



## A Guide to Revocable Living Trusts

*Are you looking to simplify estate management and distribution?*

*Are you concerned about the costs and delays of probate?*

*Do you want to guarantee your estate distribution will be  
confidential?*

# What is a Revocable Living Trust?

The simplest way to describe a Revocable Living Trust is to define the three words:

- **Revocable** means you can change or terminate the trust at any time.
- **Living** means that the trust is established during your lifetime, rather than at the time of death.
- A **trust** is a contract you make with an individual or corporation to carry out agreed-upon terms. It allows for the management of property in case of your inability and distribution of that property at the termination of the agreement (or the time of your death).

# 3 Problems in Estate Planning

## 1. Managing Property in Case of Incompetence

Nearly all adults over age 75 experience some period of inability to manage property. If incompetency occurs, unless you have plans for management of your assets, someone will have to go to the conservator court to be named your legal guardian so that he or she can provide that management. This can cause disagreement among family members, legal fees, and court costs.

## 2. Efficient, Economical Probate

Most individuals wish to have assets distributed as efficiently and economically as possible after death. However, the procedures of the probate court may be costly and delay the process. Without a Revocable Living Trust, the probate process is highly likely.

## 3. Coordination of Distribution

Many people establish joint ownership or make lifetime transfers of property to avoid the first two problems. However, these choices may create other problems, including lack of coordination with other estate planning instruments.

Worse yet, the individual to whom they transferred the property may face death, divorce, or financial disaster causing them to lose control of property. Again, plans can be unintentionally altered.

# A Revocable Trust Can Solve These Problems

The Revocable Living Trust offers a solution to these and other planning problems. When you establish and fund a Revocable Living Trust during your lifetime, you may serve as your own trustee and name a bank, trust company, or a trusted individual to serve as successor trustee when you are unable. As trustee, you maintain the same use and control of assets that you had prior to transferring to the trust.

In addition, the Revocable Living Trust provides the following benefits:

## 1. Certainty

When you establish and transfer assets to a Revocable Living Trust now, it is difficult to argue at the time of death that the trust does not express your desires. This is because you could change the terms of the trust during your lifetime.

The trust is assumed to be your desire, whereas a will must be proven to be your desire through the probate process. Of course, you are not available to confirm your wishes in probate, resulting in a greater risk of successful contest.

## 2. Confidentiality

Assets transferred to the trust and distributions from the trust are not subject to public record (as with a will), providing a level of confidentiality.

## 3. Disability Provision

Should a mental or physical disability prevent you from managing property, the successor trustee named in your Revocable Living Trust will provide management of property.

## 4. Simplicity of Will and Probate

The Revocable Living Trust will not be subject to the probate process. A pour-over will transfers title of any individually owned assets to the trust at death. The probate procedure should, therefore, be simplified and minimized.

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## 5. Life Insurance Beneficiary

A Revocable Living Trust can be named beneficiary of life insurance policies. At death, the insurance company pays all proceeds to the trust to be managed and distributed under trust terms.

## 6. Ability to Adjust

Family and financial circumstances change. Changes in distribution plans can typically be accomplished by a simple amendment to the trust.

## 7. Mobility and Estate Administration

If you own property in more than one state, you can title it to your Revocable Living Trust. Your successor trustee can continue to manage and distribute the property as directed in your trust, without the cost and delays of probate in each state. If you move from one state to another, you may choose to have the trust administered in the state with the most favorable laws.

# A Complete Plan

When you establish a Revocable Living Trust, you also need to have a valid will to transfer any property individually owned at the time of death to the trust. This is commonly referred to as a pour-over will.

Your will can be a very personal document. If you choose, you can express your love and appreciation for family and friends and share your Christian lifestyle by a statement of faith in your will.

Your Revocable Living Trust should also be combined with durable powers of attorney. One power transfers any individually titled property to the trust, and one helps with medical decisions should a disability occur.

# How to Get Started

Prior to meeting with your attorney to create a Revocable Living Trust, the following action plan can help you prepare the required data:

- **Make a listing of the people** you choose to name as beneficiaries of your trust. You may include family members, other individuals, your church, and ministries you wish to benefit from your estate.

As you are listing your people, include complete information: children from a former marriage, deceased children, adopted children, foster children, and any other relationships which apply, including the extent of any dependency.

- **Make a listing of your property.** What do you own? How is it titled? When did you buy it? What did you pay for it? What is it worth today? Add the values of your assets so you have a cash equivalent figure for the next step.
- **Outline your plans** for property to benefit people. There are two plans to consider. **First**, if death had occurred last night, how would you want your property distributed among your people?

Instead of thinking in terms of real estate and savings, think of cash. If you had to give away that much cash today, how much would you give to each of the people you have listed?

The **second** plan takes a long view since death will likely be many years away. Decisions are made, recognizing plans may be modified based upon the following questions:

- What will happen in the future to change your desires?
- Will children become financially independent?
- Will you receive an inheritance?
- Will your estate increase in value?
- What is going to take place at retirement?

And how will these affect your plans?



## May We Be of Service?

Today, while fresh on your mind, why not consider the value of a Revocable Living Trust for you and your beneficiaries. And if you would like a copy of **Your Estate Planning Guide**, you can download it [here](#), or we would be happy to send you a copy.

The Guide has been designed specifically to help you gather this information. When you have completed the Guide, you may take it to your attorney for the review or creation of your Revocable Living Trust and related documents.

If you would like additional assistance as you think through the process, please return the completed Guide to us and we will prepare a blueprint-like estate design with planning options for your consideration. There is no cost or obligation for this service.

# Frequently Asked Questions

## Q: Why do I need to title property to the trust during my lifetime?

A: With a properly designed will, property can be placed in the trust at the time of death. However, by waiting, it will pass through the probate process, and two advantages of the Revocable Living Trust are lost: (1) management of property in case of incompetency prior to death, and (2) avoidance of probate at the time of death. For these two advantages to be achieved, property must be placed in your trust prior to either event occurring.

## Q: How much will a trust cost?

A: The cost will vary by location, complexity, and size of your estate. The cost can be a few hundred dollars or several thousand dollars. You will want to ask your attorney prior to the drafting of the documents, so that there will be no surprises. The savings and benefits of the trust typically outweigh the cost.

## Q: Are there any disadvantages to the trust?

A: Some believe the cost of drafting the legal documents is the primary disadvantage of the Revocable Living Trust. This cost must be weighed against the savings and benefits of the trust during disability or at the time of death.

## Q: I am married. Do we each need a trust, or can we establish one trust together?

A: Discuss this with your attorney. Most people are more comfortable with one trust, and it proves to be more convenient.

## Q: To change my distribution plans, do I need a new trust?

A: No. Changes can be made by amendments to the trust. This is typically inexpensive and easily accomplished.

## Frequently Asked Questions (cont.)

### **Q: I own investment property and I frequently buy and sell. Does this present a problem?**

A: No, it should not. For real estate, your attorney can provide a certificate of trust outlining the powers granting you the right to buy and sell real estate. This can be recorded with each real estate deed. For stock, an agency account can be used to conduct sales.

### **Q: I am already filling out too many tax returns. Does the Revocable Living Trust require another tax filing?**

A: No. All income and expenses are reported on your personal income tax return during your lifetime. No additional filings are necessary and no additional taxes are payable.

### **Q: I have a homestead exemption on my residence. Is that a problem?**

A: No, it should not cause a problem—your legal counsel can confirm any issues peculiar to your

state. The exemption should still be available when the property is placed in the trust.

### **Q: What about government bonds?**

A: Government bonds can be assigned to a Revocable Living Trust. If there is interest that has not been taxed, the transfer will not accelerate that tax.

### **Q: I have minor children. Will this affect the design of my trust?**

A: Yes. Many parents choose to hold property for children beyond the age of legal inheritance, which is 18 in most states. The trust can continue for the benefit of children until the youngest child reaches an age of financial maturity (which you choose).

## Frequently Asked Questions (cont.)

**Q: I have personal property I want to distribute to specific individuals. How can I do this?**

A: Many attorneys use an assignment form to distribute household goods and personal effects by trust. Others leave household goods and personal effects outside of the trust to be distributed by your will.

In either case, you can write a letter of instructions naming specific pieces of personal property to be distributed to specific beneficiaries. The letter of instructions can also help avoid family conflicts that may occur at the time of death when distributions are not clearly stated.