**If You Were to Die This Week, Do You Know What Would Happen to Your Assets?**

American Society for Asset Protection

The vast majority of Americans can’t answer this question. Creating an effective estate plan ensures you can effectively answer this question. Without an effective estate plan, a portion of your estate will be lost to probate costs and taxes.

**What is Probate?**

Probate is the legal process by which a court distributes the assets of a deceased person according to their last will and/or state law. The court first determines the validity of the will and then resolves all claims from creditors and competing claims from heirs. If you have not named an executor to oversee the distribution of your assets, an executor is appointed by the court.

“Planning is as natural to the process of success as its absence is to the process of failure.”

**Why Do You Want Your Estate to Avoid Probate?**

1. ***It is expensive.*** Up to 10% of your estate can be lost to probate costs alone. Costs may include court fees, legal fees (to the executor of the estate, or to resolve disputes), appraisals, and accounting services.
2. ***It is a lengthy process.*** While it is possible for an estate to be “probated” in six to twelve months, it is also common for the process to take years.
3. ***It is an invasion of privacy.*** Your entire estate will become a matter of public record during the probate process. Anyone can go to the courthouse and learn what assets are in the estate, their value, and to whom the assets are to be distributed.There are instances of dishonest people searching probate records to find assets they can take.

**How Do I Set Up an Effective Estate Plan?**

The key document to an effective estate plan is a revocable living trust. A revocable living trust enables you to avoid probate, keep your estate private, and reduce or eliminate estate taxes. It also ensures your assets quickly transfer according to your wishes upon your death. With a revocable living trust, no court action is involved, and the property is distributed privately. Other documents frequently used in conjunction with a revocable living trust include a living will, medical power of attorney, durable power of attorney, and irrevocable life insurance trust.

“Setting up an effective estate plan is one of the most loving things you can do for your family.”

**Why Do Some Attorneys Recommend a Will?**

Many attorneys recommend their clients create a will without a living trust. This ensures the estate will go through probate. Why? Because attorneys do not always have their clients’ best interest in mind. The attorney wants to collect the legal fees associated with probate, and, in some states, the attorney receives a percentage of all the assets that go through probate. The only person that benefits from your estate going through probate is the attorney.

**Does a Revocable Living Trust Have Tax Benefits?**

A Living Trust provides no income tax savings, and for income tax purposes, it is as if it does not exist. However, if the size of your estate is above the amount exempted from estate taxes, the trust can be structured to reduce or eliminate estate taxes.

**Conclusion**

The vast majority of Americans do not have an effective estate plan in place when they die, and by default, subject their heirs to the frustrations and costs of probate. Setting up a revocable living trust enables you to pass assets to your heirs efficiently, and is one of the most loving things you can do for your family.