

Understanding Irrevocable Trusts

July 15, 2026 | Christine M. Boutin, Elizabeth V. Newton | Articles

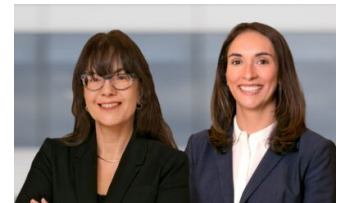
Estate planning is about more than deciding who receives your property one day. It is also about protecting what you have worked a lifetime to build. One tool that can help accomplish a wide range of goals is the irrevocable trust. Depending on the circumstances, an irrevocable trust can be used to support tax planning, charitable giving, special needs planning for a loved one, and protection of assets from certain future risks.

The question heard most often in the elder law field concerns a very real worry: *“What happens to my home and my savings if I need long-term care or a nursing home stay?”* For many families, an irrevocable trust is one of the most effective ways to address that concern.

A trust is a legal arrangement in which a trustee holds property for the benefit of others (the beneficiaries). A revocable trust can be changed or revoked by the grantor at any time, and the assets remain fully within the grantor’s control. An irrevocable trust generally cannot be changed or revoked once created, and the grantor gives up direct control over the assets placed in it. That trade-off is precisely what makes it a useful planning tool.

Nursing home care in Massachusetts can cost well over \$150,000 per year. To qualify for MassHealth (Massachusetts’s Medicaid program that helps pay for long-term care), the applicant’s and applicant’s spouse’s assets generally must fall below strict limits. Assets owned outright often must be “spent down” before benefits begin.

Assets transferred into an irrevocable trust that meets MassHealth’s parameters may no longer count towards the asset limits for MassHealth eligibility purposes. This can help preserve the assets (e.g., home and



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savings) transferred into the trust for the applicant's family. There is an important catch: MassHealth applies a five-year look-back period.

Transfers made within five years of applying for benefits can trigger a penalty, so timing matters, and planning ahead is essential when using irrevocable trusts.

Because the trust is irrevocable, the grantor gives up direct control over the assets placed in it. This means that the grantor cannot simply take the assets back. That is why this decision should never be made without careful, individualized guidance. Every family's situation is different. Before taking any action, you should consult a qualified estate planning and elder law attorney.