

SHOULD I USE A REVOCABLE OR IRREVOCABLE TRUST?

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You have a number of different legal devices at your disposal when you are engaged in your estate planning efforts. Trusts can satisfy many different respective underlying objectives, and you should understand all of the facts so that you can protect your resources and provide for each person that you love in the ideal manner.

A major distinction between classes of trusts is the power of revocation. There are some trusts that you can revoke, and there are also irrevocable trusts. Let's look at some of the reasons why you may want to use a revocable living trust.

Control and Efficiency

If you were to create a revocable living trust, you would be referred to as the grantor of the trust. The trustee is the individual who administers the trust, and

the beneficiaries receive monetary distributions from the trust.



When you establish a revocable living trust, you can act as the trustee throughout your life, and as the grantor you can also act as the initial beneficiary. This ensures ongoing control of the assets, and the power of revocation is there if you

want to revoke the trust entirely and take back direct personal possession of the property that you conveyed into it.

In the long run, the objective is to get the assets into the hands of your loved ones after you pass away. To account for the future, you name a successor trustee to manage the trust after you are gone. You could use someone that you know personally, or you could alternately engage a professional fiduciary. Trust companies and banks provide trust administration services.

You instruct the successor trustee with regard to the way that you want the assets transferred to the beneficiaries after your passing when you create the trust declaration. These instructions would be followed after your death, and the probate process would not be a factor.

The avoidance of probate is a major benefit that you gain when you use a revocable living trust instead of a last will. Probate is an expensive and time-consuming legal process, and the heirs have to wait it out before they can

receive their inheritances. Transfers that take place through the terms of a living trust are not subject to probate.

Incidents of Ownership



From a legal perspective, you retain incidents of ownership when you create a revocable living trust, because you still control the assets in the trust, and you have the power of revocation.

This is positive on the one hand if you are concerned about a loss of control, but there is another side to this coin. Assets in a revocable living trust would not be protected from lawsuits, and they would be part of your estate for estate tax purposes.

Many people seek Medi-Cal eligibility as senior citizens, because Medicare does not pay for long-term care. Medi-Cal will pay for living assistance, but it is only available to people who can demonstrate a significant level of financial need. Assets in a revocable living trust can prevent you from obtaining Medi-Cal eligibility.

There are irrevocable trusts that can be established to satisfy these objectives. You surrender incidents of ownership when you create an irrevocable trust. The assets would not be part of your estate, and they would be protected from lawsuits. Plus, you could convey assets into an irrevocable Medi-Cal trust to qualify for Medi-Cal to pay for long-term care.

Summary

If you want to completely separate yourself from assets in a legal sense, you could convey resources into an irrevocable trust. Since you surrender ownership, you can gain certain benefits, including asset protection and estate tax efficiency. An irrevocable trust can also be part of a Medi-Cal planning strategy.

A revocable living trust can be useful if you do not have any of these concerns and you want to be certain that you do not lose control of the assets. After your passing, the assets would be transferred to the beneficiaries in accordance with your wishes in a timely and efficient manner.

You should certainly understand all of your options when you are devising your estate plan. If you schedule a consultation with a licensed estate planning attorney, you can act in a fully informed manner and devise a custom crafted plan that is ideal for you and your family.

References

American Bar Association

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

U.S. News & World Report

<http://money.usnews.com/money/personal-finance/mutual-funds/articles/2014/06/19/how-to-choose-between-a-revocable-and-irrevocable-trust>

About the Author



Attorney Caprice L. Collins is a top rated Harvard Law School graduate. She has 38 years of legal experience with a successful law practice devoted exclusively to Estate/Business Planning and Trust Administration. Attorney Collins is a well-respected keynote speaker on Wills, Living Trusts, Estate Planning, Business Planning and Trust Administration. She has appeared on California's Real Estate Radio Station KTLK AM 1150 as a legal expert on Estate Planning and Living Trusts among many other notable media appearances.

Attorney Collins has substantial experience in Estate Planning for high net worth individuals using Family Limited Partnerships and other business entities to provide Asset Protection to their families. She has assisted organizations in their fundraising efforts by authorizing articles for their publications and conducting free seminars to their donors on advance Estate Planning Strategies such as Charitable Remainder Trusts, Family Living Partnerships, Irrevocable Life Insurance Trusts and Qualified Personal Residence Trusts. She also provides FREE Seminars on Living Trusts, Asset Protection and Business Planning to civic, faith-based, professional and business organizations.

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