

WHY WOULD I WANT A REVOCABLE LIVING TRUST IN NORTH CAROLINA?

*The Revocable Living Trust Is a Vehicle of
Asset Transfer that Is Very Useful for People of
Relatively Ordinary Means*



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You should act in a completely informed manner when you are planning your estate. If you make assumptions, you may look past viable solutions.

One common assumption is the notion that trusts are only useful for very wealthy people. If you buy into this misconception, you may assume that a last will is the only asset transfer vehicle that is appropriate for you if you are not a multimillionaire.



It is true that there are certain types of trusts that are used by high net worth individuals. People who are in possession of a great deal of wealth are faced with estate tax exposure. There are irrevocable trusts that are used to remove assets from an estate for tax purposes.

However, this is not the only type of trust. There are also revocable trusts. The revocable living trust is a vehicle of asset transfer that is very useful for people of relatively ordinary means.

THE BASICS

If you create a revocable living trust, you are called the grantor. When you create the trust agreement you name a trustee who will administer the trust after you pass away or if you become incapacitated. You also name a beneficiary or

beneficiaries who will receive monetary distributions from the trust after your passing.

ONGOING CONTROL

One of the nice things about a revocable living trust is the fact that you do not relinquish control of the funds right away. You can act as the trustee and the beneficiary while you are still living. As such, you direct the actions of the trust, and you are allowed to take distributions out of it as you see fit.

Because the trust is revocable, you could actually rescind or revoke the trust at any time. The trust would no longer exist, and assets that have been conveyed into it would once again become your personal property.



When you create a revocable living trust you put together a trust agreement. This agreement will contain the terms that the trustee must follow after your passing regarding the distribution of your resources.

You can change the terms of the trust agreement along the way if you want to add or subtract beneficiaries, change the choice of trustee, or make other types of revisions.

PROBATE AVOIDANCE

One of the most compelling reasons to create a revocable living trust would be the facilitation of asset transfers outside of the process of probate.

If you die using a last will to state your final wishes regarding the transfer of your assets, the will must be admitted to probate. The probate court will examine the document to determine its validity.

The executor will handle the business of the estate under the supervision of the probate court.



Probate is often avoided because of three primary drawbacks. First of all, probate does not run its course overnight. The complexity of the case in question will certainly be a factor, but at minimum it is going to take a number of months for an estate to be probated. It can take considerably longer when complicated circumstances exist.

The heirs to the estate that are named in the last will won't receive their inheritances until after the estate has been probated and closed. This time lag can create hardships for some people.

There are also costs that go along with the process of probate. These would include legal fees, accounting expenses, liquidation and appraisal charges, court

costs, and the executor's remuneration.

All in all, these expenses can absorb a noticeable portion of the estate.

Thirdly, probate is a public proceeding. The general public can access probate records. For one reason or another, you may want your final affairs to be conducted confidentially.

When you use a revocable living trust to arrange for the transfer of your assets, none of these drawbacks enter the picture. The beneficiaries that you name in the trust will receive their inheritances in a timely and efficient manner. Probate costs are avoided, and the actions of the trust are not open to the public. You can also provide asset protection for the assets you leave your beneficiaries after your death.

CONCLUSION

When you use a last will to arrange for the transfer of your monetary resources after you die, probate is a factor. Probate is time-consuming, it can be expensive, and it is a public proceeding.

Revocable living trusts facilitate asset transfers outside of the process of probate. You do not surrender control of assets that you place into a revocable living trust while you are living, and this is part of the appeal.

It is important to understand all of your options when you are planning your estate. If you want to be optimally prepared, you should discuss your unique situation with a licensed estate planning attorney.

REFERENCES

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About the Author



John Potter

John Potter is an Estate Planning and Elder Law attorney in the Ballantyne area of Charlotte, North Carolina. His practice focuses exclusively on two areas: Estate Planning, helping individuals protect their families and preserve their legacies both during their lifetimes and after their deaths, including through Wills and Living Trusts; and Elder Law and special needs planning, assisting individuals in qualifying for Medicaid and other government benefits to offset the costs of long-term care, including nursing home care and other medical expenses.

Experience

After graduating from the University of Virginia School of Law in 2003, Mr. Potter clerked for United States District Judge Jennifer Coffman in Lexington, Kentucky. In 2004, he joined the law firm of Taft, Stettinius & Hollister LLP in Cincinnati, Ohio, where he practiced in the litigation section. His experience with estate and trust litigation left him with the conviction to help clients proactively take control of their affairs both to avoid unnecessary, time-consuming, expensive, and heart-breaking litigation and also to give clients the peace of mind and other benefits that come with proper planning.

Mr. Potter practiced estate planning and elder law in the northern Kentucky office of his family's law firm beginning in 2008. In 2012, Mr. Potter moved to North Carolina and opened the Charlotte office of the Potter Law Firm Office. He is admitted to practice law in North Carolina, Kentucky, and Ohio, and he is accredited by the Department of Veterans Affairs.

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