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Top Five Reasons to Establish and Fund Your Revocable Trust

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A Revocable Trust (sometimes known as a Revocable Living Trust or *Inter Vivos* Trust) is an arrangement established by a person (the “Settlor” or “Grantor”) to direct how his or her assets are to be managed during life and after death. Frequently created as part of an estate plan, a Revocable Trust is designed to receive and distribute the Settlor’s assets passing through probate under his or her Will. The Revocable Trust can also be “funded” during the Settlor’s lifetime, by transferring or assigning ownership of assets to the Trust, without any loss of control or enjoyment to the Settlor. In fact, the Settlor can serve as Trustee of the Revocable Trust during his or her lifetime, as long as he or she is able.

To follow are the top five reasons to consider establishing and funding a Revocable Trust during your lifetime.

1. Simplification or Elimination of Probate Proceedings. Probate is the court-supervised transfer of assets from the estate of a deceased person to his or her beneficiaries. If assets are held in a Revocable Trust upon his or her death, rather than in the decedent’s sole ownership, those assets are not subject to probate proceedings, but rather can be distributed by the Trustee without supervision by the court. Unfortunately, neither estate taxes nor probate court fees can be avoided by establishing and funding a Revocable Trust.
2. Asset Management in the Event of Incapacity. In the event that the Settlor becomes incapacitated during his or her life, the management of assets held in a Revocable Trust can be assumed in a relatively seamless fashion, without the necessity of probate court involvement or the use of powers of attorney, which can be cumbersome and inefficient. No separate income tax filings are required for the Revocable Trust during your lifetime, and any income, gains and losses attributable to the trust are reported on your personal income tax return, even if you become incapacitated.

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3. Privacy and Confidentiality. The terms of a Revocable Trust are not a matter of public record upon the Settlor's death, unlike the terms of a Will. Assets held in a Revocable Trust upon death are reported privately to the probate court and/or taxing authority, but the information is not available to the public. Furthermore, the terms under which you wish to dispose of your trust assets will likewise not be available to the public.
4. Avoid Ancillary Probate of Out of State Real Estate. Probate of real estate is handled on a state-by-state basis. Accordingly, if you are a resident of Connecticut and own real estate in Connecticut and in another state, probate proceedings would be required in Connecticut and the other state in order to transfer the property upon your death. If out of state real estate is transferred to a Revocable Trust during your lifetime, probate proceedings will not be necessary in that state.
5. Efficient Asset Management in the Event of Death. Upon your death, management of assets held in your Revocable Trust can be seamlessly assumed by your designated successor Trustee, without the need to wait for probate proceedings.

For assistance or advice regarding funding Revocable Trusts or any other estate planning matters, please contact a member of our Trusts and Estates Department.

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