

LIVING TRUST vs. *PRIVATE CONTRACT TRUST*

Q. WHAT IS THE DIFFERENCE BETWEEN A LIVING TRUST AND A *PRIVATE CONTRACT TRUST*?

A. The Living Trust was created by legislative laws (statute laws). It is designed only to eliminate probate and reduce estate taxes. It is an inter vivos (between the living) Trust. And, it is revocable. That means that it is pierceable!

The *PRIVATE CONTRACT TRUST* is not a Trust, but a Contract, and it is irrevocable.

Q. DOES A LIVING TRUST PROTECT MY ASSETS?

A. No, it offers NO protection for your assets or your privacy while you are alive. If someone filed a frivolous lawsuit against you he could serve you with a subpoena to produce your Living Trust at a deposition, thereby exposing all your wealth. His next step would be to get a judgment attaching all assets in your Living Trust. Also, if one of your children were to file bankruptcy, the bankruptcy court could attach the child's interest in your Living Trust.

Q. WHAT ARE SOME OTHER DIFFERENCES BETWEEN A "PRIVATE CONTRACT TRUST" AND A "LIVING TRUST"?

A. The *PRIVATE CONTRACT TRUST* is irrevocable. A Living Trust is revocable. Because it is revocable, there is no savings in inheritance taxes with a Living Trust.

Living Trusts provide no protection against lawsuits or government asset seizures; the *PRIVATE CONTRACT TRUST* does.

Living Trusts are governed by statute law; the *PRIVATE CONTRACT TRUST* is protected under the Constitution of the United States.

Most Living Trusts do not qualify as contracts for the following reasons:

- 1. They normally do not involve two different parties. One party is normally the Grantor and the Trustee so, there is no "contract" between two different parties in the sense of the Constitutional meaning. (The government generally recognizes husband and wife as one entity.)**
- 2. A Living Trust is a "Trust agreement," but not a "contract."**

Always Remember!

The state cannot intrude into the affairs of a contractual agreement because the state is not a party to the contract. The right to contract is inherent to the people, and guaranteed by the U.S. Constitution. (Article 1 sec. 10)