Stiller Law Offices

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Estate Planning – Revocable Living Trusts – Part Three

Opportunities and Options for Everyone

Nothing is more important to you than your family. What is your vision for them after you are gone? Will you leave them with a financial disaster or a secure future? You have the power to reduce the cost, risk and stress that they will suffer if you have a well-designed estate plan. Okay, your name is not Rockefeller, Buffett (Warren or Jimmy) or Gates. So you may think the idea of using a Trust for your estate plan is not an option. After all, Trusts are just for rich people, right? That's what many people believe. If you are convinced it's true, you may want to skip this article – but you'll be missing out on a great opportunity. You owe it to yourself and your family to learn more about Trusts before you decide. This article is the third and final part of a three part series of articles regarding revocable living trusts. It is designed to educate you about the multiple options available for how and when trust assets will be distributed to your Beneficiary. It is meant to educate you on the reality regarding Trusts so that you can decide for yourself if it is an appropriate option for your family.

You Should Know

A trust is an agreement for the management and distribution of assets. It can only distribute assets to the trust Beneficiaries that are in the trust. ***The success of your estate plan all comes down to how you title your assets.***

SPREADING THE WEALTH

When it comes to making distributions, this is where there is a huge difference between a Will and a Trust. Going back to our earlier discussion in part one of this series on the objectives of estate planning, a Will and a Trust both give you the power to "give what you have to whom you want"

when you die. Where they differ is in distributing your estate "when you want and in the way you want." A Will gives you only one choice in distributing assets to your Beneficiaries. At the end of probating your estate, the Beneficiaries get their inheritance outright in a lump sum. At that point, it is theirs to do with as they please. Some statistics show that the average inheritance lasts about 18 months before it is gone, similar to lottery winnings. There is nothing wrong with an outright, lump sum distribution, as long as that meets your personal goals for your Beneficiaries.

Responsible adult Beneficiaries may be able to handle an inheritance without wasting or losing it. On the other hand, maybe you truly don't care if the Beneficiaries squander what it took you a lifetime to accumulate. Some people are not concerned about what their Beneficiaries do with their inheritance and do not want to have what is known as "dead-hand" control when they are gone. Some attorneys may argue that you can spread distributions out in a Will by including a Testamentary Trust in it. While that is true, a Testamentary Trust is an outdated, expensive estate planning technique because it remains subject to probate court jurisdiction. That means you have to file accountings with the court and comply with other probate requirements for as long as the Testamentary Trust lasts. The extra time, expense and frustration is unnecessary.

A Revocable Living Trust not only lets you decide who gets what, but also gives you maximum flexibility to decide when and how they get it. In addition, your Beneficiaries do not have to suffer through the extra time, expense and frustration of probate. This flexibility gives you an opportunity to address specific goals that are unique to your family and provides almost unlimited options on how you structure a Beneficiary's inheritance. You do not have to do what everyone else does. You can do what's right for you.

Most people want to be fair to their Beneficiaries, but not all Beneficiaries are the same. "Fair" does not necessarily mean "equal." It also does not have to mean all Beneficiaries get things the same way or at the same time. The Grantor of the Trust determines "Fairness". The rest of this article covers just a sampling of common distribution alternatives for Contingent Beneficiaries after you pass away. If you are married, there are many different ways to design Trust benefits for a surviving spouse, too. For now, however, we will focus on what options are available after both spouses pass away.

Outright Distributions

You can make outright distributions to Beneficiaries in a Revocable Living Trust just as easily as you can in a Will. The advantage of doing so in a Trust is that you can avoid probate proceedings if you do the Trust correctly. That can put more money in the Beneficiaries' pockets quicker and more efficiently.

Another way of making outright distributions is to structure each Beneficiary's Trust Share so that the Beneficiary has an unlimited right to withdraw income or principal whenever they want. This gives the Beneficiary control over when is the best time to take some or all of the

inheritance. Rather than force it on a Beneficiary at what may be a bad time, you can instead give the Beneficiary the power to decide when the right time to withdraw is.

Common Trust Share
When some or all of the Beneficiaries are not yet adults, it may be a good idea to hold the Trust assets in a single "Common" Trust Share for a while. Many attorneys call this a "Pot" Trust because you keep everything in one "pot" for the mutual benefit of all of the Beneficiaries, at least temporarily. The idea is to get the youngest Beneficiary up to an age at which you believe he or she should be self-sufficient before you split the "pot" into Separate Trust Shares for each Beneficiary. Why would you do that?

Let's assume that on your death you have three children, ages 24, 18 and 12. If your Trust splits into three shares immediately, the 24-year-old makes out very well if she has already completed college and has a job. You already paid for her school. But the other two have to pay for college out of their own Separate Trust Share. The poor 12-year-old even has to pay for his own support out of his share just to make it to college age. That's probably not how things would have worked if you were still alive.

Now look at what would happen if you kept everything in a Pot Trust until the youngest was, say, 22 (or whatever age you think he should be out of college and working). The Trustee pays for the support and education of each child from the Pot Trust according to the reasonable needs of each child (which may not be equal at this point). When the youngest reaches age 22, then whatever remains in the Pot Trust splits into three equal Separate Shares. All three kids got an even shot at growing up without being punished financially for being the youngest. That is probably a better reflection of what you would have done if you were living.

You do not have to penalize the oldest Beneficiary until the youngest grows up, either. You can permit the Trustee to make advances from the Pot Trust for things like a wedding, buying a house or maybe starting a business. The advances can be on an "as-needed" basis, and do not have to be equal. When the Trust splits into Separate Shares, the Trustee can adjust the Shares to consider advances – those who got advances earlier get a little less later on.

Staggered Over Ages
Maybe you are concerned that the Beneficiaries may not be quite as financially mature as they should be when the Trust splits into Separate Shares. Receiving a large distribution of cash at the wrong age could do more harm than good. You can ease the Beneficiaries into their inheritance by spreading their Trust distributions out over a series of ages. Consider giving them a small percentage first, then a larger percentage a few years later, and so forth. If they squander the first distribution, perhaps they will learn from the experience and be more responsible when the next distribution comes. Between large distributions you can authorize the Trustee to make smaller distributions for the Beneficiary's health, education, maintenance and support.

You can also help the Beneficiaries learn by letting

them be a Co-Trustee of their Trust Share. Working with an older, more experienced Co-Trustee may give them the guidance they need to learn financial responsibility. As Co-Trustee, the Beneficiary will have a sense of responsibility and control over his or her Trust Share, too.

Staggered Over Years
An alternative to staggering distributions at particular ages is to measure the distribution periods from the date that the Trust splits into Separate Shares. Instead of saying the Beneficiary gets "x" percent at age 25, you say he gets the first distribution of "x" percent upon creation of the Separate Share, "y" percent five years later, and so forth. The Beneficiary's age doesn't matter. This is a good option if your Beneficiaries have good jobs and you want them to rely on their own efforts for support instead of their inheritance. Let them hold some back until later, such as for retirement. It is also a good alternative if you have adult children who you fear will never be good with money, no matter what age they are.

Milestone Distributions
You can also encourage particular achievements that may be important to you. Some people refer to these as "Incentive Trusts," but it is really just a special distribution structure within your Trust. When your Beneficiaries reach certain milestones in their life, you can reward them with a Trust distribution. If they do not reach those milestones, you don't disinherit them, but maybe they just have to wait a little longer for a distribution.

For example, perhaps you want your children to finish college. Graduation from college may trigger a distribution from their Separate Trust Share as a reward. A graduate degree may result in another nice distribution. If they do not go to college, they may have to wait until a later age until they get those distributions. You may have other milestones that you want to encourage and you can probably incorporate them into a Trust.

Values Promotion
Many families have certain values that are important to them. You can structure incentive provisions for Trust distributions to your Beneficiaries as a way to promote those values. In this way, you are using the inheritance to instill your important values in the Beneficiaries. The values you can promote are limitless. It may be having a long, stable marriage, a suitable job, or being a stay-at-home parent. Maybe it is active involvement in or promoting charitable activities or volunteer work for a worthy cause.

Or, you can flip it around and structure the Trust Shares to provide a disincentive for bad conduct. Many parents restrict distributions to Beneficiaries with drug or alcohol problems or those with gambling addictions or other disfavored behaviors.

Every family is unique in what is important to them. Again, you don't have to disinherit a Beneficiary if they don't follow your values. You just alter the distribution pattern based upon the Beneficiary's conduct.

Multi-Generational Planning
If you really want to leave a powerful inheritance, consider Multi-Generational

Trust Shares. You will hear many different names for this: "Dynasty Trusts," "Generation Skipping Trusts," and so on. While they can be separate standalone Trusts for complex estate tax planning, you can also use them as Separate Trust Shares for your Beneficiaries in your own Revocable Living Trust. A Multi-Generational Trust Share is essentially a protective fund that the Beneficiary can use and enjoy without ever actually owning it. If they use it wisely, it will continue to grow and grow. Since the Beneficiary does not actually own it personally, however, creditors of the Beneficiary can't take it, an ex-spouse won't get any of it in a divorce, it never goes through probate and the IRS won't be able to levy estate tax on it when the Beneficiary dies. "Multi- Generational" just means that whatever remains when the Beneficiary dies automatically passes down from generation to generation – fully protected – until finally there is nothing left.

If you have the exclusive right to use and enjoy the Trust Share, does it matter if you don't actually own it? It is still essentially yours. But many of the negative things in life – lawsuit judgments, divorce, probate, estate tax – only touch what you own personally, not what is in the Trust for your benefit.

Some people think of this multi-generational planning as being "mean" to your Beneficiaries. How could you ever hold everything back from them or try to control them from the grave? In reality, as a Beneficiary it is the ultimate way to inherit. You get to have your cake and eat it, too! And no one else can touch your cake, either.

Planning with Special Assets

Some assets you own may require special attention. Qualified retirement plans (401k plans, a traditional IRA) are a prime example – great for tax-deferred growth while you are alive, but often difficult to deal with after you die. More and more people have significant amounts of their wealth accumulated in these types of assets. The combined effect of federal, and maybe state, estate tax and income tax can quickly deplete them, leaving your Beneficiaries with little left. There are ways to lessen the impact through your Trust if you do it right.

For large retirement plans, it is often better to use a separate special Trust for these assets. The goal is to "stretch-out" the retirement plan distributions over the Beneficiaries' lifetimes to defer the income tax liability. You can essentially turn your retirement plan into a retirement plan for your Beneficiaries. This is a very complex subject. For our purposes, just remember that you need to pay close attention to how you integrate your retirement plans with your estate plan. A little planning can save your Beneficiaries a lot of money.

Tangible Personal Property

It is very common for people to have items of tangible personal property that they want to give to particular Beneficiaries. The items may be valuable, or perhaps they are family heirlooms with only sentimental value. Putting a name on a piece of tape on the back of a picture won't work, at least if you want your wishes to be enforceable. You can make special bequests of your tangible property in a Will

and it will be enforceable in probate court.

The problem is, if you change your mind you have to change your Will. Special bequests of tangible property are easier to make through a Trust. Since a Trust is like a contract, you can attach an addendum to it specifying who gets what jewelry, heirlooms and other special items you have. All you have to do is include a provision in your Trust to direct the Trustee to pass those things out according to the list you create. If you change your mind, you can tear up the old list and make a new one.

Charitable Bequests
You can also get creative with charitable bequests in a Trust. You can make lump sum charitable gifts in a Trust just like in a Will. But in a Trust, you can also defer the charitable bequest while one or more Beneficiaries use the income stream. Or you can reverse it by giving the charity an income stream for a while and then let the Beneficiaries have the principal later. Charitable planning can be easily incorporated in a Trust and there are also special standalone Trusts to accomplish specific charitable goals, if needed or desired.

Now that we have looked at some distribution options, we will look at some other benefits you can include in your Trust.

ADDITIONAL PLANNING WITH TRUSTS

Creating a Trust is a lot like packing to go on vacation, except unfortunately you won't be coming back. Most people spend far more time and money planning a vacation than they do on estate planning. Think of estate planning as packing a suitcase. First, you decide what you want to pack – what you want to do for your Beneficiaries. Then you determine what type of luggage you need to fit it all in (a Will or a Trust). You cannot fit your whole wardrobe in a carry-on and, likewise, you can't pack a lot of planning into a Will. A Trust is like an expandable suitcase, so you can pack in as much as you want. It's the best way to plan for contingencies that may happen. If they don't occur, great. But if they do, you'll be glad you thought ahead and prepared for the worst.

This is how Trust planning is superior compared to your other options. Here is a sampling of ideas you might want to consider.

Probate Avoidance
A properly planned Revocable Living Trust will allow you to escape probate completely. The way you do that is to make certain that you correctly title all of your assets to your Trust while you are alive.

Probate only controls what you own in your personal name. If all of your assets are in your Trust, there is nothing to go through probate. Probate avoidance with your Trust applies if you become mentally incompetent (no need for a guardianship) or when you pass away (no need for a probate estate). You escape the complexity of probate procedures and handle things on your own terms through your Trust. Everything remains private, instead of being a public record in probate. And your Trustee won't have to get permission from a probate judge to do anything.

Settlement Costs
Cost savings is another big factor. Trust administration is

usually much faster and less expensive than probate court administration. The time savings reduces the stress on your family. The cost savings gives more money to your Beneficiaries. Even in a modest $500,000.00 estate, it can cost twice as much in legal fees to settle your estate in probate compared to a Trust. When you compare the cost of a probate guardianship if you become incompetent with the cost to handle your affairs through a Trust, the difference is even more dramatic. In a vast majority of cases, the savings in settlement costs alone far outweighs the difference in the initial planning cost between a Will and a Trust.

Blended Families

It seems like traditional one-marriage families are becoming as rare as sports championships in Cleveland. The "blended family" with children from different marriages is common today. Estate planning with a Will gives the blended family two primary choices. You can give everything outright to your spouse and hope that he or she will actually give something to your kids later. Or you can skip the spouse and give it directly to your kids when you die. Wouldn't it be better to provide for both the spouse **and** your kids and be sure it will work? A Trust gives you the flexibility to do that. You can provide for the spouse in the Trust for the rest of his or her life, and then have everything that remains go to your kids. And the surviving spouse can't elect to take a bigger share, as they can do in probate if you have a Will. This gives you the flexibility to decide what happens with your assets and avoids situations that may pass your assets to someone else's kids.

Minor Beneficiaries

It can be very frustrating having to ask a probate judge for permission to spend some of little Timmy's inheritance on new school clothes and very expensive having to pay a lawyer to ask. But that's exactly what will happen if you leave your estate outright to a minor child, either through your Will or by not having a Will at all. It also happens if you name your minor children as Beneficiaries on your life insurance or retirement plans. Then little Timmy gets everything in a lump sum check for his 18th birthday! You can imagine how long that will last.

You can do a little better by designating a "custodian" to watch over the money under the Uniform Transfers to Minors Act. That Act is a special statute that can substitute for probate guardianship of a minor's assets but it is somewhat restrictive. And little Timmy still gets the big check at age 21, whether he's financially responsible or not. A Trust lets you write the rules for when and how your young children or other minor Beneficiaries will get their money. Your Trustee – someone you picked because you trust them – doesn't have to waste time or money getting permission from anyone to do anything. Your Trust gives the Trustee far more freedom than a guardian or a custodian. You get to decide when the Beneficiaries start getting trust distributions, and it can be at any age and doesn't have to be at 18 or 21.

Disabled or Elderly Beneficiaries

Consider the other side of the coin. What if you have

elderly parents, or a mentally or physically disabled child, who depend on you for support? If you die, are you going to give everything directly to them and disqualify them from Medicaid or other government benefits to which they may be entitled? Or are you going to disinherit them so they don't lose their benefits? With a Trust, you don't have to elect either option. There are ways to structure their Trust Share so that they remain eligible for government assistance, but your Trustee can use their share to enhance the quality of their life beyond basic benefits. You can even allow the Trustee to hire a professional care manager for the Beneficiary to assure the best possible outcome.

Distribution Control

We already covered many of the options you have for structuring Trust distributions to your Beneficiaries. You can provide financial oversight for irresponsible adult Beneficiaries, or guard against their addictive behaviors. You can reward milestone accomplishments and promote values that are important to you. You can even create protective shares that benefit multiple generations. Since you write the rules in your Trust, you have discretion to mix and match different distribution alternatives. You can customize the distribution method for each Beneficiary to address his or her unique circumstances. You don't have to disinherit Beneficiaries either. Instead, you may be able to assist them with a Separate Share of the Trust that reflects your goals and concerns for them.

Trusts also provide an excellent way to have contingency plans for unexpected events that may happen after you are gone. You can switch how a Trust Share works if something bad happens to a Beneficiary, such as becoming mentally incompetent. You can withhold distributions if a Beneficiary is in a vulnerable personal or financial situation. If a Beneficiary passes away before he or she gets a final distribution, you can direct where the rest of that Trust Share goes. Many people prefer keeping it in your "bloodline" instead of going to in-laws you don't particularly care for or to other persons you don't even know.

Divorce Protection

Sadly enough, the possibility that a Beneficiary may get divorced after you die is relatively high. Having a Trust cannot prevent a divorce. But it may affect how things work out for your Beneficiary after the divorce. If you give a Beneficiary their inheritance outright, chances are they will commingle it with other assets they own jointly with their spouse. That instantly makes the inheritance subject to property division in a later divorce. Half of your generous gift now goes to the nasty so-and-so who had the nerve to divorce your intended Beneficiary. That is definitely **not** what you had planned.

You can structure a Trust Share for the Beneficiary to make sure the inheritance is not part of the divorce. If the inheritance stays in a Trust Share for your Beneficiary, it is there for his or her exclusive benefit and is not a commingled asset. When the divorce is over, your Beneficiary still has the full inheritance. That can be a

financial safety net and can provide a much-needed cushion for the Beneficiary.

Creditor Protection
We live in a pretty "sue-happy" society. The odds of recovering money in a lawsuit are far better than the odds of winning the lottery. Add an "M.D." or "J.D." to the end of a Beneficiary's name and they become a bigger target. Liability insurance is the first and most important line of defense. But it may not cover everything, which makes the inheritance you left the Beneficiary an attractive source of funds for a creditor holding a judgment. You can structure a Beneficiary's Trust Share to keep it out of the reach of creditors while at the same time making it available for the Beneficiary's use and enjoyment. That is a nice shield to have in place, particularly for Beneficiaries in high-risk professions.

Remarriage Protection
If you are married right now and you die, do you think your spouse will remarry? Statistically, the chances are good that they will. Of course, you want them to be happy. But do you want your assets going to the new spouse? Or would you prefer that it go to the Beneficiaries that are important to you? If you give everything outright to your spouse in a simple Will, you don't have any control over what happens after you're gone. Your spouse may not even intentionally do anything to derail your plans. Most bad results in estate planning happen by mistake. It is common in a Trust to provide financially for your surviving spouse for the rest of his or her life, regardless of whether they remarry. It is also common to include protections to make sure that nothing mistakenly goes to the new spouse. You can protect your spouse in case the new marriage doesn't work out. Everybody wins except the new spouse, whom you probably did not intend to benefit anyway.

Business Interests
If you have your own business, or a family farm or significant real estate investments, estate planning can get tricky. The issue is more complicated if some, but not all, of your kids are actively involved in the business, farm or investments with you. Trust planning can make that task easier. Again, since you write the rules, you can be fair to all the kids while protecting the interest of those who have helped you build the business. It can be complex and a complete explanation of the possible solutions is not appropriate for this article. Suffice it to say most situations like this require Trust planning in order to be successful.

Estate Tax Planning
Most people are not very concerned about federal estate taxes any more since they don't apply unless you have over $5.45 million, for 2016. And Ohio has repealed its estate tax, so the tax bite that many Ohio families felt in the past (because Ohio's tax was

NEWSFLASH----

The single most often heard concern of my estate planning clients is ensuring that their hard-earned assets do not end up in the hands of their sons or daughters-in-law or other in-laws.

At Stiller Law Offices, we are available to listen to you and to advise you about options for resolution of your estate planning issues.

on all assets over $338,333) is not a current concern. Political and legislative action is not certain, however, and Ohio may well resurrect its estate tax in the future.

Pennsylvania currently applies an inheritance tax to assets received from a Pennsylvania decedent. Trust planning can help keep these assets from the reach of the taxman in Pennsylvania.

What many people – even many attorneys, accountants and financial advisors – fail to realize, too, is that Trusts can protect some assets from taxation or at least postpone the payment of those death taxes. Revocable Living Trusts will not accomplish much in the way of estate tax savings for wealthy single people. There are other vehicles to accomplish that goal. Nevertheless, wealthy married couples should not ignore the opportunities. Each individual person gets to exclude his or her $5.45 million from estate tax. So if both spouses use their estate tax exclusions, they can shelter nearly $11 million from federal estate tax under current law.

These estate tax exclusions work like coupons at the grocery store. If you use the coupon, you don't have to pay tax on that amount. If you waste the coupon, you owe the full amount of tax. A simple Will wastes the estate tax "coupon" of the first spouse to die if, like many Will plans, everything goes to the surviving spouse. Since there is no estate tax on things that pass between spouses (due to the "unlimited marital deduction"), there is no opportunity to use the first spouse's coupon. When the second spouse dies, he or she now has *all* of the assets, but only *one coupon* left.

It is relatively easy to preserve both estate tax "coupons" in a Trust. You split the Trust into two shares for the surviving spouse on the first death: one share uses the deceased spouse's coupon; the other uses the marital deduction for everything over the coupon amount. When the second spouse dies, that spouse's coupon avoids estate tax on another portion of the assets. Two estate tax coupons are always better than one.

This is not an article on estate tax planning. Just remember, basic estate tax planning with a Trust for a wealthy married couple can save at least $2,180,000.00 in federal estate taxes (40% of $5.45 million). That is money that goes to your Beneficiaries instead of to the government – a result that you cannot accomplish with a Will.

TOO GOOD TO BE TRUE?

Trusts do have drawbacks. It is only fair to examine the criticisms of Trusts, not just the benefits. This will allow you to weigh the pros and cons before you decide if a Trust is right for you.

Psychological Impediments

A major reason that many people avoid Trusts is psychological. Since they don't know much about them, they think they are too complicated and they don't want to be embarrassed if they don't understand them. They rationalize this fear of the unknown by telling themselves that they are not "rich enough" to have a Trust.

Trusts are indeed more complicated than Wills. That is because Trusts do a lot more than Wills. The reason that many professionals shy away from Trusts is because

they too have never learned how they work. The best way to overcome this obstacle is to learn more about Trusts and then work with an experienced estate planning attorney who does understand them – and who can help you understand them as well.

The Simplicity Factor

Everyone believes that his or her situation is "simple." "Simple" is a relative term. It is not a matter of the number of assets you have or your net worth. It is not a matter of how many beneficiaries you have or how well they get along. Just because you know what assets you have does not mean your situation is simple. Remember, estate planning involves all of your hopes, dreams, fears and goals for your family, not just how much money you have. Sometimes a family's situation and goals truly are simple and a Trust in those situations may be unnecessary. However, a Trust can be as simple or as complex as you want. You can create a Trust without all the bells and whistles that will still save your family a great deal of cost, risk and stress when you are gone.

Advice From Others

We already addressed the "pigeonhole planning" approach that many professional advisors use in determining whether you need a Trust. Your net worth is not a good way to determine what type of estate plan you need. There is also another danger with some of the advice you may get. Many advisors – from attorneys all the way down to your local bank teller – convince you they can solve all of your problems using "probate shortcuts." A joint and survivorship account here and a few payable-on-death designations there and you're all set. And they are heroes because it's quick and free!

That may work if your only goal in life is to avoid probate. In saving you a few short-term planning dollars, however, did they fulfill all of your other important goals? Did they even ask you what those goals are? Did they study your estate plan first to be sure that their quick fix is actually consistent with the rest of your plan? Some of my more contentious estate administration cases have occurred when these "shortcuts" resulted in unexpected unequal distributions to Beneficiaries and no funds with which to pay estate expenses like funeral costs or income taxes.

The point is that good estate planning should not occur in a vacuum. There is nothing wrong with probate shortcuts in the right situation, if they truly accomplish all of your objectives. But you can't plan well by looking at each asset in isolation. A good estate plan addresses all of your important goals together, not just how you get one or two assets out of probate.

Initial Cost

There is no question that it costs money to do your estate plan. Trust planning always costs more up front than Will planning. That factor alone scares most people away from Trusts. It is sad that people routinely perceive "value" solely from the initial price of planning. This perception often results in people opting for the cheapest estate plan possible, whether it's the best plan for them or not. Real "value," however, is not in the initial price, but in the results you achieve. Whoever coined the phrase, "You get what you pay for," may well have been

dealing with an estate administration nightmare at the time. There is nothing like dealing with such nightmares to make you appreciate good planning.

You need to consider not only the initial price, but also what it will cost your family to settle your estate, those settlement costs that we already covered. Your focus should be on the overall cost, not just the initial price of your plan. Otherwise, you are only looking at a small part of the total picture.

As a quick example: Which is better, spending $1,000.00 to get a Will plan and paying $18,000.00 in total overall attorney fees for probate, or spending $3,000.00-$5,000 on a Trust plan and paying $10,000.00 in total overall attorney fees for trust administration? There is a stark contrast between attorney fees for settlement: $18,000.00 for a Will plan versus $10,000.00 for a Trust plan in this example. This is a typical comparison for a married couple with a $650,000.00 estate. That's not a "rich" family by current standards.

Time and Effort

It takes more time, thought and effort to design a Trust than it does a Will. That is an undeniably true statement. But you've already taken a big step, you know more about Trusts now than most people ever will. Everything worthwhile takes effort. Isn't that what you tell your children? There's no magic pill to make it easier. There's no magic form on the internet that will solve your problems correctly with a click of a mouse. In fact, do-it-yourself estate planning with a generic form you got somewhere online is just inviting disaster.

There is something you can do to make the process more palatable, however. Make sure that you use an attorney who has a high level of expertise and experience in all types of estate planning so that you get quality advice. Make sure that your attorney can communicate with you in understandable terms to explain your planning options. Finally, make sure the attorney has good systems in place to make the process as efficient and painless as possible.

Funding

One of the things that people hate most about Trusts is that you have to "fund" them to make them work right. They think that correctly titling every asset you own is too hard and complicated, and it takes too much time. It forces you to organize everything. Those complaints are common and have some merit, but it does not have to be so burdensome if you get the right guidance.

Actually, proper asset titling is critical for every type of estate plan, not just Trusts. Your Will won't work either if you incorrectly title your assets. Remember the rule we mentioned in the second article in this series: *"The success of your estate plan all comes down to how you title your assets."* It is not much harder to title assets to work through a Trust than it is to make them work correctly through a Will. Look at it this way. It is much easier for you to get organized and title your assets correctly while you are alive than to dump the problem on your family to figure out after you're dead. Do your family a favor by doing it correctly now. As an aside, I use this better-now-

than-later strategy with my son to get him to help me clean out the basement – it's better if he helps me now rather than wait until I'm gone and have to do it anyway – without my help!

THE FINAL ANALYSIS

Your estate plan is your vision for the most important thing in your life – your family. It's your family's roadmap for a secure future – an assurance that they will have a clear path to reach the destination you set for them. The choices you make in your estate plan will directly affect the costs, risks and stress they encounter after you're gone.

A Revocable Living Trust may be an excellent solution for many families. The flexibility of a Trust makes it the perfect tool for accomplishing a wide range of personal goals. The power of a Trust goes far beyond issues of money and taxes, and can address the unique circumstances of your family exactly the way you want. You owe it to yourself – and most importantly to your family – to explore whether a Trust would be an appropriate centerpiece of your estate plan.

Contact an experienced estate planning attorney today to begin the journey!

Contact us for more information about the topics discussed in this article. This information is provided as a service to our clients and is not intended to be and does not constitute legal advice.

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