

All kinds of trusts are used in estate planning, and planning for incapacity or disability. A common one is the revocable grantor trust, sometimes called a revocable living trust, or just revocable trust.

When you create a revocable trust, you are creating another legal entity that can own property. After you sign the trust, you fund the trust by transferring by deed real estate you want the trust to own, and change bank accounts and other property to be owned by the trust.

During your lifetime, you are the boss of the trust, called the trustee. During your life you are also the sole beneficiary of the trust. In other words, you have full use and enjoyment of the property owned by the trust. You can terminate the trust, modify it, and use or spend all the money in the trust. You keep complete control.

A revocable trust allows your assets to go to your beneficiaries at your death according to your wishes without going through probate. Probate is a legal proceeding supervised by probate court. Probate is how assets are transferred from you to your beneficiaries after you die if the assets are not owned jointly, lack a beneficiary designation and are not in a trust.

A revocable trust is one way to avoid probate. When you put property into revocable trust, the revocable trust owns the property. When you die, the revocable trust still owns the property; only the beneficiary changes. With a revocable trust, your assets go to your beneficiaries without court involvement. Your assets are distributed according to your instructions. After your death, your chosen successor trustee distributes your property according to your instructions.

Your property can be left outright to your beneficiaries, or held in trust for them and given to them over time at regular intervals, or according to whatever standards you choose. Each of your beneficiaries can be treated individually.

For example, grandma creates a revocable trust. She is the trustee during her life and the sole beneficiary. When she dies, the trust has instructions providing for any property remaining in the revocable trust to be disbursed to her two grandchildren, one of whom is disabled and receives Supplemental Security income (SSI) and Medicaid. Grandma's revocable trust

provides that the disabled grandchild's share is to be placed into a special-needs trust. This preserves the grandchild's eligibility for benefits and provides an opportunity to increase the grandchild's quality of life.

With respect to the other grandchild, disbursement could be delayed until she reaches a certain age, or disbursements could be made only for specified purposes like college education, home purchase, or whatever you choose.

A revocable trust can hold title to assets that are located in other states. Revocable trusts avoid ancillary probates in other states you own property.

Revocable trusts also protect against "living probate". If you become legally incapacitated and require assistance or protection, your family may be forced to seek appointment of a guardian or conservator if you lack a durable power of attorney or trust.

A funded revocable trust can be an enormous help by providing that a successor trustee will step in to administer the trust in the event the grantor is incapacitated. You receive the assistance you need without the expense and delay of court proceedings. A durable power of attorney and patient advocate or health care surrogate are also useful in cases of incapacity.

Revocable trusts are not perfect. For example, they are not useful as an asset-protection vehicle. Before signing a revocable trust, obtain competent legal advice. Above all, be proactive and plan.