



IS THE LIVING TRUST THE RIGHT STRATEGY FOR YOU? FACT SHEET



"Avoid probate costs, do a Living Trust." The source of such a comment is frequently someone passing through town doing a seminar. But what is behind the statement? Will a person who buys a revocable living trust kit avoid taxes, be free of any requirement to probate his assets, and save money and time, while ensuring that his heirs are protected? Unfortunately, this may not be the case.

For the very wealthy, a revocable living trust may be a good choice. They know they will pay estate taxes, and the money paid for the trust and management of the assets is minimal in comparison to the money they can save in estate taxes. By setting up a revocable living trust and a "pour over" will, the client can ensure continuing professional management of assets; their death will not disrupt the estate plan or require a delay to implement the plan.

For the typical client who will not owe taxes of any kind at the time of their death, the situation is less advantageous:

- 1) A revocable living trust generally costs about \$2500.00, professionally prepared.
- 2) All the assets of the client must be placed in the trust. This is called funding the trust, and without it a trust is useless. A new deed is prepared for the house, new title and registration for vehicles, and it places funds and stocks in trust accounts. This means more costs. In general, the individual's taxes will likely increase because trusts have fewer exemptions than individuals.
- 3) A reputable attorney will recommend a will in addition to the trust. This is called a "pour over" will. With a pour over will, the client leaves any property not properly in a trust at the time of death into a trust which is added to the revocable trust after probate. Expect to pay another \$500.00 or so.
- 4) Every year, the attorney who prepared the trust will consult with the client to determine all transfers or liquidations during the year, and new documents will be prepared for any new assets. This will likely result in more expenses, and foregoing updates will likely result in problems later on.
- 5) If the client has neglected the trust and made no pour over will, he or she may cause a worse situation for heirs than doing nothing. The heirs could find that they will need to go to probate to transfer any assets not properly entered into the trust. This could add another \$1500.00 for probate and legal fees.

Contrast the above-discussed process with a simple Georgia Probate, using a Will: A Will may cost between \$450.00 - \$500.00 (or free at Legal Assistance). The client can transfer real estate to his spouse using a Joint Tenancy with Right of Survivorship; the bank accounts are joint or payable on death; insurance beneficiaries are squared away, and any stocks are registered to go to the spouse automatically. At the client's death, without changes to the situation, all property goes automatically to his spouse and there will be no need to use the Will, and no Probate cost. If there is a need to Probate, typical cost is about \$1500-\$2000.00, including court costs and all legal fees.

The bottom line: the revocable living trust usually is not the best choice for clients. With growing frequency, non-attorneys are trying to "sell" Living Trusts. A reputable attorney will be able to advise you on the many factors to consider. Do not always automatically assume a trust is the better and more cost-effective method to handle your estate.

If you have any questions or would like additional assistance with your estate planning, please call our office today to make any appointment with one of our attorneys.



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