

"Your Estate Matters" Legal-ease



By Gina C. Noto, Trust Paralegal/Notary Public

IS A REVOCABLE LIVING TRUST RIGHT FOR MY FAMILY?

Lately, many clients are inquiring about revocable living trusts. This advanced estate planning tool can work beautifully to accomplish a client's wishes, both upon incapacity and after death. But this is not always the best estate planning tool for everyone. A client who chooses a revocable living trust as part of his or her comprehensive estate plan must be willing to do some legwork during life, so that the trust works as it should upon death. This means the client must know what types of property, accounts, investments, and retirement assets they own, and how those assets are titled. Surprisingly, that is not always the case! Savings bonds or a stock certificate can be tucked in a drawer for many years and forgotten about. Mineral rights can be inherited through many generations and be difficult to determine ownership. It is necessary to locate all assets so that they can be retitled into the name of the trust. Think of the trust as a box--upon creation of the trust, it is an empty box. It must be filled with assets, or "funded" so that upon death, nothing (no assets that would be subject to probate) is owned individually and there is no need for a Succession/Probate. Some assets naturally avoid probate as, by contract, they are paid to named beneficiaries (for example, retirement accounts, annuities, and life insurance), so they would not be retitled to the trust in most cases.

Essentially, having a living trust is like getting a pre-paid succession. The cost to set up a revocable living trust is more than a Will because it is more involved. As mentioned above, if the legwork is done during life and the trust is properly funded, it will avoid Succession.

Some benefits of revocable living trusts are:

1. **Incapacity Protection** > The designated trustee can handle all assets titled in the name of the trust in the event of incapacity.
2. **Avoid Probate** > A properly funded trust will not require a Succession/Probate upon death. Ancillary probate (a probate proceeding outside of, and in addition to, the state where domiciled) can also be avoided as



long as property owned in other states is titled in the name of the revocable living trust.

3. **Privacy** > A properly funded trust will not require a Succession/Probate upon death, so it is not typically required that a trust be filed in the public record as a Will is required to be filed in the Succession.

4. **Ease of administration upon incapacity or death** > Since a trustee is named in advance, that fiduciary is in place to handle the trust assets upon incapacity or death, without needing a Guardianship (called Interdiction in Louisiana) or Succession/Probate.

Otherwise, many of the same planning options can be done in a Last Will and Testament. Both living trusts and Wills are accompanied by ancillary documents for a comprehensive estate plan, which typically include a Power of Attorney for assets, a Health Care Power of Attorney, and Living Will, as well as updating all beneficiary designations for those IRAs, 401ks, life insurance, etc.

Our goal is to provide sound advice to establish an estate plan that is best suited for you and your family. It feels good to accomplish this lifelong goal—TRUST me!



Gina C. Noto is our Estate Planning and Trust Paralegal, and a lifetime Louisiana Notary Public. She has worked at Ronda M. Gabb & Associates, LLC "A Louisiana Estate Planning & Elder Law Practice" since January 2000, and has nearly 40 years experience in office administration. She graduated from Cabrini High School in New Orleans and received a Bachelor's Degree in General Studies from Southeastern Louisiana University. Gina is a native of New Orleans and resident of the Northshore since 1991.



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