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Revocable Living Trusts Have Many Benefits – Just Not Instant Benefits

Submitted by Dave Polstra on 12/10/2018 - 08:59

One of my favorite clients passed away this year at age 94. Captured by the German Army during the Battle of the Bulge in World War II, his war stories were spellbinding. And after traveling to Germany as an executive at The Coca-Cola Company for more than 40 years, he actually met the soldier who apprehended him.

I'll also remember him for his precise amount of planning that went into his estate. He prepared a three-ring binder that included detailed instructions to be carried out following his death. His planning was so complete that he kept the binder in a large, plastic box labeled "Exit Plan." His instructions included:

- How his memorial services should be conducted;
- Every person who needed to be informed about his death. This list included the names and contact information for his attorney, accountant, trust officer, family members, and the Social Security and the Veterans Administration.
- Where all important papers were kept;
- And, most important, that all of his assets had already been transferred to his revocable living trust.

As part of the estate planning process, I worked with him to set up this trust. One of its primary purposes is to ensure that a person's assets are available to their heirs as quickly as possible following their death, thereby allowing these assets pass outside of a state's probate court.

A Revocable Living Trust (RLT) is a document I highly recommend, especially for my elderly clients. A well-planned RLT has several benefits: it allows a person to revise the trust as often as they'd like, up until the time of their death. It also provides an enormous level of comfort by helping heirs avoid probate and adds an extra layer of privacy regarding one's estate.

But it's important to know that often times a quick settlement isn't done in days or even a couple of weeks. Even with meticulous planning, the result often doesn't mean the assets are instantly transferred to the heirs following the death of their loved one.

In the case of my 94-year-old friend, he thought everything was “buttoned up” with both belts and suspenders! But even this level of planning couldn’t foresee a handful of minor legal obstacles. While he wanted the RLT to instantly transfer his assets to his children upon his death, that’s not how it worked out. Instead of taking just a number of days, it turned out to be approximately two and one-half months. Here’s why:

- The trust was split into two parts when the father died. This created an “administrative trust,” which included the funds needed to pay trustee fees and burial costs, and a “spousal trust” for his surviving spouse. In addition, a corporate trustee was named to handle the trust.
- Corporate trustee signatures were needed from multiple physical office locations.
- The trustee needed to receive a death certificate, which typically takes a week to 10 days.
- The opening of two new trust accounts was delayed because tax identification numbers were needed for the two new trusts and the custodian’s Estate Review Department was swamped with requests.

Despite the delay, the revocable living trust accomplished its goals. But it’s good for anyone considering an RLT to know there won’t be an instant transfer of assets, no matter how much planning is done.

Of course, the RLT made it possible for the surviving family members to receive their assets much faster than if our 94-year-old client didn’t set up one up. They avoided going to probate court to settle the estate, which was one of their main goals so his affairs were private.

With an estate as complex as this one, it would typically take between one and three years to settle and transfer assets to the heirs without an RLT. In retrospect, taking two months or so to dot all I’s and cross all T’s was worth it.

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