



FAQs: REVOCABLE LIVING TRUST

Who needs one?

Any person who has an estate valued over \$60,000, or a couple with an estate valued over \$120,000. We offer three levels of trust agreements; one for small estates, one for intermediate estates, and one for large estates. Even though the trust pays for itself when the estate is worth less than \$60,000, our ethics and common sense prevent us from recommending a trust to someone who has so little, unless there are special circumstances.

What does it do?

A brief description includes avoiding probate, guardianship and conservatorship proceedings, controlling disposition of your assets upon death, providing for beneficiaries and adding "teeth" to your basic legal/medical documents. It is the most efficient estate planning vehicle available today.

Where do I keep it?

You keep the original with your other important legal documents, preferably in a fireproof safe. You keep a copy at home in your trust notebook. You also need to keep notarized copies of the Abstract to facilitate easy operation of the trust.

When does it work?

It starts working when you sign it and continues working for generations to come. It provides benefits to you, your parents, your children and your grandchildren. It also works in many different ways. The trust is actually many trusts in one. Each one designed to cover any contingency without losing any benefits.

How does it save me money?

It eliminates probate proceedings upon death, disability and disappearance. Also, it eliminates some state taxes and Generation Skipping Taxes. It also sets up a plan of supporting generations to come for a one time fee.

Why would I give my property away?

You really do not give away your property with a revocable trust. During your life, you may revoke the trust at any time and regain ownership of the assets. When you die, you will not take it with you, so it must go somewhere. Why not protect your hard earned money from creditors and "screwed up" beneficiaries.

What is the difference between an irrevocable trust and a revocable trust?

One is permanent and generally unchangeable from inception, the other is fully alterable until the death of the grantor. An irrevocable trust is generally needed when a person owns lots of life insurance or their estate is exposed to significant estate taxes.

Who should be the trustee?

Initially, we recommend that the grantor be the trustee, co-trustees if married. The successor trustee or trustees should be persons sophisticated enough to handle the responsibility. There is some chance for abuse, so the most trusted of persons need only be considered. If you prefer to give this responsibility to a group, the trust agreement deals with that. The group becomes a board of trustees and must agree on all decisions. The day to day responsibilities are given to a managing trustee. Normally we use competent family members from both sides of the family or children.

Does the trustee get paid?

Generally, the trustee is reasonably compensated. If the trustee does need compensation, it may be disclaimed by the trustee before serving to avoid income tax implications. There is generally significant time and effort expended by non-grantor trustees.

Are the courts involved?

Not if the trust is created during your life. A trust that is created by a Will is not as fortunate. This type of trust is a "Testamentary Trust" and its administration must be supervised by the courts. That means the trustee must make annual accountings and receive court approval when dealings with the assets.

Are the payments to the beneficiaries automatic?

No they are not. Over the years it has become apparent to us that there are many situations where the grantor would regret throwing money at his/her heirs. No one wants a trust distribution to go to a beneficiary in the middle of bankruptcy or divorce. Little or none of the payment would benefit the heir. If the payments are discretionary only, they will not be included in any payments in discharge of bankruptcy or as part of a divorce property settlement. By requiring discretionary payments, waiting out an exposed period is easy.

May I change the trust?

During your life, you may change the trust at will. Once you die, the trust is generally unchangeable. Our trust anticipates the problems this may cause and has provisions that facilitate such changes and provide necessary guidance. The changes are made in conjunction with a "Protector." This is usually a professional, such as a lawyer or accountant, who has the knowledge and experience required to understand the intricacies of the trust and the reasons for any changes.

What happens to assets that are not in trust?

These assets are subject to probate. Only these assets are considered in determining your probate fees. Optimally all assets will be owned by your trust and escape the probate courts. If you have a pour-over Will, all assets not in trust will go to the Trust after probate.

For additional information call: (602) 252-5110

For further Preventive Law Briefs, visit our website: www.goodsonmanleyforakis.com

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