

WHAT A REVOCABLE LIVING TRUST DOES AND DOES NOT DO

Many clients choose to have a revocable living trust as the cornerstone of their estate plans. The terms of such a trust can be changed by the creator throughout his or her lifetime and assets can be withdrawn by the creator at will. To realize the benefits that such a trust has to offer, it is essential that the creator's assets without beneficiary designations (and that are not held in certain forms of joint ownership on purpose) be transferred to the trust as soon as it is signed. Once these assets have been transferred to the trust, it is "funded."

A funded revocable living trust will:

- Avoid a probate administration after the creator's death and the costs, "red tape" and delays associated with it.
- Avoid the necessity for a conservatorship of the creator's estate (for asset management) if he or she becomes incompetent and the costs and embarrassment associated with a conservatorship.
- Provide a certain level of privacy vis-a-vis the public at large.

A revocable living trust does not:

- In and of itself, save estate taxes. Special planning to save estate taxes can be done either in a Will or revocable living trust.
- Provide its creator with creditor protection during his or her lifetime.
- Avoid the need for a conservatorship of the person of an incompetent person, to authorize someone else to make decisions about that person's physical care.
- Mean that nothing has to be done after the creator dies. After the creator's death, certain legal notices have to be given, tax reporting has to be done and assets must be conveyed to the beneficiaries in keeping with the terms of the decedent's estate planning documents. The failure to obtain the proper legal and accounting advice can lead to the dishonoring of the decedent's estate plan, the payment of large tax deficiencies, interest and penalties, difficulties in selling and borrowing against property and, in a worst case scenario, lawsuits.

In keeping with Internal Revenue Service rules and regulations, I inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.