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Estate Planning Answers

Revocable Trusts

What is a Revocable Living Trust?

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Much has been written recently regarding the use of "living trusts" (also known as a "revocable trust" or "inter vivos trust") as a solution for a wide variety of problems associated with estate planning through wills. Some attorneys regularly recommend the use of such trusts, while others believe that their value has been somewhat overstated. The choice of a living trust should be made after consideration of a number of factors.



This brief summary is intended to provide a framework of basic knowledge regarding "living trusts" in general, in order that you might determine whether you should pursue a discussion of this technique further with your attorney licensed to practice in the state where your estate would be administered.

The term "living trust" is generally used to describe a trust (a) which you can create during your lifetime, and (b) which you can revoke or amend whenever you wish to do so. You can also create an "irrevocable" living trust, but that is permanent and unchangeable and is almost exclusively done to produce certain tax results beyond the scope of this summary.

A "living trust" is legally in existence during your life, has a trustee who is currently serving, and owns property which (generally) you have transferred to it during your life. While you are living, the trustee (who may be you) is generally responsible for managing the property as you direct for your benefit. Upon your death, the trustee is generally directed to either distribute the trust property to your beneficiaries, or to continue to hold it and manage it for the benefit of your beneficiaries. Like a will, a living trust can provide for the distribution of property upon your death. Unlike a will, it can also (a) provide you with a vehicle for managing your property during your life, and (b) authorize the trustee to manage the property and use it for your benefit (and your family) if you should become incapacitated, thereby avoiding the appointment of a guardian for that purpose.

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