

Swan Songs: Simplifying Pour-Over Trusts

Swan Songs is a series designed to explain important estate planning concepts to advisors and their clients in an easily digestible way.

Authors	Date	Topic
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Simplifying Pour-Over Trusts

A pour-over trust (also known as a revocable trust or living trust) is a common estate-planning vehicle that's usually established alongside other estate-planning documents, like a last will and testament, health care proxy, and durable power of attorney. It's designed to manage assets for the benefit of the grantor during his or her lifetime and to administer those assets—along with assets received from the grantor's estate—for the benefit of the successor beneficiaries after the grantor's passing. These types of trusts are referred to as pour-over trusts because assets in the grantor's estate that do not otherwise pass to joint owners or to designated beneficiaries will "pour over" into the trust pursuant to the terms of the grantor's last will and testament.

Most pour-over trusts are revocable during the grantor's lifetime, meaning the grantor can alter or terminate the trust at any time. Because of this revocability, the grantor is considered the owner of the trust's assets for tax purposes. The trust itself does not pay income tax—instead, the grantor is taxed on any income the trust's assets generate.

If the grantor transfers assets into a revocable trust during his or her lifetime, these transfers generally aren't considered completed gifts for tax purposes because the grantor retains control over the assets. Since the assets in a pour-over trust are still considered part of the grantor's estate, they are subject to estate tax upon the grantor's death and will be included in the total value of the estate when calculating any potential estate taxes.

A pour-over trust is not structured to minimize income tax or estate tax. Instead, its purpose is to allow a grantor's assets to operate in an orderly, tax-efficient manner after his or her passing. Assets titled into the trust during the grantor's lifetime won't need to go through the probate process, so administrative costs can be minimized and the trust's beneficiaries can have seamless access to the assets. Pour-over trusts also provide the grantor (via the grantor's trustee) the ability to retain control over how the trust's assets are managed after death and allow for the tax-efficient allocation of assets among beneficiaries.

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