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Q: What is a Revocable Living Trust?

A Revocable Living Trust is an estate planning tool which, when funded properly, transfers the ownership of an asset from your name into a "Trust". It's called a Living Trust because you create it during your lifetime, rather than in your Last Will and Testament. The basic concept of a Revocable Living Trust is that you give up ownership of an asset, but retain complete control over it at the same time.

Every trust has three players. 1) the Grantor- The person or entity that creates the Trust and funds it, 2) the Trustee-The person or entity that manages the Trust assets and follows the directives of the Trust instrument, and 3) the Beneficiary- the person or entity that derives the benefit of the Trust assets. Often Trusts have multiple individuals, or entities in each of the three categories.

There are many different types of Trusts, each with a different purpose. Examples are: Insurance Trusts, Spendthrift Trusts, Inter Vivos Trusts, Family Residence Trusts, etc. The Trust agreement sets forth the terms of the Trust and how the assets are to be treated (invested, sold, etc.). A Trust can be funded with a variety of assets including real estate, stocks, bonds, cash, the Grantor's ownership interest in businesses, or even expectations of future income. The Trust dictates who will receive the income generated by the investment of the Trust assets and designates when that will occur. Finally, the terms of the Trust dictate when the assets will be removed (usually via sale or transfer), and when the Trust will be dissolved.

A Revocable Living Trust is designed so that the Grantor is also the first named Trustee, and the primary beneficiary. This goes back to what I said earlier about giving up ownership, but retaining complete control over the asset. In this case, the Grantor has transferred ownership of the asset to the Trust, but has complete control over the asset and gets the income!

An example of a Revocable Living Trust would be the Smith family creating the Smith Family Trust. Once the Trust is created, they prepare a deed transferring the house from Tom & Jackie Smith to the Smith Family Trust. Once the deed is recorded with the Town Clerk, the Trust owns the house.

However, Tom & Jackie who are the named Trustees can still mortgage the house, rent it, sell it, etc., and even add additional assets to the Trust as time goes on. Also, under the terms they created in the Trust agreement, Tom & Jackie, as primary beneficiaries, receive the income from the Trust during their lifetime, and upon their death, the assets and income pass to their children, outside of probate, significantly lowering the estate costs, taxes, and fees. Additionally, as an added

bonus, Tom & Jackie can designate future Trustees, beneficiaries and other terms in the Trust agreement, which essentially permits them to control the assets for a given period of time after their death. This adds a whole new meaning to the phrase “after I’m gone...”

Generally, Living Trusts are designed to guarantee the support of spouses and children, but can also be designed for a variety of estate planning purposes and benefits. First, the asset is removed from the Grantor’s ownership, and therefore, is not part of the estate at the time of death, thus saving the estate much of the fees and costs of probate. Further, and perhaps more importantly, each of these Trusts are used in the asset protection aspect of estate planning because depending on the type of trust created, the asset transferred to the trust may no longer be susceptible to the hands of creditors, lien holders, or judgment holders.

Curiously, people often think a Living Trust is an estate planning tool only for wealthy people with large estates. You may be surprised to learn that Living Trusts can also benefit persons with modest estates. There are a variety of ways you can benefit from having a living trust. It is a fantastic estate planning tool that is not very complicated to create, and can save your estate and family considerable costs and taxes upon your death.

Anthony J. Medico, Esq., has practiced law for over 27 years. To ask a question regarding this article, send an e-mail to info@medicoandassociates.com or call us at (203) 661-8151. To read more highly informative Estate Planning articles, visit our website at www.medicoandassociates.com, where you can also download our free Estate Planning Survival Guide. Enjoy.

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