

TEXAS – REVOCABLE LIVING TRUSTS – PART 1

“One of the more popular estate planning tools that people have been turning towards more often in recent years is the revocable living trust”



JOHN R. VERMILLION



One of the more popular estate planning tools that people have been turning towards more often in recent years is the revocable living trust. Like other types of trusts, revocable living trusts allow people certain benefits.

To help you understand revocable living trusts and give you a better idea of why they can be so important to you, we are going to take a closer look at this important estate planning device. In this discussion, we are going to look at the essential concepts you should understand that will give you a better idea of what living trusts are and how they work.

THE TRUST

To better understand revocable living trusts, you first have to understand what a trust is. When most people hear of legal trusts, they think of tools that wealthy people used to pass inheritances on to their



children or grandchildren. While this idea is somewhat accurate, it also leaves much out of the picture.

A good way to understand what a trust is and how it

works is to think of it in terms of a corporation. When you create a trust, you create a legal entity that exists in much the same way a corporation exists. Though a corporation doesn't have a physical existence, the law allows the corporation to do certain things. One of these is the corporation's ability to own property. Because the corporation can continue to exist even after the people who established it leave or die, it possesses qualities that individuals do not have.

This ability to own or hold title to property lies at the heart of why trusts are so important to the estate planning process. When you create



a trust, you can transfer some of your property into the trust's name. The trust then becomes the legal owner of that property. As the person who created the trust, you get to determine the rules under which the trust operates, and get to choose how the trust will use the property you transfer to it.

Like a corporation, the trust will continue to exist even after you die. This is important because one of the revocable living trust's most powerful benefits is its ability to avoid probate.

Though we'll go into more depth about the probate avoidance properties of revocable living trust in our next discussion, for now, all you need to realize that a trust is a type of legal entity that can survive your death.

LIVING AND REVOCABLE

There are many types of trusts that you can create. Revocable living trusts are so-called because they have two key features.

First, when you create a revocable living trust, you create a trust that takes effect while you are still alive. Some trusts, known as testamentary trusts, do not become effective until after you have died and your Will has been probated in a court of law. Revocable living trusts, on the other hand, take effect as soon as you create the appropriate documents and transfer your property into the trust's name.



Another key part of the revocable living trust is its ability to be changed. This is where the term “revocable” comes from. As the person who creates a revocable living trust, you retain the ability to revoke or modify its terms whenever you choose. Other trusts, known as irrevocable trusts, cannot be changed

after you create them. While irrevocable trusts have some benefits, they are not as flexible as revocable trusts.

BENEFICIARIES AND TRUSTEES

To better understand how a trust operates, we can return to the corporation analogy we used earlier. A corporation doesn't run itself.



When you create a corporation, you need certain people to step in to take on managerial responsibilities. When those managers take over, they don't suddenly become the new owners of the property the corporation owns.

Instead, they have a legal obligation to make sure they manage corporate property responsibly on behalf of the shareholders who actually own the company and its property.

This is very similar to the way the trust operates. When you create a trust you will appoint someone who will serve as the trust manager. This person is called the trustee. The trustee is there to manage trust property so that the beneficiary can use and benefit from it. The

beneficiary is the person who receives the benefit of the property the trust owns.

Revocable living trusts are somewhat unique in that the trustee, the beneficiary, and the person who creates the trust are all usually the same person. In other words, when you create a revocable living trust you will not only be able to manage the property the trust owns, but you will also retain the ability to benefit and use it.

YOU NEED LEGAL GUIDANCE

Though the basic ideas behind revocable living trust is relatively simple, you should never attempt to create any type of legal device on your own. In our next discussion on revocable living trust we will look more closely at the benefit, and drawbacks, that these estate planning tools afford. In the meantime, it's always in your best interest to seek legal advice whenever you have a question, need help, or want to begin creating any kind of estate planning tool.

Revocable living trust are especially popular and useful estate planning tools, but that doesn't mean they will allow you to address all of the important issues that you need to consider. A comprehensive estate plan is one that uses multiple tools to accomplish all of your goals. If you would like to talk to us about developing a plan, and how your trust might fit into the picture, contact the Vermillion Law firm as soon as possible.

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