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Wills, Trusts & Estates

Alerting Leaders to Key Legal Developments September 8, 2016

The Revocable Living Trust
A Helpful Tool in the Estate Planning Toolbox

There are many different types of trusts—too many to describe in the space of this article—but one beneficial tool in the estate planning toolbox is the "Revocable Living Trust." This is a trust which an individual can continue to modify during his or her lifetime.

First, by way of explanation, a *trust* is a common estate planning device that is simply an agreement between two people to manage one's affairs. The person who establishes the trust may be called the Settlor, the Grantor, or the Trustor, and the person or institution that agrees to fulfill the terms of the trust is called the Trustee. There can be multiple Settlors–for example, a married couple—and more than one Trustee. The Settlor and the Trustee can even be the same person, as when a married couple creates a Joint Trust.

The Revocable Living Trust (RLT) has several advantages. It is easier to change than a will. It avoids probate for properly funded assets during one's lifetime, and it can provide lifetime management of assets for a Settlor who wants to turn that responsibility over to another person. It also provides a measure of privacy after death because, unlike a will, it is not recorded in the public records.

In addition, the RLT can provide for on-going trusts after the death of the Settlor. For example, a married couple may include a provision in their joint RLT to create a separate trust for each child after the death of the second spouse. The RLT may authorize a Trustee to disburse payments for the "health, education, support and maintenance" of the child. Then the Trustee can be directed later to disburse, say, half the balance of the child's trust at 25 and the remaining balance at 30.

Contrary to popular belief, the RLT does not avoid estate tax. (It does avoid the minimal probate tax.) For many people, however, the estate tax is not an issue because the current exemption to the federal estate tax is in the millions—$5,450,000 per person. In other words, all assets up to that amount are exempt from federal estate tax. (Many states have their own estate tax, so be sure to consult with your attorney.) Nevertheless, a properly funded RLT can be an effective tool in avoiding probate. As long as an individual's assets are transferred to the RLT during his or her lifetime, those assets will avoid probate when the Settlor dies.

In any case, we do *not* recommend the "do-it-yourself" will and trust kits that are popular today. One oversight or mistake in execution can result in considerable problems after death. In one recent case, because of some conflicting wording downloaded onto a form, the estate administrator was forced to go to court for clarification. The estate wasn't settled until two years later—with nearly $30,000 in costs and fees spent over the mistake. Our experience is that the expense of litigation to correct errors in downloaded forms far exceeds the legal fees for documents that are drafted by an attorney in the first place.

The Revocable Living Trust is a helpful device in many estate plans. Gammon & Grange, P.C.'s estate planning practice is willing to help—with decades of experience in wills, trusts, eldercare law, charitable gifts, probate, and estate and trust administration, attorneys **Dan Smith** and **Frank Pugh** can walk beside you with the wise counsel and individualized estate planning necessary to carry out your desires for your loved ones.

Daniel D. Smith, *Of Counsel* to Gammon & Grange, P.C., has practiced and taught extensively in the fields of estate planning, taxation and administration, and related litigation. With over 40 years of experience, he brings a wide breadth of knowledge and understanding to estate planning. He is uniquely equipped to provide creative solutions to the challenges of wealth transfer within the family and issues in business continuation.

W. Franklin Pugh, also *Of Counsel* to Gammon & Grange, P.C., concentrates his practice on estate planning, trust and estate administration, and tax return preparation for estates and trusts. He has practiced in Northern Virginia since 1985.