Using a Trust to Avoid Probate Fees

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When Simon's father passed away two years ago, he didn't think much about how his estate would be handled. His mother had died five years before, and his dad's will was clear about how his assets would be divided. Then came probate, a process to confirm the validity of his will. Not only did unexpected fees come out of his dad's estate, it took almost a year to settle and distribute it.

After his experience with probate, Simon didn't want to put his family through the same painful delays and expense. He wondered if there might possibly be a different solution. So, he turned to his financial advisor, who explained that the simplest way for Simon's estate to avoid probate hassles and costs would be to have his assets pass directly to his heirs. To do this, Simon would need to create a trust - the most common type being a revocable living trust[1]. This estate planning tool would allow Simon to put his assets where he wanted them to go and allow him to retain control over those assets until his death. He could also choose a successor trustee to distribute his assets according to his instructions after he passed away. If Simon changed his mind, his financial advisor explained that he could “revoke” or terminate the trust at any time.

Through the expert lens of his financial advisor, Simon discovered several advantages a revocable trust offered him:

1. While the trust would have to pay capital gains tax on investments or property that gained value, no other taxes would need to be paid when he died, saving his heirs a potentially significant amount of money.
2. Assets could include cash-investments, equity investments (mutual funds / stocks), bonds (individual or funds) or almost any other form of property.
3. His chosen successor trustee could step in and manage his affairs without the intervention of a court if he became incapacitated.
4. His financial details would be kept private after his death, whereas a will that goes through probate becomes public information.
5. He could make changes to the trust document at his discretion.

To be thorough, his financial advisor also cautioned Simon on some of the drawbacks of a revocable trust:

1. The need for regular review and monitoring should assets, or life circumstances change.
2. Properties included in the trust need to be re-titled in the name of the trust, requiring additional time and processing fees.
3. Living trusts offer limited asset protection, so insurance coverage should be revisited.
4. Setting up a new trust usually involves significant legal costs up front to ensure that everything is done correctly.

However, these disadvantages can be managed with expert guidance.’ or something similar. This powerful tool relies on a team approach, starting with a professional financial advisor. Not only can they help you identify and prioritize your goals, but they can also **help you decide if a trust is a good fit for you**.

If it is, they can coordinate with your team of tax and legal professionals to ensure that your living trust is established in the right way for the right reasons. **If you're thinking about estate planning, the best place to start is with a financial advisor.**

Contact our office today [1] to get the conversation started.

**Fictional characters for illustrative purposes only.* [1]Types of Trusts *[2]*

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