

## WHAT IS A REVOCABLE LIVING TRUST AND WHY DO PEOPLE USE THEM?

When you think of a Trust, you should think of a private probate court that you have created for you and your family. During your lifetime, you create the trust and you make sure that you move your assets into the trust. In the eyes of the law, your trust is a separate “person”, much like a corporation or a limited liability company.

During your lifetime, you are the trustee of your trust (much like the CEO of a corporation). However, the trust does not end at the time of your death. Instead, you have already appointed your successor trustee (the new CEO) who will take over when you can no longer handle your affairs. The trust contains all the rules that the Trustee must follow in order to pay your bills and distribute your assets, as you have directed.

### SPECIFIC ADVANTAGES OF THE REVOCABLE LIVING TRUST

1. **Probate Avoidance.** If you have a Will, your estate must be handled in the probate court. These proceedings are a matter of public record. Also, it takes longer to get a representative appointed by a probate court to handle your affairs than it does for your successor trustee to start acting. Because there is no probate court involved, your family will not pay any probate court fees or expenses, inventory fees or attorney fees for handling a probate estate. Therefore, there is less opportunity for interested parties to contest the plan of distribution. Creditors of beneficiaries have no knowledge of distributions to them and there are no probate expenses, Probate Court fees, or attorney fees for probate.

2. **Limited Objections.** It is more difficult to contest the validity of a trust than a will. When an estate is being probated in Michigan, the probate court requires the representative to notify all persons with an interest that the Will is being probated. Someone objecting to a Will does not necessarily have to hire an attorney in order to file his challenges with the court.

3. **Privacy.** A trust is never recorded in a public place or otherwise available for the public to review, unlike the will that is filed with the probate court. This can be especially important if the trust owns a business, partnership, investment real estate, etc. With a trust, there is no publicity concerning the business interests or real estate. In most businesses, it can be a real advantage for competitor or potential purchasers to be unaware of private details. It can help the trust get a better price for assets that are being sold.

4. **Fairness.** A trust is a great way to protect the inheritances of children from prior marriages in the event of a second or third marriage.

5. **Mobility.** With a trust, you can select an out-of-state trustee, individual or corporate, to handle your affairs. Also, your spouse has the ability to move the administration of the trust to another state if she/he changes his or her residence.

6. **Immediacy.** The Trust takes effect as soon as you sign it, not at your death (as a will does). The trust can cover what happens in the event of your disability or

incompetence, without the involvement of the probate court and the associated expense, delay, publicity and/or trauma. This planning technique is especially appealing to senior citizens and provides an alternative to the use of such devices as powers of attorney and joint bank accounts or home ownership.

7. **Efficiency.** Real estate located in different states can be administered under one trust, instead of having two (or more) probate courts involved (as with a will).

8. **Tax Savings.** Trusts can be an ideal vehicle for deferring or completely avoiding estate taxes by the most efficient use of the unified credit shelter amount between two spouses.

If you have questions about any of these issues, please feel free to contact us for additional information.

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