

Revocable Living Trust

A living trust is an estate planning tool that is designed to avoid probate and provide long-term property management. A revocable living trust allows the grantor to terminate the living trust at any time as well as update and edit the trust from time to time. A revocable living trust has been described as "...an instrument which incorporates most, if not all, of the features of a will and which has many added advantages, an indispensable tool in the ordering of affairs " C. Sims Farr, Non-Probate Assets in Estate Planning, American Bar Association, (1962}

A living trust involves three designations in its creation or administration:

1. The grantor who creates the trust
2. The trustee who administers and manages the trust and its assets
3. The beneficiary who receives the benefit of the property within the trust.

It is common for the grantor to also be the beneficiary and trustee of the trust until his/her death.

In order to "fund the trust", assets must be placed in the trust for the benefit of one or more beneficiaries. These assets can include real estate, business interests, money market accounts, stocks, bonds, mutual funds, royalty contracts, antiques, and other tangible assets. However, banking accounts such as checking and savings accounts which money is moved frequently should not be placed in the trust.

While a living trust is designed to avoid probate, it does not fully eliminate probate and a supplemental will known as a "Pour-Over Will" is usually drafted when a living trust is formed. Therefore, all assets not included in the trust will be subject to probate upon the grantor's death. The purpose of the Pour-Over Will is to place all remaining assets into the living trust after the death of the grantor.

The following are some of the benefits of a revocable living trust:

1. **Property Management:** By placing property in a trust, the owner of the property is relieved of the burden of managing the property and instead the property is managed by a trustee who many times is a fiduciary or professional trustee. Additionally, it provides for advanced management of the property upon the death of the grantor.
2. **Avoidance of Probate:** When property is placed in a revocable living trust, the property can escape the delays and costs of probate administration. Typically, a revocable living trust will establish that all income generated from the trust will be payable to the grantor for life and upon his death to his surviving spouse and then to his children. Property placed in a revocable living trust is treated as an *inter vivos* disposition rather than a testamentary transfer.

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