

## **REVOCABLE TRUST**

### **(FOR BENEFIT OF GRANTOR AND REMAINDER TO CHILDREN)**

#### **HIGHLIGHTS OF THE PLAN**

##### **OVERVIEW**

A trust is a legal device that separates the legal ownership of property from the beneficial ownership of that same property. The person who sets up a trust is sometimes called the settlor, the grantor, or the trustor. The person who has legal authority over the assets in the trust is called the trustee. There may be more than one trustee appointed, and the trust document may provide for successor trustees to be appointed in the event a trustee resigns, dies, becomes disabled or otherwise refuses to serve. The person or persons who are benefited by the trust are called beneficiaries.

##### **REVOCABLE OR IRREVOCABLE**

A trust may be revocable, which means, the grantor has the power to change the terms of the trust or revoke it, or it may be irrevocable, which means that neither the grantor, nor anyone subordinate to the grantor, may change the terms of the trust or revoke it. If a trust is revocable the grantor may be the trustee and may put assets in the trust and take them out of the trust at any time. A revocable trust becomes irrevocable at the death of the grantor.

##### **INTERVIVOS OR TESTAMENTARY**

A trust may be created during the grantor's lifetime (intervivos or living trust) or at death in the grantor's will (testamentary trust). An intervivos or living trust may be revocable or irrevocable and may be set up by the grantor to provide benefits to the grantor during his or her lifetime or to the grantor's spouse or other beneficiaries. For obvious reasons, a testamentary trust is revocable while the grantor/testator is alive and is irrevocable after the grantor/testator's death. The beneficial interest in a testamentary trust will be payable to the grantor's spouse or other beneficiary and not to the grantor's estate. When someone other than the grantor or the grantor's spouse is the beneficiary of a trust set up by the grantor, the beneficiary's interest is considered for estate and gift tax purposes to be a taxable transfer from the grantor to the beneficiary. Transfers in trust to a spouse may qualify for the unlimited estate and gift tax marital deduction.

##### **ADVANTAGES OF A REVOCABLE TRUST**

1. Unlike a will, a trust, including a revocable living trust, is not subject to probate. This means that the expense and time delays that result from administering a will under court scrutiny, oversight, and approval, as required by the probate process, do not apply to assets in a trust that is created outside the will.

2. Trusts are not public documents. Thus, privacy regarding trust assets and provisions is assured. A will must be placed in the public records when it is probated, thus allowing anyone to read the terms of the will.
3. A revocable living trust may provide for continuation of income or payment of principal to the family if the grantor dies or becomes ill or disabled.
4. A revocable living trust allows the grantor to see how the trust will work during his lifetime and gives the grantor the opportunity to change the terms of the trust if something is not working properly.
5. With certain restrictions, a trust allows the grantor to choose the law that governs the terms of the trust.

#### **DISADVANTAGES OF A REVOCABLE TRUST**

1. The expense of creating a trust is generally greater than the expense of creating a will.
2. The expense of administering or operating a trust may outweigh the savings that result from avoiding probate.
3. A trust is not generally needed to avoid probate on jointly-held property (with right of survivorship), pension or individual retirement account (IRA) assets, life insurance or annuity proceeds, or certain other legal arrangements that allow the owner to name a beneficiary.
4. Some assets, such as mortgaged property or property subject to liens, are not good properties to be placed in a revocable living trust.