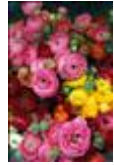


# Lidia Carr Law Offices, LLC

## Newsletter - February 2009



### About a Trust

A Trust is created when you (the Grantor) "entrust" someone (the Trustee) with your assets on the terms specified in the governing document (Trust Agreement) signed by you and the Trustee. You can create many different types of Trusts for various purposes. The most well-known type is a Revocable Trust (or a Living Trust) which you can create during your life and can revoke at any time before your death. You can typically retain all of the benefits to your assets placed in your Revocable Trust. Your Revocable Trust becomes irrevocable upon your death. Here are some important reasons to have a Revocable Trust.

#### Avoidance of Probate Administration

Your Revocable Trust funded with your assets during your life can help avoid unpleasant, costly and prolonged guardianship administration in the Probate Court in the event of your incapacity. In addition, your assets held in your Revocable Trust are not part of your probate estate, thus avoid probate administration after your death. On the other hand, assets owned in your individual name and not contractually payable on death to a named beneficiary are generally subject to probate administration after your death.

#### Control of Asset Management and Disposition

You, as the Grantor, can sign your Revocable Trust Agreement with very specific provisions for management and disposition of your Trust assets during your life and after your death, thereby retaining certain control over your assets during your incapacity, as well as after your death. For example, assets passing outright to a minor child under a Will must be distributed to him or her at age 18. Your Revocable Trust can delay distribution to a later age and even make

partial distributions at different ages.

### **Creditor Protection**

Because assets in your Revocable Trust are not part of your probate estate, such assets are generally not subject to claims of your creditors after your death. In addition, assets in your Revocable Trust are not subject to your surviving spouse's statutory right to elect against your Will. Thus, the use of a Revocable Trust can minimize the likelihood that your surviving spouse changes your estate plan after your death. This is especially important for second marriage situations. Finally, a Revocable Trust can include special language prohibiting creditors of a Trust beneficiary from collecting claims out of the Trust assets after your death.

### **Privacy**


Upon your death, your Will is admitted to probate with the appropriate Probate Court, and distribution of your assets pursuant to your Will is subject to the supervision of the Probate Court. On the other hand, your Trust Agreement typically remains a private document, and distribution of your assets under your Trust Agreement can usually be accomplished without the involvement of the Probate Court.

### **Transfer Tax Planning**

Properly drafted Revocable Trust Agreement, together with advice on the proper ownership of assets during your life, can result in substantial tax savings for your family.

### **IRS Circular 230 Notice**

To the extent that this message, or any attachments, concerns tax matters, it is not intended to be used and cannot be used by you for the purposes of avoiding penalties that may be imposed by law.



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