A will or a trust?

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Some people have relatives with special needs; others have some who are too young to inherit and manage large sums of money. Some bequests have inheritance tax implications and others do not. These are the details that are important to consider when deciding what kind of estate plan is best for you.

The issue seems to be what is the best way to transfer property upon one's death. Some people have read and/or attended seminars where they were told that a revocable trust is the preferred way of transferring property upon their death because there will not be any probate and it will be easier for their loved ones, but that is not necessarily so for a variety of reasons.

First, the property that you might want transferred has to be retitled while you are living in the name of the trust before you die or become incapacitated; retitling property to fund the trust is often a step and an additional expense that gets put off and then forgotten.

Second, not all of one's property can be easily retitled in the name of the trust—therefore some kind of probate will have to be administered even for a small amount of property (e.g. vehicles).

Third, probate is not as scary or as difficult or as burdensome or as expensive as some people would like you to think. Here in Maryland, probate is fairly straightforward and a lot of the information about the process can be found on the Maryland Register of Wills web site (add link here).

What I do tell many clients, is that in general, a last will and testament with current financial and medical powers of attorney are the basic estate planning documents for most

people. The powers of attorney are valid as long as you are alive and have not revoked them, and the will does not become valid until you die. A revocable trust becomes valid once it is created and funded.

There are situations when a revocable trust is a better option to consider than a simple will. One example is if you own property in more than one state and the people who are to inherit the property live in other states. The time and expense involved in transferring the property after your death can be much more expensive than creating a revocable trust and funding the trust with those properties while you are alive. These are just a few examples of issues that you might like to discuss with an estate planning attorney.