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**REVOCABLE LIVING TRUSTS
A REAL ALTERNATIVE TO FORMAL PROBATE**

Have your cake and eat it too!

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Do you want to have all of flexibility of how you give things away as you would with a Will, but don't want your estate to have to go through Probate? Then consider the Revocable Living Trust.

For more than thirty years Revocable Living Trusts have been used successfully in California, Florida, Texas and most other states to avoid the complexity and costs of formal probate. New York State joined in this movement about thirteen years ago.

So what is a "Revocable Living Trust" how does it work?

A Revocable Living Trust is a trust document created by a person (we will refer to this person as the "Grantor"), whereby the Grantor is the beneficiary and trustee of his or her own trust. The Grantor's assets (real estate, personal property and non-retirement investments) are transferred into the trust's name and the Grantor manages the assets as he or she did before, but now as the "trustee" of the trust. The Grantor may revoke or modify the trust at any time before death or incapacity. A great advantage of a Revocable Living Trust is that upon the Grantor's death, the trust literally "survives". This means that the successor trustee, chosen by the Grantor and without having to go to court, immediately takes over the administration of the trust. The successor trustee then pay debts, administration expenses and distributes the remaining trust property according to the Grantor's wishes as set out in the trust document. Thus, a Revocable Living Trust virtually replaces a Will for these purposes.

No Formal Court Proceedings Necessary. The 1997 amendments to New York law were specifically designed to allow New Yorkers to utilize all of the flexibility of passing family wealth by specific instructions and conditions (as would be with a Will), but without all of the formalities and expense of formal Will probate.

Informal Family Disposition of Assets. A Revocable Living Trust allows the family, through instructions and guidance contained in the trust document itself and with the family attorney, to administer the Grantor's assets after death, pay bills and fulfill the Grantor's wishes in leaving an inheritance to beneficiaries; all without having to file formal documents in a Will probate court proceeding.

Trust is Self Executing. After the Grantor's death, there is no delay in the successor trustee taking over control of trust assets. The trust is "self-executing" and the successor trustee can be in power to act within a few days. With formal Will probate, nothing can be done with estate assets until the Will is admitted into probate by a court order signed by the judge. This process can take several weeks to accomplish. If something must be done sooner, the executor must make an additional application to the court for a judicial order giving him or her special authority to act before probate of the will is complete.

Trust Administration Not Public Information. Unlike formal probate, family financial and personal information is not subject to public inspection. With normal trust administration, nothing is required to be filed in Court. Literally, family information stays within the family and the family lawyer.

Lower Cost of Administration. Our experience at Brooks & Brooks, LLP is that the cost of trust administration is routinely less than what would be paid through formal probate. Eliminating the need to utilize the formal court system reduces law office time spent on a case.

No Ancillary Probate Required in Other States. People who adopt a Revocable Living Trust plan and transfer out of state real estate to the trust eliminate the need for ancillary probate in the other state. A Will based estate plan will require not only formal probate in New York, but ancillary probate in those other states where the person owns real estate, even time share units. Titling out of state property into a New York Revocable Living Trust means that the successor trustee only has a real estate sale or deed transfer to trust beneficiaries, requiring no court involvement in that state.

Continuing Trusts for Young or Special Needs Beneficiaries. As with trusts created under Wills, a Revocable Living Trust may also provide for continuing trusts for the benefit of younger or special needs beneficiaries. Sub-trusts may be provided for a beneficiary's inheritance to be administered by the successor trustee for a period of

time or for life. This provides the same flexibility in estate planning that people have utilized before with Wills, but now without mandatory court involvement.

Conclusion. After thirteen years of experience in New York, more and more people are choosing to take advantage of a well thought out estate plan utilizing a Revocable Living Trust. People are choosing to have their “estate” administered outside of costly and lengthy formal probate, while keeping the same ability and flexibility to provide all of the conditions and instructions they want in passing on family wealth to their intended beneficiaries.