

REVOCABLE (LIVING) TRUST

When a decedent's Will is *probated*, the Will and an inventory of the decedent's assets are filed with the county. In most states, the court and the appointed Executor or personal representative oversees the disposition of the assets. The probate process makes the disposition, the value and the contents of the decedent's estate public record. Additionally, if the decedent owned property in multiple states, the Will must be probated in each state. For some estates, probate can be a significant administrative and financial burden. Utilizing a revocable trust (sometimes referred to as a "living trust") as the dispositive testamentary instrument rather than a Will could relieve some of this burden.

Avoid Probate

Rather than a Will, the individual could transfer his or her personal holdings into a revocable trust over which he or she controls as Trustee. The revocable trust would be composed of the individual's estate, over which he or she continues to control and dispose of as desired. Upon death, the provisions of the revocable trust control the disposition of the estate without the burdens of the probate process. The holdings are kept private at death and a successor Trustee oversees the disposition of the estate rather than an Executor and the court.

Incompetency Planning

A revocable trust also provides asset management during incompetency. The individual would name a succession of Trustees to serve should he or she become unable or unwilling to serve as Trustee. Upon incompetency, the next named Trustee would serve and have the ability to manage the incapacitated individual's affairs. While similar to the powers held by a *power of attorney*, a Trustee is less likely to meet challenges when dealing with financial institutions in carrying out the client's financial affairs, and further prevents the burdens of a guardianship proceeding.