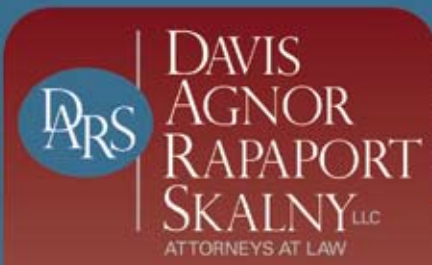


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Revocable Trusts – Not For Everyone

There are many magazine articles and seminars too many to count about the wonders of revocable living trusts. Unfortunately, the usefulness of these trusts are often overstated, so you must be careful about falling into the trap of “purchasing” a legal “product” that may or may not meet your estate planning needs. On the other hand, in proper situations and with sufficient guidance, these trusts may be very useful to meet a wide range of your estate planning needs.

A revocable living trust is a trust that is set up during your lifetime. It is revocable or amendable at will, and you retain full control over your assets. The principal benefit of using a revocable trust is that it provides an excellent tool to manage your assets during any period that you may be disabled, whether that disability lasts just a few weeks or many years. It also provides a means for avoiding probate for any of the assets held in such a trust since trust assets are non-probate property.

There are several considerations that should be taken into account before deciding to use a revocable living trust, rather than a Will, as your primary estate planning tool.

One consideration is that using such a trust will require you to spend more time learning the vocabulary and concepts associated with these documents than you might if you just used a Will. This is because you will be using your revocable living trust on a regular basis in dealing with your financial affairs. Like every other profession, there are certain “terms of art” that need to be understood by you. Although it is your attorney’s responsibility to help you through this educational process, it will require at least some effort on your part.

A second consideration is that you must transfer all of your assets into your trust. Your attorney can prepare the deeds and associated paperwork for transferring your

home and other real properties into your trust. However, you will have to visit your banks and investment brokers to make sure that your accounts are properly transferred into your trust.

The good news is that this part of the process is not as onerous as it once was since banks and other financial institutions have become more familiar with these trusts. The bad news is that these transfers must be made in order to give full effect to your trust. All too often, clients are provided transfer letters and other written instructions from their attorneys to make these transfers, and they just sit inside the fine leather notebooks that are given to them once their estate planning documents are completed. If those letters aren’t sent out to the financial institutions, no transfers are made, and the effectiveness of the trust can be seriously compromised.

A third consideration is that estate plans that incorporate revocable living trusts usually cost more to put together and implement than an estate plan that uses only Wills. Your attorney will spend more time drafting the appropriate documents for you, and making sure you understand all of the important concepts associated with these documents.

Although a revocable living trust can be an excellent estate planning tool, it is not for everyone. When you meet with your attorney, be prepared to discuss your financial, family, and health situations. If you are still in doubt about using a revocable living trust after that meeting, but you think you have had your questions answered, then a good old fashioned Will-based estate plan may be the better plan for you.