

WILLS, TRUSTS & ESTATES: PLAIN AND SIMPLE

“SHOULD I HAVE A REVOCABLE TRUST?”

A Revocable Trust, AKA a “Living Trust,” is a trust created by written agreement between you, as grantor, and you (and/or another person, if you’d like), as trustee, directing the trustee to hold the assets you put in the trust and how to distribute them upon your death.

During your life, you may revoke the trust and take everything back, or take bits and pieces out whenever you want. Since you retain full control over the assets in the trust, all of the assets in your revocable trust are subject to estate taxes. Put another way, and contrary to the implication made in mailings you may have received, using a revocable trust will save you NO more in estate taxes than if you used a Will.

The use of a revocable trust is surely warranted in certain circumstances, such as if you have no close relatives living, or if you own property located in another State. There are other circumstances which may warrant the use of a revocable trust (ex. difficult heirs), but each situation should be carefully reviewed. Even if you have a revocable trust, you still need a will to dispose of any assets you own individually which did not make it into your revocable trust before you died.

If the only reason why you want a revocable trust is to avoid the “dreaded” probate of a will, note that, under typical circumstances, a New York probate proceeding is relatively quick and inexpensive (although getting a bit longer with the backlogs in the courts). Again, using a revocable trust will save you no more in estate taxes than using a will. In determining whether or not to have a revocable trust, all of the circumstances must be considered.

If there is a trusts or estates topic that you would like to know more about, please feel free to email me at pmarcin@farrellfritz.com with your suggestion and I will do my best to cover it in a future column.

Patricia C. Marcin is a partner at the law firm of Farrell Fritz, P.C. concentrating in trusts, estates and tax law. Patricia has lived in Lloyd Harbor for 14 years with her husband, John Pastula, their two teenage sons, Sam and Matt, and their dog, Blizzard.



“I’m so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family’s future.”

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