



THE REVOCABLE LIVING TRUST:

A brief outline of this effective estate planning tool.



LEGAL TERMINOLOGY DEFINED:

- **Donor:** The individual who enters into a *Trust Agreement* with the *Trustee* and provides the property that will fund the trust.
- **Trustee:** The individual who is entrusted to hold, manage, and distribute the trust property to the *Beneficiary* pursuant to the terms of the *Trust Agreement*.
- **Beneficiary:** The individual for whose benefit the property is held in trust.
- **Trust Agreement:** The legal document that provides terms regarding property management and distribution which must be strictly followed by the *Trustee*.

REASONS FOR USING A REVOCABLE LIVING TRUST:

- ☑ **Probate Avoidance:** The property held in the trust is not included in the “probate estate” of the *Donor*. As such, the property will not be subject to court entanglements.
- ☑ **Privacy and Efficiency:** Trust assets (property) can be quickly distributed under the terms of the *Trust Agreement* without publicly disclosing the distribution of trust assets.
- ☑ **Maximum Flexibility:** The *Donor* retains the power to revoke (terminate) or modify *Trust Agreement*. Trust assets are available to the *Donor* even if he/she is incapacitated.
- ☑ **Asset Control and Management:** The terms of the *Trust Agreement* instruct the Trustee (on how, who, what, when) regarding trust asset distribution. Also provides special distribution instructions for minors or other beneficiaries requiring protection.

SOME COMMON MISCONCEPTIONS ADDRESSED:

- * **Creditor Claims:** Once discovered, trust assets are not protected from creditors.
- * **Tax Advantages:** As a general rule, “revocable” living trusts do not provide any specific tax relief. Trust assets are includable in the “taxable estate” of the *Donor*.
- * **Legal Effect:** The revocable living trust becomes legally functional once it is “funded” with property (trust assets). Once the donor dies, the trust becomes irrevocable.
- * **Funding the Trust:** To fund the trust, property must be transferred or conveyed to the trust by the appropriate legal instrument (such as via deed, title, bill of sale, etc.).
- * **Effective Estate Planning Tool:** Trusts are not just for the rich. A revocable living trust serves as a valuable mechanism to avoid probate and distribute assets.
- * **Primary Residence of Donor:** A revocable living trust may not be the best choice to hold such property due to the loss of the Declaration of Homestead protection and the difficulties associated with refinancing.

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