

# REVOCAABLE LIVING TRUSTS IN NEW YORK - BENEFITS AND IMPORTANCE

*When You Choose to Include a Revocable Living Trust as a Part of Your Estate Plan, You Can Count On Some Very Specific Benefits Provided You Take the Steps Required of You*



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In this second discussion of revocable living trusts in New York, we are going to take a close look at exactly why revocable living trusts are so helpful. The creation of an estate plan is a process that is designed to provide you with as many protections as possible. When you choose to include a revocable living trust as a part of that plan, you can count on some very specific benefits provided you take the steps required of you. The revocable living trust, when used properly, will serve as a primary weapon in your estate planning arsenal.

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If you decide that avoiding intestacy is important to you, you can create an estate plan that will allow you to make choices that would otherwise have already been made for you through intestacy laws.  
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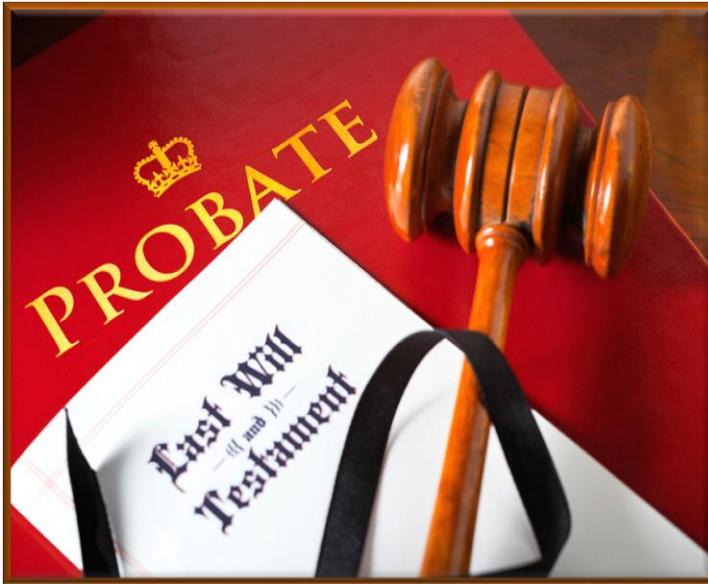
## REVOCABLE LIVING TRUST BENEFITS

The main benefit of a revocable living trust comes after you die and it's time to pass your property on to inheritors. The property you pass through your living trust will give you a chance to ensure that your inheritors receive property more quickly, while at the same time giving your estate the ability to pass it more efficiently and with lower costs. The trust will also provide you, should you need it, certain benefits should you become incapacitated.



## PROBATE

Probate is the legal process that applies to property left behind by a deceased person. The probate process ensures that the rightful inheritors receive the property to which they are entitled. In New York, Surrogate's Courts are responsible for supervising this process, while the process itself is governed by the fairly comprehensive set of probate



laws known as the probate code.

If you read our previous discussion on living trusts you already know that a revocable living trust is a type of legal entity. After creating your trust and transferring your property into it, the trust becomes the new legal

owner. After you die, therefore, the trust property doesn't have to go through probate because the trust is the owner, not you. Further, because you created the trust, you get to determine how it distributes its property after you die. This means that you can effectively use your revocable living trust to distribute inheritances in the exact same way you would if you used a last will and testament, but do so entirely outside of probate.

On the other hand, should you choose to distribute inheritances through your will, that will must first go through probate. This process, depending on the nature of your estate and whether there are any problems or conflicts, can last a long time.

## INCAPACITATION

A revocable living trust also allows you some protections should you one day become incapacitated. Let's say that you create a trust, transfer all of your individually owned property into the trust's name, and then are involved in a serious accident. The accident leaves you unable to communicate, much less able to manage the trust. What happens next?

When you create your living trust you typically name yourself as the trustee. However, you will also have to choose someone who will serve as the successor trustee.

The successor trustee's main responsibility is to ensure that the trust property gets distributed to new owners after you die. Should you become incapacitated, the successor trustee will also be able to step in and take over the trust management responsibilities.



## FUNDING

A vital part of creating a revocable living trust is the very practical, and sometimes complicated, process of taking the property you own as an individual and transferring it into the trust's name. The success or failure of this process, called funding, will determine if your living trust is effective or not.

Depending on the type of property you own, the funding process can be simple or complex. For example, transferring bank accounts into a trust's name will require you to talk to your financial institution to determine what rules or procedures are involved in transferring



ownership of your account. Quite often, this process requires little more than filling out a couple of forms.

On the other hand, transferring real estate into a trust's name can be much more complicated. This is especially true if you own property in more than one state.

However, regardless of the kind of property you own, ensuring that you fund your trust properly is a necessary step. Failing to fund the trust will mean that the property you leave out will have to go through the probate process before new owners can take possession.

## **TRUSTS AS A PART OF A COMPLETE PLAN**

If you've been reading along with our discussions so far, you now have a much greater understanding of what living trusts do, and why they can be such an integral part of an estate plan. While having a revocable living trust is great, you shouldn't view the benefits these devices convey as a substitute for a comprehensive estate plan. An estate plan is comprised of multiple elements, each of which is designed to compliment the other.

For example, while your revocable living trust is designed to allow you to leave inheritances outside of probate, it doesn't allow you to choose an estate executor or name a guardian for your children. You can, however, make such choices when you create a last will and testament. Further, you can create a last will and testament that will serve as a safety net for your living trust, taking any property you didn't properly fund and transferring it into the trust's name after you die.

In other words, no matter how good your revocable living trust is, it will never be a substitute for a comprehensive estate plan. If you'd like to discuss the creation of a living trust, have questions about estate planning, or simply need a little more information, contact the Law Offices of

Michael Robinson as soon as possible. We have a lot of experience helping clients through the estate planning creation process, but we cannot help you until you decide to talk to us.



## About the Author



Clients notice Michael Robinson's unique approach to his estate planning practice the minute they walk through his office doors. Mike has established a law practice that provides clients with a warm, comfortable and relaxed atmosphere staffed by professionals who believe in providing highly individualized attention.

That's especially important in Mike's practice, because estate planning is an often personal process reflecting the most cherished hopes and dreams of his clients.

"The estate planning we do for our clients," Mike explains, "often represents the culmination of their life's work. That's why we take a personal interest in

helping them complete estate plans that suit their needs and that address the unique circumstances of their families."

There's one last difference clients often remark upon in Mike's estate planning practice. "Because we concentrate on estate planning exclusively, we have the focus to bring state-of-the-art, cutting-edge estate planning techniques and strategies to a broad range of clients, no matter how diverse."

Mike's firm has the breadth of expertise to provide its clients with estate plans ranging from the basic to the very sophisticated, including offshore asset protection trusts.

His office regularly conducts seminars on estate planning topics throughout the Rochester and Finger Lakes area. Mike has also been a guest speaker on the subject of estate planning before a variety of professional organizations.

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