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Improve Administration of Your Assets with a Revocable Trust

Due to the increasing backlog at the probate courts, we are encouraging our clients to consider the use of a revocable trust. Using a revocable trust does not affect your use of or control over your assets, and has no tax implications. The main benefit of the revocable trust is that it facilitates administration of your assets at your death, or during your lifetime if you lose capacity.

Probate Delays

Getting a will probated and having an executor approved by the Surrogate's Court is now taking months instead of a couple of weeks or less, thus preventing ready access to funds and delays in meeting the financial needs of the decedent's family and heirs. The use of a funded revocable trust, on the other hand, offers uninterrupted access to needed funds, as the trustee named in the document can serve continuously, notwithstanding the death of the trust creator.

Market Volatility

If a will is held up in probate and an executor is not appointed quickly, no one will have the authority to make investment decisions on behalf of the Estate. Accounts will essentially be "frozen." If there is a market correction or market upswing during this "frozen" period, the Estate and its beneficiaries may suffer losses, or lose out on investment opportunities. By contrast, if the decedent's accounts were held in a revocable trust at the time of death, the trustees will be able to act immediately, without any court interference.

Aging Society

As we age and perhaps lose our capacity to manage our assets and conduct the activities of daily living, we may need help with asset management. While a durable power of attorney may, in some cases, be sufficient to address this issue, in practice the power of attorney is not always effective, since banks and other financial institutions are often leery of recognizing an agent's powers under a power of attorney. A funded revocable trust that names co-Trustees or successor Trustees in the event that the trust creator can no longer manage alone, can help avoid these issues.

Change of Trustee

If a trustee named under a will dies, resigns or is removed, a court proceeding may be needed to install a successor. Again this would not be an issue assuming appropriate successor language is contained in a revocable trust.

Assets in Multiple Jurisdictions

Typically, an executor named under a will only has powers over real estate located in the state where the will is probated. If a decedent owned real estate in a different state or country, the will would have to be probated in each location (ancillary probate). A revocable trust that is funded with the out-of-state real estate avoids this multiple probate issue.

Other Benefits

The revocable trust can ensure the confidentiality of a client's estate plan. It can minimize contest issues and, while it is income tax neutral, the client can incorporate the same estate tax minimization techniques that are available when drafting a will.

Contact Us

We encourage you to meet with us to determine whether the revocable trust is appropriate for you.

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