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## SUMMARY OF REVOCABLE LIVING TRUST

A Living Trust is a trust established by an individual ("Grantor") during the Grantor's lifetime. A trust established during the lifetime of an individual is called an "inter vivos trust." A Living Trust is drafted similar to a Will, in that the Living Trust will dispose of the Grantor's property upon his/her death. However, unlike a Will, the Living Trust takes effect immediately upon execution of the Living Trust. There are several reasons for establishing a Living Trust, some of which are described below:

- a. **Avoids Probate:** The property transferred to a Living Trust does not go through the probate process. In some states avoiding probate can save substantial time and money. Often, a Living Trust is established so that it can hold out of state real property, which otherwise would be subject to probate in the state of its locale.
- b. **Privacy:** A testator's Will becomes public record upon the testator's death, whereas a Living Trust never becomes public.
- c. **Avoids Will contests:** A Will is easily challenged, as all interested parties are given an opportunity to contest the Will before it is probated. A Living Trust takes effect immediately upon execution, and no interested parties are given the opportunity to contest it. Also, if challenged, the standards for invalidating a Living Trust are much more difficult to prove than the standards for over-turning a Will.
- d. **Incapacity of Grantor:** In the event, the Grantor becomes incapacitated, the Trustee of the Living Trust (or the successor Trustee if the Grantor is also the Trustee) will control the Grantor's property; no guardian needs to be appointed.

2. If a Living Trust is executed, a “Pourover Will” must also be executed. A Pourover Will disposes of any property not effectively transferred to the Living Trust and it may also appoint a guardian for the Testator’s children.
3. If the Grantor is competent, then a Living Trust is revocable.
4. A Living Trust does not offer any special tax advantages.
5. A Living Trust is not used for creditor protection.

**Taxpayer Identification Number for Revocable Living Trust.** While you are serving as a Trustee of the Living Trust, the Living Trust does not need a separate taxpayer identification number. You would continue to file and pay your income taxes in exactly the same way as you did before the Living Trust was established. All income and losses would be reported on your income tax return. Your social security number is the taxpayer identification number for the Living Trust. However, if you are not serving as a Trustee of the Living Trust, then a special taxpayer identification number may be acquired by the Internal Revenue Service.

**Transfer of your property to the Living Trust.** If you own real estate, you must transfer the real estate by deed. If you have funds in bank accounts or any other financial institutions, you should contact such financial institution to find out how to change the title of such accounts to the Living Trust. If you own stock in corporations, you should contact the corporations to find out how to change title to the stocks to the Living Trust.

In order to transfer personal effects, such as household furnishings and furniture into the Revocable Trust, you would need to sign a bill of sale or an assignment to the Living Trust. However, we would caution against the transfer of vehicles, boats and other recreational vehicles to the Living Trust because of potential liability to the Living Trust in the event of an accident. If you own any vehicles, you may want to include a specific bequest in your Will for the disposition of vehicles. If the only asset you own in your individual name at the time of your death is a vehicle, then the Court and Department of Motor Vehicles may allow the transfer of the vehicle without probating the Will, but by completing an affidavit, providing a copy of the Will and death certificate. If you do want to transfer vehicles, boats and other recreational vehicles, to the Living Trust, please consult with your insurance company about adding the Living Trust as an insured under your liability insurance.

Please be advised that if you don’t transfer your assets to the Living Trust, then the Living Trust has not been funded, and the Living Trust is of little value to you as an estate planning tool.