



### ***Understanding Living Trusts***

Estate planners often recommend “Living Trusts” as a viable option when contemplating the manner in which to hold title to real property. When a property is held in a Living Trust, title companies have particular requirements to facilitate the transaction. While not comprehensive, we have compiled answers to many commonly asked questions. If you have questions that are not answered below, your title company representative may be able to assist you, however, it is in your best interest to seek legal counsel as well.



#### **Who are the parties to a Trust?**

A typical trust in the Family Trust is husband and wife are the trustees and their children are beneficiaries. Those who establish the trust and transfer their property into it are known as the trustors. The trustors usually appoint themselves as the trustee and are the primary beneficiaries during their lifetime. After their passing, their children will become the primary beneficiaries if the trust is to continue or they will receive distributions directly from the trust closes.

#### **What is a Living Trust?**

A living trust is also known as Inter-vivos Trust, the living trust is created during the lifetime of the trustees (as opposed to being created by their wills after death). The trustees are usually terminated when the trustees pass and the body of the trust is distributed to their beneficiaries.

#### **Can a trust hold title to real property?**

No. The trustee holds the property on behalf of the trust.

#### **Is a trust the best way to hold my property?**

Every person’s situation is different so it is best to consult your attorney or accountant. Some common reasons for holding a property in a trust are to minimize or postpone death taxes, to avoid a time consuming probate, and to shield your property from attack by unsecured creditors.

#### **Can I homestead property that is held in a trust?**

Yes if the property qualifies.



**What taxes can I avoid by putting my property in a trust?**

Married persons can usually exempt a significant part of their assets from taxation and may postpone taxes after the first person passes away. Check with your attorney or accountant before taking any action and to learn more.

**Can someone else hold title for me "in trust"?**

Some people who do wish for their names to appear as titleholders can make private arrangements with a third party trustee. However this arrangement may be illegal and is always inadvisable because the trustee of record is the only one who is empowered to convey or borrow against the property. Also the title insurer cannot protect you from a trustee who is not acting in accordance with your wishes despite the existence of a private agreement you have with the trustee.



**Can a trustee borrow money against the property?**

A trustee can take any action permitted by the terms of the trust. The typical trust agreement gives the trustee the authority to borrow and encumber real property. However, not all lenders will lend on a property held in a trust, so check with your lender to learn more.

**Give The Profectus Team a call if you have any questions.**

*For a Free Home Evaluation, Call Us Today!*



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