

## I Am Asked This Question Often As An Estate Planning Attorney

By Liz Altman

### What is Revocable Trust? Is it the Same as a Living Trust?

A revocable trust, a living trust, and or a family trust are all terms used in estate planning that mean the same thing. You are often called the grantor who transfers your assets into the name of the trust, naming yourself as trustee. The trust describes what you want to happen to your assets if you die or become incapacitated. Part of the appeal of a revocable trust is that nothing changes during your lifetime, it is not complicated, and it works with a will for transferring assets when you die.

### Are there Benefits to a Revocable Trust versus a Will?

With a will, your assets are held in your name. One difference with a will is that it can name guardians for children if they are young. At your time of death, the will is confirmed by the courts in a process known as probate. The court will supervise the collection of your property, ensuring the people named in your will have the authority to take ownership of or oversee the property. Probate can be long, costly, open to the public, and a difficult process and is only right for some.

Avoiding the probate process is one benefit of having a revocable trust. The trust preserves the privacy of your information, allows for efficiency, informs who gets what assets, and names a trustee who oversees the distribution of assets and settles the estate.

When a trust is created, the property is retitled from your name into the name of the trust. This way, the property remains in the trust's name before and after your death and won't be tied up in the probate process.

### Should I Title all my assets in the name of the Revocable Trust?

Yes, if it is of substantial value, and this means

that the assets must be retitled from your name into the trust's name. This is by no means an onerous process, but, e.g., your personal name to the Trustee of your named Revocable Trust. Depending on your banking institution, this may require the opening of a new account for your house or other real property, which means filing a new deed. To avoid probate, assets such as homes, securities, and investments, art, collectibles, antiques should be titled under your trust. Depending on your State residence, smaller assets and personal checking accounts can stay in your own name. Your life insurance and retirement accounts also would not become part of the trust.

### Incapacitated?

The benefit of a Revocable Trust is that it allows your named trustee to oversee your assets while incapacitated. Nothing changes inside the trust, tax reporting, and transfer of wealth, all occur as you have designated. It avoids another court process called conservatorship or guardianship, depending on your state or residence. Like probate, without this trust, the court names a person you do not know to handle the responsibilities of the person incapacitated. It also avoids the complications of power of attorney that allows for someone to act on your behalf if you cannot.

### The expense of a Revocable Trust

There is an added expense to creating a Revocable Trust with your other estate planning documents. In my planning for clients, I include a will, power of attorney, HIPAA form, medical directive, and a revocable trust in a flat fee arrangement.

### Taxes

Revocable trusts do not save on income taxes, nor do they help with the estate tax. The IRS treats them as personal property for both income and estate tax purposes while you are alive. Any additional income you acquire must be reported on your return. It does not change unless you have become incapacitated or have died. At this point, your Revocable Trust decides what happens with your property.

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### Am I protected from Creditors?

Creditors can still reach your assets inside a Revocable Trust during your life and afterward. A Revocable Trust is still the property on which you are paying taxes.

To learn more about the essential documents in proper estate planning, make an appointment with the estate planning attorneys of Altman & Associates.

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