# Recoverable Trusts & Estate Taxes

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Revocable Living Trusts ("Trust") have become popular estate planning tools. There are several benefits to establishing a Trust. Whether a Trust is right for you, however, depends on a number of factors.

A Trust is an arrangement in which one person who manages it for another's benefit holds legal title to property. A Trust can be set up to benefit the person who created it (known as the grantor), beneficiaries named by that person, or both. A Trust is set up during your lifetime, to which you transfer most or all of your assets. You receive the income from the Trust, and also have the right to withdraw principal. You can revoke the Trust at any time during your life. At death the Trust becomes irrevocable and its income and assets are disposed of under terms specified by you in the Trust papers.

Why would you do this? The main advantage of the Trust is that its assets are distributed without going through the probate court process. That avoids attorney fees and filing fees for the probate court. To avoid probate, all probate assets must be included in the Trust. Assets that are owned jointly with the right of survivorship (your home for instance) and assets that have a beneficiary designation (an IRA for example) are not subject to probate provided the joint tenant or beneficiary survive you.

Assets that are not "owned" by the trust at the time of your death (with the exception of assets owned jointly with the right of survivorship and assets that have a beneficiary designation) will require a probate proceeding to transfer these assets into the Trust. Depending on the size of the estate it may be necessary to prepare an estate tax return, valuing and transferring assets, and making a formal accounting and settlement.

Many people wrongly assume that probate is avoided if they have established a trust. Unless your assets have been properly transferred into the trust a probate proceeding will be necessary upon your death.

Some of the other factors to consider are:

- ***Quicker distribution of assets to heirs***: Probating a will and gathering assets into the estate for distribution can take quite a bit of time. With a Trust, by contrast, all assets already are gathered together, so the Trustee can make immediate distributions and continue paying bills as usual.
- ***Estate taxes:*** It's a fairly common misconception Trusts save estate taxes, but that's not necessarily the case. The Trust assets will be subject to estate tax just as if you continued to own them outright.

Therefore, basic estate planning techniques outlined below remain important.

- ***Privacy:*** Since probate records are public, the size of your estate, and the names of beneficiaries and the amounts each received, can come into anyone's possession. The size and terms of a Trust, by contrast, are not public matters. The only people who are privy to the terms of your Trust are those individuals that need to know the terms.
- ***Multiple residences:*** Those with real estate in more than one state can avoid the problems and expense of multiple probate proceedings by putting the out-of-state real estate in a Trust.