

REVOCABLE LIVING TRUSTS IN TEXAS – PART 2

“In our previous discussion on revocable living trusts, we looked at the foundational ideas and concepts surrounding the use of these popular estate planning tools.”



JOHN R. VERMILLION



In our previous discussion on revocable living trusts, we looked at the foundational ideas and concepts surrounding the use of these popular estate

planning tools. This month we're going to take a close look at living trusts by examining some of the practical benefits they have. We'll also look at what you have to do to make sure your trust works properly, as well as a couple of other important points.

REVOCABLE LIVING TRUST BENEFITS

Why should you create a revocable living trust as a part of your estate plan? Why take the time and effort? Why spend the money?

There are two main reasons. First, a revocable living trust gives you the chance to have your estate pass to your heirs outside of probate. (We'll talk a little more about why probate is important below.)

Second, a revocable living trust gives you some incapacity planning benefits. When you create your trust, you usually name yourself as the trust manager, or trustee. However, should you become incapacitated, you'll need someone else to manage the trust for you. This person is called the successor trustee. Luckily, you can choose this person as well. So, should you become incapacitated, your choice of successor trustee will step-in to manage the property the trust owns. This allows for seamless management of your financial affairs in the face of incapacitation.



PROBATE AND YOUR TRUST

While the incapacity planning benefits of a living trust are important, it's the probate avoidance qualities that are the most sought-after benefits of these estate planning devices. Put simply, probate is the

legal process surrounding the transfer of property from an estate to new owners. Estates are what you leave behind after you die.

Probate is a process. It's a collection of rules, procedures, timeframes, and regulations that make sure this inter-generational transfer of property proceeds correctly and in accordance with state law.



Probate proceedings to prove up wills and determine heirs, though designed to be relatively easy, can be anything but. Even in cases where there are no disputes surrounding an

estate, and where the deceased left behind very clear instructions, probate can take several months or more.

Trusts allow you to avoid this process, and to get inheritances to your family without judicial intervention. Though the inheritance transfer from a living trust to the beneficiaries is not instantaneous, it is usually quicker than it would be if you allowed your property to pass through the probate process.

Further, inheritance transfers through a revocable living trust are kept out of the public eye. When you leave behind property that has to pass through probate, the details are available to anyone who wants to know. Probate cases are matters of public record. If someone wants to find out what happened in a case, who inherited your estate property, or anything else, all they have to do is go to the courthouse and look up the case history.

This is not so with revocable living trusts. With a trust, your inheritance choices and distributions remain private.



FUNDING YOUR TRUST



The process of taking property you own as an individual and transferring it into the living trust's name as the new owner is known as funding. Funding is often a simple process, but it can take some time and require attention to detail. Some assets, such as bank accounts, will require you to contact third-parties and ask about their procedures for transferring the asset into the trust's name. Other assets, such as real estate, will have to comply with specific state laws that govern ownership transfers.

But regardless of the specific steps required to transfer individual assets into a trust, funding is an essential part of the living trust process. Only a properly funded living trust provides you with privacy and probate avoidance benefits. If you fail to fund the trust properly, leave property out, or acquire new property and don't take the time to transfer it into the trust's name, the benefits the living trust provides are moot. Property improperly funded, or property you forget to transfer, will have to pass through the probate process like everything else.

LIVING TRUSTS AS A PART OF A COMPLETE ESTATE PLAN

It's important to remember that even though revocable living trusts can provide you with some significant estate planning benefits, they are not



a panacea. Even if you create, fund, and use your trust properly, you still need other tools if you want to provide your estate, and yourself, with as many protections as possible.

For example, should you become incapacitated, your successor trustee will be able to step-in and take over managing your

trust. But what happens if you forgot to transfer some of your property into the trust before you became incapacitated? What happens when your doctors need someone to make medical decisions on your behalf?

Estate plans need to address all of these scenarios, and more. A complete estate plan will likely include a revocable living trust as a foundational element, but no plan relies on one tool. Your estate plan will have to include a variety of different tools, each of which is designed work with the others.

If you haven't already begun estate planning, or want to know more about revocable living



trusts, please schedule an appointment to come talk to The Vermillion Law Firm as soon as possible. All too often people procrastinate and put off estate planning as something they can do another day. It isn't. None of us know for certain what the future holds, but by creating an estate plan, you can be certain that you and your family will be protected.

About the Author

John R. Vermillion



John R. Vermillion works as an estate planning and probate attorney and is licensed to practice in Texas, Louisiana, Oklahoma, and Tennessee. A native Texan, he graduated from Texas Christian University in 1974 receiving a Bachelor of Arts Degree in Political Science. In 1977, he received his Juris Doctor degree from the Louisiana State University Law School.

Upon graduation from law school, Mr. Vermillion worked extensively as a corporate attorney in the fields of oil and gas exploration and production, real estate development, finance and estate planning. He served for many years as corporate counsel and Vice President of a private independent oil and gas company.

Mr. Vermillion is a member of the State Bar of Texas, the Dallas Bar Association, the Louisiana State Bar Association, the Oklahoma Bar Association, and the Tennessee Bar Association. He is a member of the American Academy of Estate Planning Attorneys and the National Academy of Elder Law Attorneys.

Also active in his community, he currently serves as a director for the Charles Coody Classic Golf Tournament which benefits Catholic Charities of Fort Worth, Texas. A member of the French-American Chamber of Commerce, Louisiana Chapter, Mr. Vermillion pursues their goal of promoting and developing commercial and financial relations between France and the United States. In addition, he serves on the TCU Dallas Alumni Board and sponsors the Dallas area NAMI Walkathon (National Alliance for Mental Illness).

Coming from a family of entrepreneurs, Mr. Vermillion has owned and operated his own businesses, including an historic inn. His experience has given him a hands-on understanding of the legal and practical issues facing his clients and their estate planning needs.

The Vermillion Law Firm, LLC
www.vermillionlawfirm.com

7616 LBJ Freeway #120
Dallas, TX 75251
Phone: (972) 386-4560
Toll Free: (888) 567-574