

Living Revocable Trusts

By Anthony L. Barney, Esq.

Overview of a Living Revocable Trust

A living trust or a living revocable trust is also commonly referred to as an *inter vivos* trust, meaning that the trust is created and becomes effective during your life. For federal income tax purposes, your living trust is a grantor trust, meaning that you retain control over the assets of your living trust and, as trustee, continue to be taxed personally on these assets.

Advantages of the Living Revocable Trust

A living revocable trust is an arrangement created by you for the benefit of your beneficiaries at your death. A living revocable trust is created by demonstrating your intent to leave property in a lawful means to your beneficiaries. The purpose in drafting a written living revocable trust is to provide evidence of your intent to make a transfer of property to your beneficiaries in trust. Unlike a will that does not become operative until your death, a living trust becomes effective upon the proper execution and transfer of property to it. This advantage is especially useful in the event that you become incapacitated during your lifetime due to accident or sickness, and need to continue to maintain your real and personal property interests during this period. In Nevada, an individual can hold title to most real and personal property in the name of a living revocable trust.

Avoiding Probate with a Living Revocable Trust

Probate is the judicial process by which the title of your assets is transferred from your name at death into the names of your living beneficiaries. The probate process was established to protect and preserve your property at your death until its ultimate transfer to your beneficiaries, however the costliness of court and attorneys fees and inherent delays in the court system have made this procedure undesirable to most individuals. The primary purpose in the establishment of a living revocable trust is to facilitate the proper and timely distribution of your assets at your death to your living beneficiaries without the unnecessary cost and expense of probate.

Income Taxation with a Living Revocable Trust

As a United States citizen, you will be taxed on the income produced by the assets that you have granted or transferred to your living revocable trust. As the grantor of your living revocable trust, you will continue to pay your income tax related to the trust-held assets as you did prior to their transfer to and establishment of your living revocable trust. Due to the tax neutral status of a simple living revocable trust, they have become a popular and uncomplicated means of planning your estate.

Common Misconception of a Living Revocable Trust

A common misconception is that a living revocable trust will provide you with protection against your own future creditors. By establishing a living revocable trust, you can provide your beneficiaries with future protection from their creditors, but not your own. If you desire to create creditor protection for yourself, you should contact us concerning the establishment of a Nevada asset protection trust.

Conclusion

For more information on ways in which a trust can protect your estate assets and reduce and/or eliminate your estate taxes, or if you would like to discuss these issues with one of our attorneys, please contact us at (702) 438-7878 or write to office@anthonybarney.com