FOUNDATIONAL ESTATE PLANNING DOCUMENTS: PART 2 – REVOCABLE TRUSTS

In the second Foundational Estate Planning Documents article of the Wealth Council Insights Education Series we will focus on the Revocable Trust, commonly referred to as a Living Trust. It is typically the document that follows and is drafted to coordinate with the Will. Many Oxford families elect to create what is known as a "Pour-Over Will" which indicates that residual assets, or all property governed by the Will, simply be distributed to a Revocable Trust. The Revocable Trust is generally drafted with more detailed provisions to govern the distribution of many/all assets held within the estate at passing.

A Revocable Trust is created during one's lifetime and can, and often should, be amended, revoked and/or restated during life. This trust sets forth the management of assets during your lifetime, including any periods of incapacity, as well as the disposition of property upon death. Assets and income of the trust remain available to you, the Grantor, during your lifetime. As a result, income taxes owed as a result of trust income or capital gains are paid during your lifetime on your personal tax return.

Revocable Trusts are highly customizable but generally consist of the following components:

I. Declaration of the initial and successor Trustee(s)

II. Provisions for the disposition of tangible personal property

III. Provisions regarding specific bequests

IV. Distribution provisions for any residual assets

V. The establishment of and terms by which future trusts are to be governed (Marital Trusts, Family/Credit Trusts, Trusts for Children/Grandchildren, etc.)

Of note, while Revocable Trusts are not considered a strategy for estate tax mitigation, provisions within the Revocable Trust to establish a Family/Credit Trust and dispositions to the spouse or Marital Trust are effective tools to help reduce estate taxes for those with taxable estates at the time of their passing.

In the event of your incapacity, a Revocable Trust serves as a mechanism to allow you to direct who will take over responsibility for the management and control of the trust assets. The person or persons you name as a Successor Trustee of your Revocable Trust will assume the role of Trustee upon your incapacity. This avoids the need for any court involvement or supervision over the management of your assets as would be the case if no legal mechanism was in place.

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One of the most important aspects of a properly utilized Revocable Trust is that assets titled in the name of the Revocable Trust during life, as described below, avoid probate upon death. Probate is a court-supervised, legal process of administering and closing an estate. In addition to the additional cost, time and burden of probate, the probate process subjects an estate to outside control and reduces privacy.

This privacy feature is perhaps the greatest benefit of a Revocable Trust in that avoiding probate shelters the details of the estate from becoming part of public record, and therefore, available to the general public. This is an added layer of protection for your assets and beneficiaries.

Revocable Trusts can be individual or, for married couples, joint. A benefit for married couples to titling assets in individual Revocable Trusts is that each spouse's Revocable Trust serves as a useful means of maintaining separate property. The Revocable Trust structure is the ideal tool for couples where one or both enter the marriage with substantial assets as a means to shield these individual assets from comingling with assets obtained during the marriage. This is particularly beneficial to help determine and control how specific assets are transferred throughout one or many family lines.

> *"A variety of assets can be transferred including, but not limited to, real estate, bank accounts, business interests, automobiles, collectibles, financial investments, life insurance and promissory notes."*

In conjunction with the execution of, or at any time after you execute your Revocable Trust document, you should retitle assets into the Revocable Trust to take advantage of many of the above noted benefits.

A variety of assets can be transferred to our Revocable Trust, including, but not limited to:

I. Real estate
II. Bank accounts
III. Business interests
IV. Automobiles
V. Collectibles
VI. Financial investments
VII. Life insurance
VIII. Promissory notes

Keep in mind that when transferring assets that pass via beneficiary designation such as retirement plans, life insurance policies and annuities, you must complete appropriate documentation with each issuing organization to effectively name the Revocable Trust as the beneficiary.

A properly drafted Revocable Trust, particularly when combined with appropriate titling of applicable assets in the name of the Revocable Trust, is a vital foundational estate planning matter for Oxford families. With this in mind, your Oxford Team is positioned to provide understandable summaries of current revocable trusts, guidance on the creation of revocable trusts, analysis regarding current titling of assets, as well as targeted recommendations to assure your family's assets are protected and handled according to your wishes.

WEALTH COUNCIL INSIGHTS EDUCATION SERIES

ABOUT THE SERIES

In the Wealth Council Insights Education Series, we endeavor to deconstruct some of the complexities that exist around many commonly utilized estate and financial planning concepts in order to provide you and your family with the basic knowledge needed to better understand and create a blueprint for your overall wealth enhancement needs.