

Revocable Living Trust (RLT)

Overview

The revocable living trust (RLT) is an arrangement by which a person transfers ownership of property into a trust throughout the course of his or her lifetime. There are four main components to a RLT:

- ◆ Grantor - the creator of the trust.
- ◆ Trustee - the person or entity that manages the trust property according to the trust documents.
- ◆ Trust Assets/Corpus - property transferred into the trust.
- ◆ Beneficiaries - those who receive the benefits of the trust.

An RLT can be used as a substitute for a Will, in many respects, by providing for the distribution of assets upon the grantor's death. Unlike a Will, a revocable living trust governs the distribution and use of the trust assets during the grantor's lifetime, which can make it a useful planning tool in case the grantor becomes incapacitated during his or her lifetime.

Description & Operation

State law sets out the requirements for a trust to be valid and the rules governing trust administration.

The RLT is established by a written agreement or declaration that appoints a trustee to manage and administer the property of the grantor. Any competent adult can establish an RLT. In essence, the trust is like a rulebook for how the grantor's assets are to be handled while alive and after death.

Advantages of the Living Trust

- ◆ **Avoidance of Probate.** Probate is the legal process for transferring property upon death. Assets owned in an RLT do not have to go through the probate process; which can allow for a faster and less costly method of transfer than by Will, which requires probate and sometimes court supervision. An RLT can be especially useful in avoiding multiple probate proceedings when real estate or other property is owned in several states.

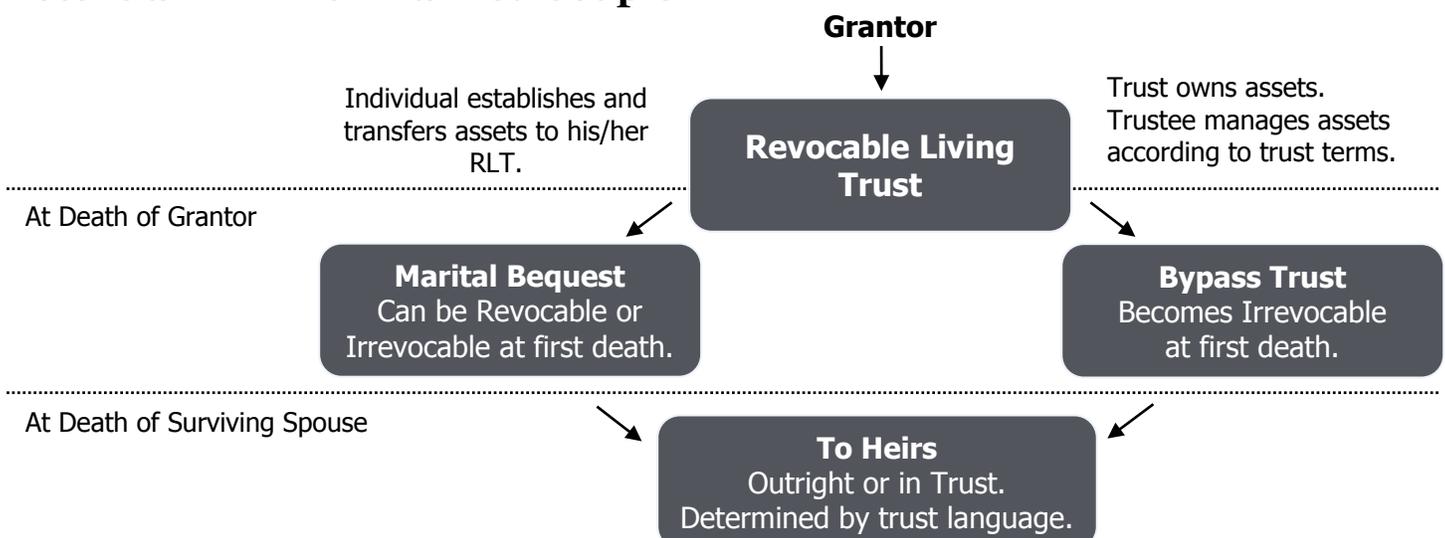
- ◆ **Changeable or Revocable.** The RLT allows the grantor to make changes (or amendments) to the trust document while still alive.
- ◆ **Privacy Preservation.** Trusts allow the transfer of assets to remain private within the constraints of the trust document. The probate process may expose an estate to the public.
- ◆ **Segregation of Assets.** A RLT may be useful for married couples with substantial separate property acquired prior to the marriage. The trust can help segregate those assets from their community property assets.
- ◆ **Estate Tax Minimization.** The RLT does nothing to save estate or income taxes during life, but provisions can be included in the trust to take advantage of estate exemption amounts at death.

Disadvantages

While there are many advantages to establishing a revocable living trust, there also are some drawbacks that should be addressed:

- ◆ **Expense of Planning.** When one uses a RLT, a “pour-over Will” also is necessary to make certain that any assets not owned by the trust at death are passed to the trust. Additionally, a Will is needed to name an executor of the deceased’s estate and a guardian for minor children. Costs can vary depending on the complexity of the situation.
- ◆ **Titling of Property.** Existing property must be re-titled in the name of the trust. This requires additional time, and sometimes fees apply to processing title changes. Also, as new property is acquired, it should be titled in the name of the RLT.
- ◆ **No Asset Protection.** RLTs offer no asset protection because the grantor can at any time revoke the trust and return all assets to him/herself. Some persons mistakenly assume that all trusts provide asset protection.
- ◆ **Other Potential Problems.** Potential issues can include: problems with title insurance, Subchapter S stock, potential loss of homestead protection, and real estate in other countries. However, because RLTs are becoming more widely used, many states have enacted laws that alleviate such issues.

Potential RLT with Married Couple





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