RICHMOND
WEALTH MANAGEMENT
WELLS FARGO ADVISORS FINANCIAL NETWORK

Revocable living trusts

A flexible and practical estate planning tool

A revocable living trust can accomplish a variety of personal, family, and tax planning goals. It typically lets you retain complete control of trust assets during your lifetime, but it also lets you appoint someone who will manage your assets for you, either during your lifetime or after your death.

During your lifetime, a revocable living trust can be very helpful for someone who:

- Becomes disabled
- Needs help in managing all the details of his or her financial affairs
- Simply wants to delegate those tasks to someone else as a matter of convenience

And in many states, revocable living trusts are used as an alternative to the probate process in order to streamline the process of settling a deceased individual's financial affairs.

Basic trust terms: A grantor or settlor is the person who creates a trust. The trustee is the person in charge of managing and distributing trust assets in accordance with the trust document. A beneficiary is an individual entitled to benefit from the trust assets.

How does a typical revocable trust work?

- Your attorney prepares your revocable living trust. You re-title assets so that they are owned in your trust's name.
- If you are married, you may have a separate trust for each spouse. In some states (particularly in "community property" states), both spouses may hold property in a single trust. An attorney in your state can help you determine the most appropriate arrangement for your particular situation.
- During your lifetime, you continue to manage all trust assets because you are simultaneously your trust's grantor, trustee, and beneficiary.
- You are entitled to all trust income, and you can withdraw principal any time you like. You can use trust property as you see fit.

- As long as you serve as your trust's trustee or co-trustee, the trust uses your Social Security number, and all trust income is reported on your personal income tax return.
- You can amend or revoke your trust at any time.
- In the trust document, you name a successor trustee. This could be a spouse, a trusted family member, or a professional (corporate) trustee.
- If you wish, you can designate co-trustees who will act together.
- If you are unable to manage your own financial affairs during your lifetime, the successor trustee(s) will step into your shoes to manage your assets and provide for your needs. This helps avoid the need for a court-supervised guardianship or conservatorship.
- Upon your death, the successor trustee(s) will distribute trust assets or continue to manage them, according to your directions. You can provide for outright distributions or create additional trusts as you see fit.
- If you expect to be subject to federal estate taxes, your attorney can include estate-tax planning provisions in your revocable trust. For example, it is common for married individuals to have provisions that allow for the potential funding of a "credit shelter trust" included in their revocable trust.

A revocable living trust is usually designed to work in coordination with other estate planning documents, which frequently include a "pour over" will, a durable power of attorney, and a health care power of attorney or living will. It's important to talk with an attorney in your state to determine whether a revocable living trust is appropriate for your situation.

What is probate, and why do people want to avoid it?

Probate laws regulate the management, use, and distribution of property for persons who cannot act for themselves. When an individual can no longer manage his or her own property as a result of incapacity or death, assets held in that individual's own name become subject to probate.

- During a person's life, probate courts supervise guardianship or conservatorship estates for individuals who are legally incapacitated.
- The court may appoint a guardian who has responsibility for physical care of the incapacitated person and/or a conservator who is responsible for managing assets for the incapacitated person's benefit. (Different states use different terminology.)
- Probate courts have jurisdiction over deceased individuals' estates and regulate the process of managing and distributing a deceased person's assets.
- In some states, probate is relatively easy and inexpensive. In others, probate involves legal and administrative costs, procedural delays and the possibility of public disclosures that many individuals would prefer to avoid.
- Probate court files are public records and generally available to anyone. (Just think about the last time you heard about the detailed terms of a celebrity's will. The press was able to obtain the will because it was like any other public document.)

Evaluate potential strategies

At Wells Fargo Advisors, we believe that the best approach to financial decisions is to start with your life and build your money around it. As you evaluate any advanced planning strategy, ask:

- Does it reflect my values?
- How does it affect my income and financial security?
- Is it consistent with my time horizon, risk tolerance, and financial situation?
- Will it help to accomplish my goals and dreams?
- Does it build the type of legacy I want to create?
- How does it affect the people I care about most?

We encourage you to begin a conversation with your Financial Advisor.

When is this strategy a potential fit?

- A revocable trust can provide a backup plan for managing assets in the event of temporary or long-term incapacity.
- You don't have to be disabled to benefit from a living trust. For example, older individuals, people who are uncomfortable handling financial matters, or individuals who are simply too busy with other activities, may want to appoint a co-trustee to help them pay bills and manage investments.
- Revocable trusts are often used in states where the probate process is viewed as unduly burdensome or bureaucratic.
- If you own real estate 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 you are not a resident.
- If privacy is a concern, a revocable trust may be preferable to a will since probate court records are typically open to the public.

What are some indications that this strategy may not fit?

- For small estates, a trust may not be cost-effective.
- If you live in a state where the probate process is viewed as quick and inexpensive, revocable living trusts may not provide a speed or cost advantage.
- Although this is not typical, there are situations in which your attorney may advise that it is preferable to remain in the court-supervised, highly regulated probate process.

How is it implemented?

After your attorney prepares and you sign your revocable living trust, it's important to understand that there is additional work to be done. To realize the benefit of a revocable living trust, you must transfer assets into your trust's name.

For bank and brokerage accounts, this is a relatively easy process. You are simply giving your financial institution directions to move assets from an individual account to a new trust account. Usually, the financial institution will ask you to fill out a "trustee certification" form along with other account documents. A trustee certification lets you provide information about the trust and the powers of the trustee without having to provide a copy of the trust itself.

For real estate, you should ask your attorney to prepare and record a deed transferring the title into your trust's name.

If you own an interest in a closely held business, limited liability company, or partnership, be sure to talk to your attorney about whether or not these assets should be re-titled in your trust's name. If re-titling is advisable, your attorney will also assist you in making the necessary transfer of title.

It may not be necessary (or even possible) to re-title some assets, such as qualified retirement plans, IRAs, deferred annuities and life insurance. This step may be unnecessary because they ordinarily pass to your named beneficiary(ies) outside of the probate process. (You can name a living trust as beneficiary of these types of assets. See the "Frequently Asked Questions" section below for more information.) It's important to work with your attorney and tax advisor to determine the best way to handle particular assets in your specific situation.

Frequently asked questions

Are there any income tax advantages to having a revocable living trust?

No. A revocable living trust is "transparent" for income tax purposes. During your lifetime, all trust income is taxable to you, the grantor, at your rates, just as if you had received it directly. While you are serving as trustee or co-trustee, the trust simply uses your Social Security number for income-tax reporting purposes.

Are assets in a revocable living trust removed from my taxable estate?

No. You still control the trust and get all the income, so the trust's entire value is included when computing your taxable estate, just as if you owned the assets individually. Of course, your attorney can include a variety of tax planning strategies in your trust. The tax planning opportunities are the same ones you could include in a will. A will and a revocable trust are equally good starting points for estate tax planning.

If I have a revocable trust, does that protect my assets from creditors or help me qualify for government assistance programs such as Medicaid?

No. Because you control the trust, all assets in a revocable trust are treated as belonging to you.

If I have a revocable trust, why do I still need a will?

Even if most of your assets are held in a revocable trust, it is still advisable to have a "pour over" will. The will functions as a backup plan in the event that you own property that was not titled in your revocable trust's name. A pour-over will typically directs that your probate estate should be distributed to your trust. Having a pour-over will also lets you control who will be named as executor in the event that a probate process is needed.

In addition, if you have minor children, a will is essential because it is the only document in which you can name a guardian for them.

If I have a revocable trust, do I still need a power of attorney?

Yes, it is still a good idea to have a durable power of attorney in addition to your revocable trust. Here's why: A trustee has power over trust assets, but you may have assets that are not titled in your trust. Or, legal or financial issues may arise that do not involve the management of trust property—for example, if you are incapacitated, 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 your behalf.

In addition to having a durable power of attorney for financial matters, every adult should also have a durable power of attorney for health care (sometimes called a "health care directive" or "health care proxy"), which lets you appoint someone to make medical decisions if you cannot.

If I already have a power of attorney that becomes effective if I am disabled during my lifetime, why would I also need a revocable trust?

Theoretically, a power of attorney should work just as well. However, as a practical matter, third parties are sometimes reluctant to accept the authority of an agent (or "attorney in fact") under a power of attorney. In contrast, third parties (such as financial institutions) seem to be much more comfortable with following the instructions of a successor trustee named under a living trust.

If I name a co-trustee during my lifetime, does that mean I am giving the co-trustee an equal say with me on all trust decisions?

It depends on how your trust document is written. Some trust documents specify that either trustee may act alone; others require both trustees to be in agreement. Your attorney can prepare your trust to reflect your wishes and needs.

As individuals become older or encounter health problems, they often appoint a co-trustee because they want help managing certain financial tasks but do not want or need to give up control altogether. Sometimes the co-trustee is a child. In other cases, individuals choose an institution as a co-trustee or managing agent because they do not want to burden children with these tasks.

If I just want someone to help me write checks and pay bills, why not keep it simple and put assets in joint name with one of my children?

This idea may seem simple at first, but can become very tangled. Consider, for example:

- Joint tenancy is not revocable, insofar as you cannot terminate a joint tenancy without consent of the other joint tenant.
- There are matters that will require both joint tenants' signatures, even if you feel that the assets are still "yours."
- At your death, the entire account goes to the joint tenant. If you have other children, this may not be what you want. And even if the receiving child is willing to redistribute the account among siblings, gift tax rules can cause complications.
- What happens if that child gets divorced?
- What happens if that child predeceases you?

It's usually worthwhile to have your attorney prepare a trust that protects your interests; "quick and cheap" alternatives may not work out in the long run.

You can count on us

Your Financial Advisor is prepared to work with you and your attorney to develop and implement your estate plan, which may include a revocable living trust.

Are there any special considerations I should keep in mind before naming my revocable trust as beneficiary of a deferred annuity, IRA, or qualified retirement plan account?

Yes. In some cases, naming a trust as beneficiary could force accelerated taxable distributions. Many different factors come into play, including (1) the terms of the trust itself, (2) the terms of the IRA agreement, retirement plan document or annuity contract, and (3) the required minimum distribution (RMD) rules under tax law. These tax issues are complex, so it's recommended that you consult your attorney or CPA before naming a trust as beneficiary. There are situations in which it makes sense to name a trust—for example, if your beneficiaries are minor children or if you want a trustee to control withdrawals—but be sure you understand the tax consequences in advance.

Whom can I name as a successor trustee after my death?

You can appoint any mature adult whom you know and trust. A spouse or child is a common choice. Keep in mind that being a trustee is a lot of work. Even when a spouse or child is fully capable of handling the tax, accounting, investment and legal issues involved, it may be worth considering whether it would be beneficial to use a corporate trustee's services (as either the sole trustee, a co-trustee, or a managing agent). There is no one "best" choice for everyone. It's important to talk to your attorney about alternatives so that you can decide what is best for your family and your particular situation.

If I have a revocable trust during my lifetime, does that mean assets have to stay in trust after my death?

No. You have complete flexibility to direct how your trust will be distributed after your death. If you wish, you can direct your successor trustee to simply pay final bills and then make a prompt, outright distribution of remaining assets to your beneficiaries. Or, you can direct that assets be held in trust for beneficiaries. It's up to you. If you choose to keep assets in trust, your trust document will set out your directions about how the trust should be handled. Those trust terms become irrevocable at your death, and the trustee will follow those instructions. Your attorney will help you draft a trust that reflects your wishes and goals.

Trust services available through banking and trust affiliates in addition to non-affiliated companies of Wells Fargo Advisors. Wells Fargo Advisors and its affiliates do not provide legal or tax advice. Be sure to consult with your own tax and legal advisors before taking any action that could have tax consequences. Any estate plan should be reviewed by an attorney who specializes in estate planning and is licensed to practice law in your state.

All estate planning services are provided with the participation of your personal attorney, who should review all such materials. Wells Fargo Advisors does not prepare will and trust documents; these must be drafted by your attorney.