

of ownership of your assets to your heirs pursuant to the testamentary scheme set forth in the trust agreement. This avoids the delay and expense of probate. Illinois law requires that a probate estate remain open for six months to allow for the filing of claims against the estate. Your heirs will not receive their share of your estate until this time passes and the probate process is completed. Also, probate requires an attorney, filing fees, publication fees and possibly a bond. Such expenses, especially legal fees if an heir contests the estate, can deplete the assets of the estate, reducing your heirs' share. Also, a probate estate is a matter of public record. Anyone can go to the clerk of court's office and review the court file, whereas a living trust is private and not subject to public disclosure.

There are disadvantages to living trusts. Living trusts are more expensive to set up and maintain than a will. Legal fees to draft a living trust are more than to draft a will and may be as much as the legal fees required in probating a smaller estate. Probate may not be a negative thing, depend-

ing on the size and nature of your estate and the location of your assets. Also, transferring your assets into the trust may be time-consuming and expensive. Real estate transferred into the trust requires a deed conveying the real estate into the trust and then recording the deed with the county recorder's office. Further, you may still need a will in the event you have assets that are not conveyed into the trust, such as a lottery winning, the shock of which causes your untimely demise.

Healthcare and property powers of attorney are similar in nature in that you designate an agent to make decisions for you and take care of your affairs if you are unable to do so. This situation may be permanent or temporary and the time period for this appointment may be for the rest of your life or for a shorter period of time, such as when you are going in for surgery from which you fully expect to recover but which may render you temporarily unable to make your own decisions regarding your health and or business affairs. The agent you appoint should be

someone you trust implicitly because of the full authority you are granting them. The agent appointed in the healthcare power of attorney may make decisions regarding elective and necessary medical procedures and sign any documents required by your medical providers on your behalf. The agent appointed in the property power of attorney, unless specifically limited to certain transactions, will have full authority to conduct all of your business affairs, including buying or selling assets.

Please note that estate tax planning issues have not been addressed. For estate tax advice, please contact an estate planning professional. Also, if you wish further explanation as to how any of the above might affect your unique situation, please contact an attorney who practices in this area of the law and is therefore knowledgeable on these issues.



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