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PROS AND CONS OF REVOCABLE LIVING TRUSTS

As contrasted with a Will, a Revocable Trust, or as it is often called, a “Living Trust”, has become the preferred document among estate planners in North Carolina and many other states to transfer one’s assets at death.

Little Impact During Life

- Grantor is most often the trustee during life and may use assets titled in the trust any way the grantor wishes.
- Living Trust can be changed or revoked during the life of the grantor.
- No need for separate income tax return for assets owned by Living Trust because all income is reported under the grantor’s social security number-such trusts are virtually ignored for income tax purposes.

Benefits of Living Trusts

- Assets titled in a Living Trust during life pass at the grantor’s death as the trust directs without having to go through the probate process---expenses and time are saved by avoiding the “Courthouse” to settle the estate.
- Privacy is maintained as to what the grantor owned and how the grantor disposes of those assets at death-as contrasted with assets passing by Will through the probate process where the decedent’s file is a public record, available for anyone to see.
- If the grantor becomes incapacitated during life, the transition to a successor trustee of the Living Trust taking over the management of the grantor’s assets for the grantor’s benefit is in many respects easier than an attorney-in-fact attempting to act for the incapacitated person under a Durable Power of Attorney.

Popular Myths

- The “myths” about Living Trusts saving estate taxes and protecting assets from creditors are simply not true.
- A person can achieve the same estate tax savings with a Will as with as Living Trust.

Why Not Use a Living Trust

- There is slightly more expense at the time of creation than would be the case if the entire estate plan was contained in a Will.
- Properly funding a Living Trust requires attention to details and follow-through about how various assets are owned.
- In some cases where one’s assets are predominately real estate or retirement assets that would not pass through probate anyway, there is little benefit derived by using a Living Trust.