

THE RISELING REPORT

EXCLUSIVELY FOR THE ESTATE PLANNING PROFESSIONAL

SAFEGUARDING PRIVACY—THE SINGLE BEST REASON FOR A REVOCABLE TRUST?

The digital storage and transmission of data allows an unprecedented invasion of our privacy. This relatively new technology permits confidential information to be gathered and distributed very easily and on a much broader scale than has ever been available in the past. This report outlines one very effective step you can take to safeguard your family privacy and protect your assets.

There are many reasons for utilizing a Revocable Trust in an estate plan—avoidance of probate, ease of administration, efficiency and lower costs. We believe one of the most important (if not **the** most important reason) for establishing a Revocable Trust is safeguarding personal privacy. Here is the problem.

If you utilize a Will in an estate plan, that Will goes through a judicial procedure (probate) in order to accomplish its purposes. Under the rule of law in the United States, **PROBATE COURT PROCEEDINGS ARE A MATTER OF PUBLIC RECORD**. This means that anyone can look at a court file and make copies of the information contained in that file. The court system itself is powerless to prevent this. With the advent of internet technology, many court systems are making this information available online; it is not even necessary to make a trip to the courthouse. Visit www.oscn.net and go to Court Dockets. Here is some of the information that is readily available from probate court records:

1. The name and address of the decedent;
2. The name and address of the decedent's heirs, devisees and legatees;
3. A complete inventory of the assets owned by the decedent;
4. The social security numbers of the decedent's heirs, legatees and devisees;
5. A fully copy of the decedent's Will.

This information will allow anyone to calculate the amount that each heir, devisee or legatee is to receive from the estate, including possibly account numbers and amounts in accounts.

This information is available today—either on the internet or at the Court Clerk's office. A lap top computer and a scanner enables anyone to make a permanent digital record of this information and distribute it in any fashion they wish. There are no laws preventing this and the court system cannot prevent it.

What can a client do to prevent this invasion of privacy? The answer is simple—utilize a Revocable Trust. A Revocable Trust is not subject to the probate procedure and, accordingly, all information concerning the decedent’s estate will remain confidential and private.

Even if you feel a Revocable Trust may not be warranted because the estate is too small to pay an estate tax or the estate is “too small” to worry with, remember that every probate estate, large or small, remains open to the public. The simple fact is that everyone should be concerned about identify theft and keeping family information private when assets pass to heirs or other intended persons. The only way this can be guaranteed is to use a Revocable Trust; other alternatives simply do not provide the same degree of protection.

As we all know, there are many other reasons for using Revocable Trusts, but we feel safeguarding personal privacy may often be overlooked. In fact, safeguarding personal privacy was a lesser issue until the last few years when court systems began making their records available on the internet. In addition, the advent of portable computer technology has made the gathering of this information very easy—something which we simply did not have to deal with a few years ago.

If you have any comments or questions regarding this Riseling Report, please contact us.

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