

8 Potential Problems With Revocable Living Trusts

Problem #1: Choosing the wrong trustee. Many people believe that you must name your bank as your trustee, but this is not the case. I recommend you act as your own trustee (if you are married, your spouse can serve as a co-trustee) so you continue to manage and invest your assets, just as you do now. If you do not choose to serve as trustee, you may hire a professional fiduciary who is not affiliated with a bank or trust company.

Problem #2: Leaving your Trust empty. A Revocable Living Trust is like a safe deposit box. It's a good place to put your valuables, but it won't do any good if you leave it empty. It's not uncommon for people to have a lawyer draw up their Trust and then, years later, still have to go through probate. Why? Because neither they nor their attorney ever put their assets into the Trust. Your property must be put into the Trust. But don't worry. The process of retitling assets is easier than you think.

Problem #3: Initial cost. A Revocable Living Trust is more expensive to set up than a simple Will. But, in the long run, the cost will probably be much less because the Revocable Living Trust allows you to avoid probate, Court-supervised estate administration, guardianships, and conservatorships.

Problem #4: The potential for poor management. You could find that the person you selected to manage your affairs is not a good manager. Your choices for successor trustee(s) should be family members or friends you can trust. Corporate trustees, such as banks, are also an option. But, even if you don't put your assets into a trust, you could still have a problem with management of your assets.

Problem #5: Refinancing real estate may be inconvenient. Some mortgage companies and banks require that you take real estate out of your Trust before they will place a new mortgage on your property. Once the financing is complete, then, you simply transfer the property back into your Trust.

Problem #6: Keeping a list of assets in your Trust. Some people don't like to keep track of assets they put into their Trust. Others don't mind this small amount of extra work. When you want to add something to your Trust, you simply title it in the name of the trustees and add it to your list. The benefits of having a Revocable Living Trust far outweigh these minor inconveniences.

Problem #7: Opening a new bank account. Some banks will require you to close your current bank account and open a new bank account if you transfer the account into a Trust. This is a matter of the bank being uninformed. If you have substantial direct deposits or automatic debits, it will be necessary to see that the new account is functioning properly before closing the old account.

Problem #8: Imprinting on your checks. Some banks will require that you put the name of your Trust and trustees on the checks. You can respond to this in one of three ways. (1) The name of your Trust and trustees can very closely match your own name and be abbreviated in many respects. (2) You can order checks from a printing company with anything on them that you choose. Or (3) you can print your own checks with very simple and inexpensive computer software packages.