

Why Would I Want a Revocable Living Trust in Ohio?



"Living trusts are appealing because they facilitate the transfer of assets to the beneficiaries outside of the costly and time-consuming process of probate."



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You probably want your assets to be distributed to your heirs after you pass away quickly and efficiently. With this in mind, let's look at why you may want to consider the creation of a revocable living trust.

Last Wills and the Probate Process

Everyone has heard of the last will. It seems like a simple solution. You may naturally assume that a will is going to facilitate an immediate transfer of assets to your heirs.

In fact, it's not so simple. Unless you have a very small estate, the heirs will not receive their inheritances until after the full process of probate has run its course.

When you draw up your last will you should choose an executor or personal representative. This is the person who will administer the estate in a hands-on manner. The executor must admit the will to probate.

During probate the court will examine the will to determine its validity. If someone wanted to challenge the will, this individual could present an argument before the court.



Assuming the last will has been deemed valid, the executor will conduct the business of the estate. This can be quite time-consuming under some circumstances. Final debts must be paid, including taxes. Assets

must be identified and inventoried. Appraisals and liquidation may be necessary.

In addition to the above, the law allows a certain amount of time for creditors to come forward, and the court has a certain caseload. This adds to the time consumption, even if the administration of the estate is relatively straightforward.

At minimum the probate process is going to take several months, and it can actually take years under some circumstances. All the while the heirs to the estate will be left waiting for their inheritances. This can be an inconvenience for some, but it can create hardships for others.

In addition to the time factor, there are costs that go along with the probate process. These would typically include a filing fee, legal fees, accounting charges, appraisal and liquidation expenses, and the executor's remuneration.

Another drawback to consider is the loss of privacy. Probate records are available to the general public. Anyone who wanted to know what went on during probate could access these records.

Benefits of Revocable Living Trusts

When you look at the pitfalls that go along with the probate process, you may wonder if it is possible to arrange for the transfer of your assets to your heirs outside of probate. This is exactly what a revocable living trust can accomplish.

If you create a revocable living trust you are called the grantor or principal. You choose a trustee to administer the trust, and a beneficiary who will receive monetary distributions out of the trust after you die.

You may be reluctant to create a trust under the assumption that you are surrendering control of the assets right away. In fact, with a revocable living trust you can act as the trustee and the beneficiary while you are still living. You name successors to assume these roles after you die. As a result, you don't relinquish control.



In fact, you have the right to revoke or rescind the trust entirely. You can also change the terms as you see fit at any time.

After you pass away, the trustee that you name in the trust agreement distributes monetary resources to the beneficiary or beneficiaries in accordance with your wishes. These distributions are not subject to the probate process. As a result they are made in a timely manner, and the business of the trust is privately conducted.

There is also the matter of incapacity planning. If you were to become incapacitated and unable to handle your own affairs, the court could appoint a guardian or conservator to manage your finances.

When you create a revocable living trust, you eliminate the need for a guardianship hearing. The successor or disability trustee that you name in the trust agreement would administer the trust in the event of your incapacitation.

Cost Comparison

There are those who choose to utilize a last will because they are concerned about the cost of creating a revocable living trust. Legal fees are higher for trust creation.

However, there is the matter of value. Probate costs can be considerable, and probate comes with a number of inherent drawbacks. Revocable living trusts are popular because they may provide better value when you consider all the factors.

Conclusion

Living trusts are appealing because they facilitate the transfer of assets to the beneficiaries outside of the costly and time-consuming process of probate. You do not surrender control of assets that you convey into a revocable living trust while you are living, and this adds to the appeal.

The grantor of a revocable living trust can also prepare for possible incapacity by naming a disability trustee.

Revocable living trusts provide a number of benefits. If you would like to learn more about them, arrange for a consultation with a licensed estate planning attorney.

References

American Bar Association

http://www.americanbar.org/groups/real_property_trust_estate/resources/estate_planning/revocable_trusts.html

Family Caregiver Alliance

http://www.caregiver.org/caregiver/jsp/content_node.jsp?nodeid=434

About the Author



Barry Zimmer

Barry H. Zimmer founded THE ZIMMER LAW FIRM in June 1993, to practice in the areas of estate planning, estate administration, and business succession planning. His goal was and continues to be helping clients understand and de-mystify the often confusing world of estate planning in an ever-changing society, and to implement effective estate planning with minimal effort and time investment. The firm works from the belief that planning should always be driven by purpose. As a result, there are no "canned" or pre-set planning solutions. Instead, Zimmer helps clients identify their goals first and then builds estate and business plans based on that understanding.

Barry has been in private practice since receiving his law degree from the University of Cincinnati College of Law in 1979. He earned his Bachelor of Arts Degree from U.C. with Honors, Magna Cum Laude and Phi Beta Kappa, in 1976. He was profiled in the 1990-1991 edition of Who's Who in American Law for contribution to the betterment of contemporary society, and has lectured numerous times on legal topics, and authored several articles and Special Reports on estate planning. He is a former guest columnist on Simply Money, on 91.7 FM, Wvxu. He makes occasional guest appearances on radio about estate planning topics, and has been quoted in newspaper articles and columns on estate planning matters.

In Mr. Zimmer's perspective, excellence in implementing trust-based estate plans is but one aspect of his responsibility to clients. Providing reliable guidance and service to families of clients who pass away is just as critical as sound planning at the front end. The firm is very active in settling trusts of all complexity and sizes, and handling probate cases and guardianship proceedings. Zimmer and his staff have successfully handled hundreds of trust estate cases, and are experienced in settling and distributing a wide variety of estate assets to heirs.

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