



Estate Planning with Revocable Trust Agreements



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Ms. Steiner received her BA from the College of Wooster and her JD, *magna cum laude*, from Cleveland State University Cleveland-Marshall College of Law. She has been named as a Super Lawyer for 2019, 2020, 2021 and 2022. Additionally, Ms. Steiner is a Certified Elder Law Attorney by the National Elder Law Foundation (approved by the Commission on Specialization of the Supreme Court of Ohio) and as an Elder Law Specialist by the Ohio State Bar Association. She is also an Accredited Attorney for the preparation, presentation, and prosecution of claims for veteran benefits before the Department of Veterans Affairs (VA). She has been recognized as an Attorney of distinction for 2022. Ms. Steiner focuses her practice on elder law, estate planning, and probate. She is a frequent speaker on elder law, Medicaid/disability planning, and estate planning topics to both professional groups and civic groups. For additional information, please visit www.ssandplaw.com.



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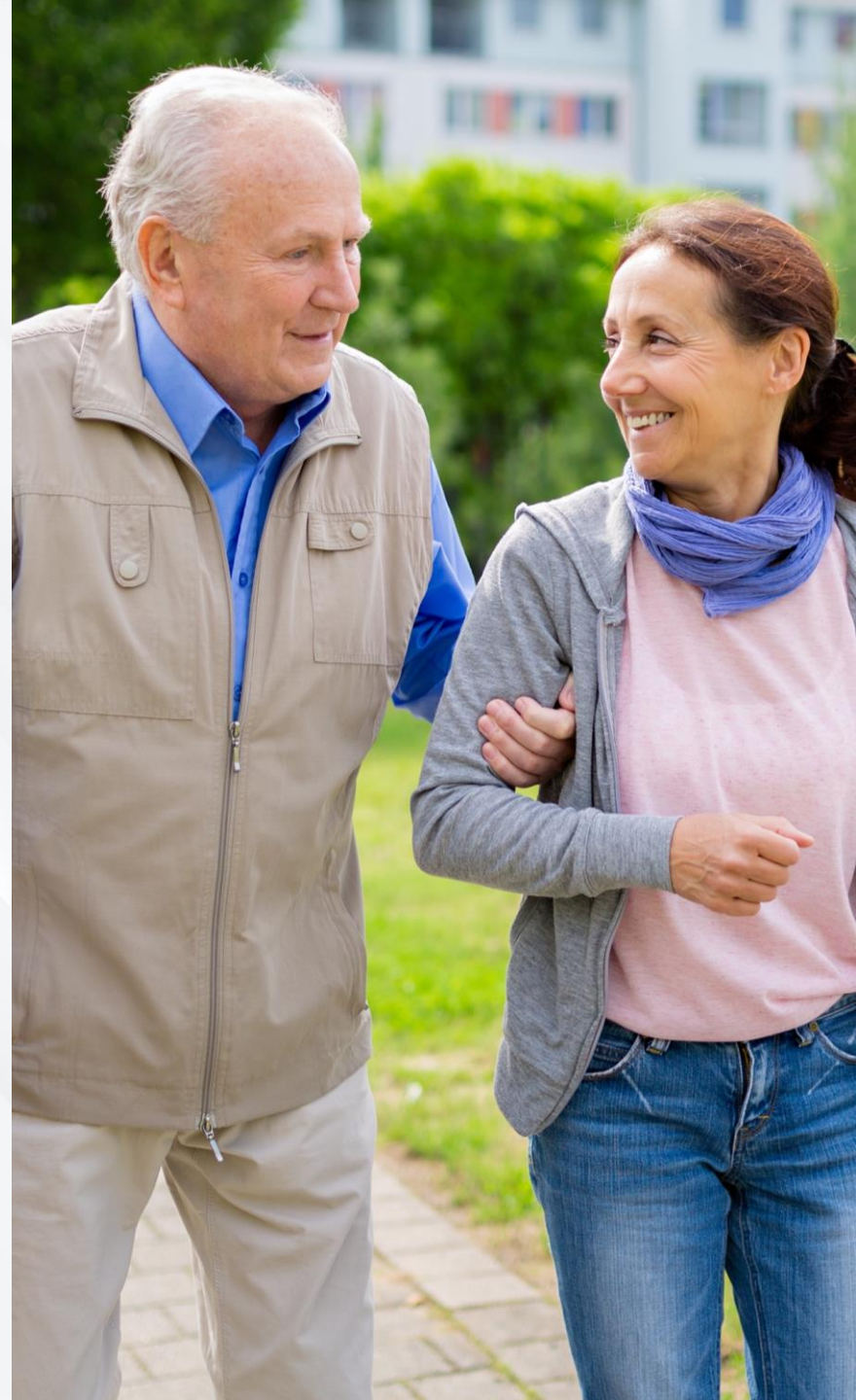
Is it true?

Only the Rich Need to Worry About Estate Planning? IT IS NOT TRUE!

- Who inherits your property and how?
- Who handles your finances?
- Who takes care of you if you are incapacitated?
- Who makes medical decisions for you?



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What to do?

You need to take Control:

Four Core Documents needed:

- Last Will and Testament
- Durable Financial Power of Attorney
- Health Care Power of Attorney
- Living Will Declaration.

But you often need more:

- Revocable Living Trust Agreement



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The Basics of Revocable Living Trusts:

What is a Trust Agreement?

A Trust Agreement is a relationship in which the person who establishes the Trust, the "Settlor" (also called the "Grantor" or "Trustor"), transfers legal title to his or her assets to a "Trustee," who holds and manages the trust property for the benefit of one or more "Beneficiaries." This can be one person or up to 3 people or entities.

It's a contractual agreement. Thus, Trusts can be constructed with almost any terms you want within the confines of state law. Most Trusts include mostly form language that the courts recognize. Trusts can be Revocable or Irrevocable.



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How is a Trust Established?

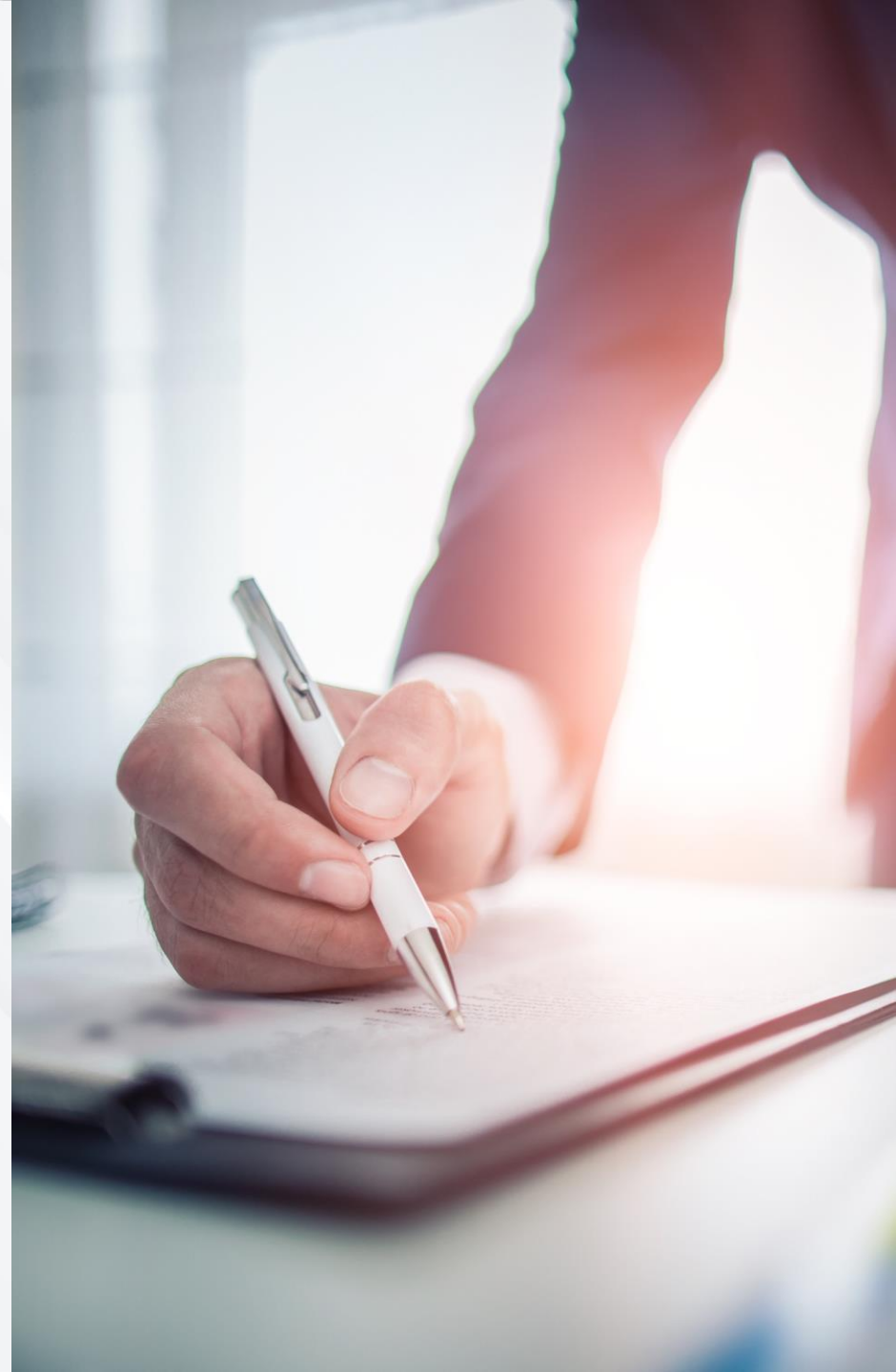
Revocable Living Trusts:

A Living Trust is established during the lifetime of the Settlor by conveying legal title to assets to a Trustee, pursuant to the provisions of a written agreement between the Settlor and the Trustee.

The Trust need not be funded immediately. Assets can be added during the Settlor's lifetime or be passed to the Trust through the Will or as a direct beneficiary at the Settlor's death.



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Who is the Trustee and what do they do?

Any competent adult or corporate entity may serve as the Trustee, and the Settlor appoints the Trustee. Normally, it's the Settlor first, and then successor Trustees are named in the event of the death, resignation, or incapacity of the original Trustee.

The Duties of the Trustee are determined by state law. The Trustee is a fiduciary, and thus must exercise reasonable care and skill in managing the assets, keeping accounts, report to beneficiaries, make the trust productive under the "Prudent Man Rules," and deal impartially with the beneficiaries. Trustees can be liable if they do not exercise due care.



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A Trust can Serve Many Purposes Part 1

- Avoid the time, expenses, and delays of Probate
- For sound financial management of the Settlor's assets for someone who is no longer competent or doesn't want to manage them (both revocable and irrevocable Trusts for Asset Management)
- Asset protection for the Settlor, spouse or beneficiaries. (like VA, Medicaid, or creditor Asset Protection Trusts to obtain eligibility or protect assets, Blended Family Trusts, Ohio Legacy Trusts)
- Hold the assets until the age you have determined is appropriate for distribution to minor or spendthrift children (Asset Management or Spendthrift Trusts)



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A Trust can Serve Many Purposes Part 2

- Save Estate Taxes, both federal and state. (A/B, QTIP, Credit Shelter, Marital Deduction and Insurance Trusts)
- Fund a Charitable gift. (CRAT, CRUT, often done by the Charity)
- Hold the assets for the lifetime of the children to protect the assets from the children's creditors, divorce, bad spending and ensure the money is left to the grandchildren (Bloodline Trust-see following slides)



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Protecting an Inheritance With a Bloodline Trust

The Story of Mary



MARY HAD A HOUSE AND
INVESTMENTS TOTALING
\$500,000

She wanted a simple arrangement at her death, and she wanted her estate **split equally between her children.**

Most importantly, **Mary wanted her assets to benefit her children for their lifetime**, and she wanted her grandchildren to benefit as well. She did not want her estate to wind up in the hands of her in-laws or others.



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Here is what happened after Mary died:

1/4

WENT TO HER SON, FRANK.

His wife divorced him several years later. Part of Mary's money found its way into the ex-wife's hands.

1/4

WENT TO HER DAUGHTER, LISA.

When Lisa died, she left everything to her husband, Bob. Bob remarried and eventually left almost everything to his new wife. Lisa's kids, Mary's grandchildren who she loved very much, received nothing.

1/4

WENT TO HER SON, HARRY.

Harry was a doctor and was well respected. However, even good doctors get sued. Harry was sued and his entire inheritance was at risk.

1/4

WENT TO HER SON, LARRY.

Larry was a nice kid, but not very good with money. He spent money faster than it came in, and he had something of a drinking problem. His inheritance was gone in a flash. He regretted it years later, but it was too late.



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These Are Common Problems:

- Divorce
- Death
- Lawsuits
- Easy Spending

In Addition, there is the Double Estate Tax:

Go back to Harry, the doctor. He won his lawsuit, but at Harry's death, almost 40% of Mary's money went to Uncle Sam in estate taxes.



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What about Estate taxes?

Federal and Ohio Estate Tax

Federal Estate Tax

- In 2022, there is an \$12.06 million exemption per person. The exemption will revert to the old limit in 2026. (Form 706) A/B, QTIP or Credit Shelter Trust planning can allow both spouses to use the exemption or make the exemption portable.
- Step-up in basis for income tax purposes for the beneficiary both federal and most states

State Estate Tax

- Some states do and some don't have estate tax returns. Ohio has none. You need to check your state.



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What about Income taxes?

Federal and Ohio Income Tax

Federal Income Tax

- In 2021, personal income tax rates begin at 10% and increase to 37% at \$158,000 to \$168,993. Trust income tax rates are the same but reach 37% at \$13,050! (Defective Grantor Trusts help) (Form 1040)

State Income Tax

- In 2021, Ohio personal income tax rates begin at 0% and increase to about 4% over \$110,650 (Form IT-1041) Trust income rates use the same tables. You need to check your state



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Conclusion

There is no one size fits all. But being aware of how to use Revocable (and Irrevocable) Trusts can assist with Estate Planning issues that can't otherwise be solved



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Questions?

This seminar is intended to provide general and practical information to assist the public in understanding their options to help them make an informed decision as to how best to protect their assets and loved ones. Legal advice should only be given when the lawyer and client have an opportunity to explore fully the factual circumstances related to the client's situation and the legal options, as explained by the lawyer to the client.



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