I can have indirect access to the trust principal?

A: Yes. There are two ways that you can be given indirect access to the trust principal. The first way is that the trust is written so that the Trustee has the ability to make distributions of principal to the trust beneficiaries, who are typically your adult children. If the Trustee distributes principal to a trust beneficiary, that beneficiary can then voluntarily return some of that principal to you. The second way for the Settlor to get at the trust principal is for the trust to be revoked.

Q: I thought we were talking about an irrevocable trust? How can an irrevocable trust be revoked?

A: The **Living Trust Plus™** is an irrevocable trust, and many people, including lots of good estate planning attorneys, think that means the trust can never be revoked. But the fact is that the term "irrevocable" means only one thing - that the trust can not be unilaterally revoked by the creator of the trust. Although the **Living Trust Plus™** is irrevocable and can't be revoked unilaterally by the settlor, under common law and under the Uniform Trust Code, a non-charitable irrevocable trust can be modified, revoked, or partially revoked upon the consent of the trustee and all trust beneficiaries.

Q: What kind of people use the **Living Trust Plus™**?

A: Typically clients who are in their mid-60s to mid-80s, already retired, and worried about the potential catastrophic cost of long-term care, and they want to protect the nest egg that they've been saving for a rainy day. The rainiest possible day for most people is the day they start needing nursing home care, and if they want to truly protect their nest egg and have it actually benefit them when the time comes, they know they need to do something to shelter that money. The **Living Trust Plus™**, for many people, is the best way to do that.

Q: What about Long-Term Care Insurance?

A: Most **Living Trust Plus™** clients don't have long-term care insurance because they're too old to afford it or to qualify for it, or they have a medical condition that prohibits them from getting it. For many clients, the **Living Trust Plus™** is the best possible alternative to purchasing long-term care insurance.

Q: What assets can go into the **Living Trust Plus™**?

A: The main types of assets that should be funded into the **Living Trust Plus™** are the primary residence, any secondary residence, any non-mortgaged investment real estate, any non-qualified financial investments, ordinary bank accounts, and life insurance.

Q: Are there any assets that can't go in to the **Living Trust Plus™**?

A: The assets that shouldn't be transferred into the **Living Trust Plus™** are your qualified retirement plans and your primary checking account. We often don't put annuities into the trust either, but it depends on the type of annuity.

Q: Is there a diagram showing how the **Living Trust Plus™** works?

A: Here it is: