If there were a bandwagon riding through the streets of Estate Planning-ville, the banner on the side would say “Revocable Living Trust.” So why are so many people jumping on this bandwagon? In other words, why are revocable trusts so popular as an estate planning tool?

The quick answer is that revocable trusts allow people to avoid probate. But why is that important? And how does it work? To understand the popularity of revocable living trusts, it is necessary to know a bit about how trusts work and why probate is something you want to avoid.

Trusts Operate Like a Virtual Container

Many people think of trust funds when they hear the word trust, so they think of a trust as a type of account. But the concept is actually much larger. A trust is an artificial legal device created to hold all types of property. Trusts can be created with many different features to accomplish a variety of purposes. But because they are intangible, they can be hard to conceptualize if you haven’t worked with them before.

You create a trust by signing a trust document, and that document establishes the terms of the trust. Revocable trusts can be easily changed or canceled, and property can be moved in and out of them at any time. Irrevocable trusts, on the other hand, are not flexible. Once the person who created the trust moves property into it, they can’t take it back out again. The trustee controls it and uses it to further the trust purposes and to serve the needs of the trust beneficiary This type of trust protects assets because the assets do not belong to either the trust creator or the beneficiary but to the trust itself.

Irrevocable trusts are used to shelter assets from creditors or tax liability or establish eligibility for benefits such as Medicaid long-term care benefits. But the revocable trusts that are so popular don’t provide this type of protection for assets. They fulfill a very different purpose.

Revocable Trusts are Used to Transfer Assets Outside the Texas Probate Process

As mentioned above, assets in a revocable trust can be moved at any time. With this type of trust, the person who creates the trust also continues to control and use the property. They serve as the primary trustee and primary beneficiary, and life goes on as if there were no trust at all.

However, the trust provisions also include alternate trustees and beneficiaries, and those are vitally important. When the trust creator/primary trustee/primary beneficiary passes away, the control of the trust immediately switches to the alternate trustee. The alternate beneficiaries become entitled to the property in the trust. This makes it very simple for the new trustee to pay the deceased person's final bills and distribute the remaining trust property to the person or people designated as alternate beneficiaries.

By contrast, if the property had not been placed in a trust, then it would be distributed according to the terms of a will or, if there was no will or trust, according to the Texas laws of intestate succession. To do this, someone needs to petition the probate court for authority to administer the deceased person's estate. Then, they need to comply with all the requirements of the probate process. It can take up to a year or longer to complete the process, even when there are no legal challenges. It is usually necessary to work with an attorney during the probate process because it is difficult to understand and comply with all the requirements, and a mistake can lead to a lawsuit.

Revocable Living Trusts Reduce the Burden on Loved Ones in the Future

So, the bottom line is that if you take the time now to set up a revocable trust and transfer assets into the trust, then when you pass away at some point in the future, your loved ones will have access to your property quickly and easily. The investment of time now saves time and expense in the future. Revocable trusts are

so popular because people want to make things easier for their loved ones.

As an added bonus, setting up a revocable living trust with an alternate trustee also provides protection in case you become incapacitated. The trust can be written to enable your alternate trustee to manage your property so that there is no need to petition the court for guardianship, which is a long and difficult process that can be more painful than probate.

Talk to The Nordhaus Firm About Setting Up a Revocable Trust

If you'd like to learn more about the benefits and operation of revocable trusts, just schedule a free consultation with us online or by calling 214-726-1450. We'd be happy to help.