

Revocable Living Trust

A Brief Explanation

Trusts have been around since Babylonian days, and are one of the oldest methods of asset ownership and distribution in existence. There are various forms of trusts designed to accomplish different objectives. The one we discuss here is the **Revocable Living Trust (RLT)**.

In setting up an RLT, a person, or people (such as a married couple) place assets into the trust (this is called **funding** the trust), and are known as the **grantors**. Those assets are entrusted to the **trustee** who takes care of the assets and uses them for the benefit of the **beneficiary(ies)**. In the RLT, the same person generally is the grantor, trustee and the beneficiary. So, if you set up an RLT, you will most likely be the grantor, trustee and the beneficiary, all at the same time. The trust is also **revocable**, meaning that while you are living, you can make changes to the trust whenever you want, and you can take assets back out of the trust. Your trust defines how your assets will be managed while you are living, and what happens to them when you die.

The most common reason people establish an RLT is to avoid the **probate** process. Probate can be time consuming and last for months or even years, families can incur unnecessary expenses and probate is public record, open for anyone to see.

By setting up and properly using an RLT, you can avoid probate, thereby avoiding the time delays, the expense and the publicity that are associated with probate. For married couples, probate can be avoided at each death. Many people believe that having a **will** keeps the estate out of probate. This is not true. One of the primary purposes of probate is to validate the will. You should be aware that when you have an RLT, you still need a will. Because the RLT affects only the things that are titled to it, you need a will to deal with the things that are outside the trust when you die. The will that accompanies an RLT is known as a **pour over will**. It states that any assets that are titled in your name at your death and are not in your living trust, would be transferred to your RLT after your death.

Another advantage to the RLT is much better asset management in the event of **incapacity**. For example, if you and your spouse have an RLT and one of you becomes incapacitated, the other one seamlessly gains the authority to manage the trust assets independently. Additionally, you can appoint **successor trustees** to step in, if in the future, neither you nor your spouse is capable of serving.

In the past, the RLT served to potentially save married couples huge amounts of money in **estate tax** (death tax). Under the current rules, most of us don't really need to be concerned with having an estate tax exposure. However, for those married couples who are more affluent, the RLT still offers valuable estate tax protection.

Other benefits can be established in the RLT, such as creating incentives for children or other family members that encourage worthwhile accomplishments or maintaining family values. You can prevent a child from losing his or her inheritance in a divorce or to creditors. Many people include provisions that are intended to discourage self-destructive behavior on the part of their children, such as alcohol and drug abuse.

Does everyone need an RLT? The answer is NO. Young people with no children, who have not yet accumulated many assets, and intend to leave their assets to each other when the first one dies, may not realize the benefits offered by this type of instrument. Since the cost of having an RLT prepared is higher than that of a will, some people who would benefit from having it, might decide to put it off.

The Revocable Living Trust is a valuable estate planning tool when it is properly designed and utilized. Because of its complex nature and the various provisions that need to be considered in each family's situation, this is not a do-it-yourself task and should be undertaken only by an attorney who has vast knowledge and experience with estate planning and trusts.

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