

Essentials of Revocable Living Trusts



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- 1) **Revocable Living Trusts** are private trusts not subject to court red tape. They operate like Wills in that they provide for who gets what and how after death. In addition, they can hold a person's assets during life (such as a house, brokerage accounts, etc.) which is extremely useful in the case of dementia or disability.
- 2) **Lifetime protections** – the older a person is the more the incapacity protections of a Revocable Living Trust are useful. For example, if Dad is day trading the family life savings, an assessment and doctor's note would allow a spouse or adult child to take back control of the account quickly.
- 3) **Privacy** – these documents are private, not publicly filed in court like Wills.
- 4) **Flexibility** – continuing trusts for spouse or adult children can easily be updated with a one page update (e.g., change of trustee) without going to court for months.
- 5) **Will Contests** – if a family member is disinherited, a Revocable Living Trust is better at enforcing the disinheritance than a Will. It is simply harder to challenge a private document made years in advance of a person's death.
- 6) **Faster Estate Administration** – Trustees can liquidate brokerage accounts and sell homes quickly without waiting months for NJ tax waivers or risking market dips.
- 7) **Better than Power of Attorney** – Powers of attorney are needed to manage the assets of an incapacitated loved one but due to increased fraud, regulation and compliance rules, more banks are scrutinizing or rejecting them at a moment where time is of the essence. Large accounts and homes titled in the name of a Revocable Living Trust are governed by the Trustee as "owner" (versus merely an "agent" under Power of Attorney) which means things get done without pushback.
- 8) **Moving Out of State** – probate proceedings in New Jersey are friendly, simple and fast. In Florida or other retirement states probate is difficult, expensive and slow. If you might move, it is often best have a Revocable Living Trust in place ahead of time.
- 9) **What Can't a Revocable Living Trust do?** It cannot save estate tax (it is fully includible in the Grantor's estate); it cannot provide asset protection (from nursing homes or Medicaid); it cannot hold IRA, 401(k), 403(b) or other retirement plans which must remain in the individual owner's name.
- 10) **Is a Will ever enough?** Yes, for simple, small estates where all assets pass outright to heirs there may not be a big "value add" to Revocable Living Trusts or for very young clients with few assets and only a distant risk of incapacity or death.

The Goal: To avoid red tape, to manage long term care seamlessly and to manage estate administration seamlessly. To learn more, please contact our office at 201-327-7000 or admin@irinashea.com.