



What you need to know about revocable living trusts

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A revocable living trust is a practical and flexible estate planning tool that is often used to accomplish a variety of personal, family, and financial goals. It affords the grantor (the person who establishes the trust, determines the provisions within the document, and transfers property to the trustee) control of trust assets during lifetime, but also allows appointment of a trusted family member, friend, or institution to manage assets, either during lifetime or after death. Revocable trusts may be helpful should grantors become incapacitated, need help in managing all the details of their financial affairs, or want to avoid the probate process.

How does a revocable living trust work?

Common steps

- An attorney drafts the trust agreement and may assist in the process of retitling assets in the trust's name, including bank and brokerage accounts, real property, and business assets, as examples.
- A separate trust is typically created for each spouse. In some states (particularly in community property states), both spouses may hold property in a single trust. An attorney can help determine the most appropriate arrangement for your particular situation.

- During lifetime, the grantor may continue to manage all trust assets and be entitled to trust income and principal as needed.
- Grantors can amend or revoke the trust at any time during their lifetime.
- In the trust agreement, a successor trustee is appointed. This could be a spouse, a trusted family member, or a professional (corporate) trustee. The successor trustee(s) will manage the trust assets, provide for stated needs, and help avoid a court-supervised guardianship or conservatorship.
- A co-trustee may also be named to act in a fiduciary capacity along with the grantor.
- Upon death, the successor trustee(s) will distribute trust assets or continue to manage them based on the terms outlined in the trust agreement: outright distributions can be made, or additional trusts can be created.
- If the estate is subject to federal estate taxes, an attorney can include provisions for married individuals to allow for the potential funding of a credit shelter trust or marital trust as an example.
- A revocable living trust is usually designed to work in coordination with other estate planning documents, which commonly include a “pour-over” will, a durable power of attorney, a health care power of attorney, and living will.

When can a revocable living trust be a good fit?

- A revocable trust can provide a succession plan for managing assets in the event of temporary or long-term incapacity.
- Revocable trusts are often used in states where the probate process is viewed as unduly burdensome, bureaucratic, or costly.
- If real estate is owned in more than one state, titling out-of-state property in a revocable trust may avoid the need for ancillary probate proceedings in states where the grantor is not a resident.
- If privacy is a concern, a revocable trust may be preferable to a will since assets in a revocable trust

avoid probate at death, and probate court records are typically open to the public.

- It’s important to consult with an attorney to determine whether a revocable living trust is appropriate for your situation.

Other considerations

- For certain estates, a trust may not be cost-effective.
- An attorney may advise that it is preferable to remain in the court-supervised, regulated probate process as a formal means to discharge creditors and claims against the estate.
- Some assets, such as qualified retirement plans, individual retirement accounts (IRAs), deferred annuities, and life insurance, ordinarily pass to named beneficiaries outside of the probate process (a living trust can be named as beneficiary of these types of assets). An attorney and tax advisor can help determine the most effective alternative to handle particular assets based on the grantor’s desired outcomes.
- A revocable living trust is “pass-through” for income tax purposes. During lifetime, all trust income is taxed to the grantor.
- The trust’s value is included when computing the taxable estate for estate or inheritance tax purposes.
- All assets in a revocable trust are treated as belonging to the grantor and are not protected from creditors.
- Even if most of assets are held in a revocable trust, it is a common practice to have a pour-over will. The will functions as a backup plan if property is not titled in the revocable trust’s name. A pour-over will typically directs how the probate estate should be distributed to the trust and includes the nomination of a named executor if probate is needed and the nomination of a guardian for minor children.
- Designating the same individual and/or institution in both the will and trust agreement can often lead to more efficient and cost-effective administration.
- Many grantors also create a durable power of attorney in addition to the revocable trust to address assets that are not titled in the trust, or for legal or financial issues that may arise that do not involve the

management of trust property during the grantor's lifetime. For example, in the case of incapacity, it may be important to have someone who has the authority to sign a tax return, deal with insurance companies, or handle contract matters on behalf of the grantor.

- In addition to having a durable power of attorney for financial matters, it is recommended that a durable power of attorney for health care (sometimes called a "health care directive" or "health care proxy") be included as a key estate planning document, which allows the appointment of someone to make medical decisions on the behalf of grantors if they are unable to do so.
- Another key aspect of estate planning is the appointment of a trusted individual or institution to serve as trustee when the grantor is no longer able to serve (a spouse or child is a common choice during lifetime). A trustee carries many significant responsibilities. Even when a spouse or child is fully capable and has the time to handle the tax, accounting, investment, and legal issues involved, it may be worth considering naming a corporate trustee (as either the sole trustee or co-trustee) to take advantage of their services and experience. It's important to talk to your attorney to determine what is best for your circumstances.
- A revocable trust provides flexibility to direct how the estate will be distributed after death according to the grantor's wishes and goals. The trust provisions can direct the successor trustee to simply pay final bills including taxes, and then make an outright distribution of remaining assets to named beneficiaries. Or they can direct that assets be held in trust for a designated time period. If assets remain in trust, the trust document will outline directions about how the trust should be handled. Those trust terms become irrevocable at the grantor's death, and the successor trustee will follow those instructions.

Discover more

To learn more about whether a revocable living trust may make sense for your goals and particular situation, consult with your legal, tax, and financial advisors.

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