Taxation
Living Trusts

One of the most popular estate planning instruments today is the revocable living trust. Trusts are used to maintain control and disposition of assets after death, and some can be used to minimize the estate tax impact of property transfers.

The difference between a revocable and irrevocable trust is whether the trust creator can change or terminate the trust. In the revocable trust, the creator can change the terms and conditions of the trust, or even eliminate the trust altogether. An irrevocable trust, on the other hand, cannot be altered once established. When used and implemented correctly, an irrevocable living trust offers many benefits.

Using a Living Trust for Financial Protection
A revocable living trust provides financial protection in the event you are no longer able to manage your financial affairs yourself. You can be trustee while you are healthy, but if you have a stroke or become otherwise incapacitated, your successor trustee would manage your assets in the trust.

Using a Living Trust for Privacy
Another benefit of revocable living trusts is continued privacy because the instrument will bypass probate. The trust can function like a will, dictating at what age children are to receive trust assets and the percentage shares of the distribution. The trust can be linked to a pour-over will, a short document that names the executor and that determines how taxes, creditors, and final expenses will be paid. The pour-over will directs the executor to gather all assets not included in the trust and pour them over into the trust. Once that happens, the trustee will follow the directions included in the trust. The pour-over will must be filed with the probate court, but because it doesn't say much, it doesn't reveal much.

Using a Living Trust to Reduce Probate
Regarding probate, living trusts offer another useful feature -- if you own property in a state other than your state of residence, when you die, that property must go through what's known as an ancillary probate. Many people think it's worth setting up the trust just to avoid the out-of-state probate hassle, which necessitates hiring a lawyer in that other state.

Using a Living Trust as a Management Tool
The living trust can be used as a tool to manage your property, and can be especially helpful if you become incapacitated because the successor trustee can manage your property, rather than a court-appointed trustee, which takes time. The benefit of having an immediate successor can be especially important if you own a business or other assets that need to be managed seamlessly.

Other Benefits of a Living Trust
Finally, you can include provisions in the trust that preserve the use of your estate and use the gift tax exclusion to set up other trusts that will help reduce estate taxes.

Disadvantages of a Living Trust
There are disadvantages to using a revocable living trust as well. You must re-title assets into the trust name, which entails a lot of paperwork. And, although creditors only have a limited time after your death to make claims against your estate while it's being probated, there is no time limit within which creditors may go after assets in a living trust.

Conclusions
If your goal in using a revocable living trust is only to avoid probate, there are easier ways to accomplish this task. However, the revocable living trust can provide a wide variety of estate planning benefits that are difficult to achieve with any other estate planning tool.
