Revocable & Irrevocable Trusts

Revocable vs. Irrevocable Trusts

Trusts that can be changed at anytime vs. trusts that cannot be changed without the beneficiaries consent

Revocable Trusts

A Revocable Trust is a trust that can be revoked, meaning it can be changed or updated at any given time as long as you, the Grantor, are still living and of sound mind at the time of the proposed revocation. Also known as a Revocable Living Trust, this can be a good option if you want to establish a trust, yet still maintain control and ownership over your estate and assets while you're alive and competent. With an irrevocable trust, once you fund it, the trust becomes the legal owner of the assets. Upon death, a Revocable Trust automatically becomes irrevocable and likely cannot be changed.

Irrevocable Trusts

An Irrevocable Trust, on the other hand, is one that cannot be easily amended, changed or terminated once it's signed. There are only a few, very specific, very isolated instances that would allow for an Irrevocable Trust to be modified. And in most cases, changes must be approved through the permission and consent of all named beneficiaries.

Advantages

Revocable	Irrevocable
Flexibility	Estate Tax Benefit
Avoids Probate	Asset Protection
Originals Not Needed	Access to Gov. Benefits
Continuous Management	

Disadvantages

Revocable	Irrevocable
No Tax Advantage	Higher Tax Rates
No Asset Protection	Additional Tax Return
Need for Updates	Complex Language & Terms
Administrative work	

The

Trusted

Advisor's

Trusted

Advisor

Advantages of a Revocable Trust

Revocable Trusts are beneficial for several reasons, which include:

Flexibility: They are flexible when and if you want to ever amend them. Revocable Trusts are typically easier to amend than a Will.

Avoidance of probate: Save your loved ones time, money and most of all, stress when you create a Revocable Trust by avoiding the process of probate.

Originals not needed: Whereas an original Will must be present to be validated during the probate process, because Revocable Trusts don't go through probate, an original is not required, which can greatly simplify things upon your passing.

Continuous management: Even if you become incapacitated, as long as the Revocable Trust was funded, assets within it will continue to be managed without interruption.

One most important benefit of Revocable Trusts is they ensure property and assets remain readily available for you even if you become incapacitated. It's true that you could just have a Durable Power of Attorney (POA) in place, but POAs are often more difficult for third parties to deal with.

Disadvantages of a Revocable Trust

While there are many advantages to a Revocable Trust, there are also some disadvantages. Some of the potential disadvantages to Revocable Trusts include:

No tax advantage: Revocable Trusts don't save you money on your income taxes or estate taxes. Any assets titled in the name of the Revocable Trust will be included in your estate for tax purposes.

No asset protection: While you're living, a Revocable Trust doesn't protect your assets from creditors.

Need for updates: While Wills can automatically update or change after major life events just as birth of a child or divorce, a Revocable Trust will likely need to be affirmatively updated for such events.

Administrative work: Retitling assets to be Trust-owned can be time consuming, but necessary to fund a Trust. However, not all assets will need to be retitled.

The

Trusted

Advisor's

Trusted

Advisor

Advantages of an Irrevocable Trust

The stringency of an Irrevocable Trust raises the question: how could it possibly be a good idea to establish this type of Trust? There are some distinct benefits to an Irrevocable Trust.

Estate tax benefit: Assets you properly transfer into an Irrevocable Trust are not included in the value of your estate. That means creating an Irrevocable Trust could be a financially smart move for anyone with a very large estate. In 2021, individuals' estates valued at more than $11,700,000 million are subject to federal tax (note, the tax is applied only to any amount over that threshold). For married couples, that amount is double, at $23,400,000.

Asset protection: A properly drafted and administered Irrevocable Trust can protect assets from judgments and creditors. If you have a career that may subject you to personal liability or are otherwise likely subject to lawsuits, an Irrevocable Trust may be a good idea.

Access to government benefits: Your wealth can actually count against you when it comes time to collect government benefits like Medicare and Supplemental Security income. By putting assets into an Irrevocable Trust, you may not have to deplete your savings and assets before qualifying for assistance. This can be advantageous in preserving wealth for your heirs.

Disadvantages of an Irrevocable Trust

There are some obvious downsides to an Irrevocable Trust. The main one is the fact that you can't change an Irrevocable Trust once it's finalized. Other disadvantages may be:

Higher tax rates: Any income that an Irrevocable Trust earns will be taxed separately, and often at a higher rate.

Additional tax return: An Irrevocable Trust will need to file a tax return, and there will often be a cost to prepare and file a return for the trust.

Complex language and terms: Irrevocable Trusts usually have trust terms that may be difficult to understand.

The Trusted Advisor's Trusted Advisor

Which to Choose?

How to Determine Which Trust is Right for You

Most people create a trust to protect their estate and make their wishes for the future clearly known. Determining whether a Revocable Trust or an Irrevocable Trust, depends on the considerations noted above.

If you want to remain in control of your estate, a Revocable Trust may be the way to go. The ability to change and modify your Trust in the future is a benefit for many people.

If you have a very large estate or if you're concerned about estate taxes or potential liens or judgments against you, you might be thinking about an Irrevocable Trust. A properly drafted and administered Irrevocable Trust allows you to protect yourself, your loved ones and your estate against future legal action. For larger estate, it also means you can protect the financial future of your estate by avoiding substantial estate taxes.

Turst & Tax Avoidance

Some Trusts can be used for tax benefits. This is an important aspect to understand, because not all Trusts are created equally when it comes to the IRS and taxes. Some types of trusts are better than others if the goal is tax mitigation.

Irrevocable Trusts & Estate Tax Avoidance

While Revocable Trusts do not save you when it comes to income taxes or estate taxes, Irrevocable Trusts can be used for that purpose. Irrevocable Trusts can be used for tax-advantageous strategies that your loved ones can benefit from after you've passed away. By putting your assets and property into an Irrevocable Trust, the property will generally not be subject to estate tax after your death. In this sense, an Irrevocable Trust can actually help to reduce the value of an estate.

Avoiding Capital Gains Taxes

Another potential benefit to an Irrevocable Trust is: It may be used to reduce personal income, including capital gains. From a tax perspective, the trust is its own entity with its own Tax ID number. An Irrevocable Trust may be used to reduce personal income and capital gains taxes by shifting those to the trust and away from you. However, taxes on an Irrevocable Trusts can be complex and could even be higher than your personal tax rate.

The

Trusted

Advisor's

Trusted

Advisor

Other Common Types of Trusts

There are many other types of trusts in addition to the two we've discussed here. Each has its own nuances, benefits and disadvantages, so it's important to thoroughly understand them before deciding which is best for your needs.

A-B Trust: Irrevocable Joint Trusts made by spouses that will divide into two Trusts once the first spouse passes. Often used to minimize estate taxes.

Testamentary Trust: A Trust made within a Will, where the Will instructs how the trust should be established after you pass.

Life Insurance Trust: An Irrevocable Trust that holds a life insurance policy and receives the life insurance proceeds after you pass. These can be used to replenish cash paid out of an estate for taxes.

Charitable Trust: Trusts that are structured to make donations to charities you identify. Can be structured to pay the charity first and then the balance to your loved ones, or the other way around.

Estate planning can require tough decisions. Thinking through the factors discussed above, and making those decisions now means things will be a lot easier on those you love when the time comes. Getting a trust-based estate plan is the only way you can ensure your affairs are in order and that your wishes will be not only known, but will also be honored.

The

Trusted

Advisor's

Trusted

Advisor