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EMMETT E. PATTEN  
(1912-1987)**Basics of the Revocable Living Trust****Overview**

A revocable living trust allows you to manage your assets during your lifetime and allowing your heirs to avoid probate after your death. Probate is a formal judicial proceeding used to transfer your assets to your beneficiaries following your death. The significance of a revocable living trust is that it survives you at death, does not require probate and saves your beneficiaries the legal expenses which arise from probating an estate.

By executing a Declaration of Trust, you create a legal entity to hold title to whatever assets you choose to place in the revocable living trust. The revocable living trust holds title to your assets during your lifetime. You have full use, management and control of the assets during your lifetime. Upon your death, title to those assets passes to the beneficiaries whom you designated in the Declaration of Trust without the necessity of court approval or probate proceedings.

A Declaration of Trust it is really quite simple. It contains descriptions of your assets and instructions regarding whom you appoint to carry out those instructions following your death. The person you appoint to carry out your instructions is called the Successor Trustee. This person can be a family member, a friend, a business associate or a professional trustee, such as a bank, trust company or title company.

probate.

**1. How Will My Revocable Living Trust Avoid Probate?**

A revocable living trust is designated to allow you, as trustee, to ensure that your estate does not require court-supervised probate. Probate is a process where a court supervises the distribution of your estate after your death. With a trust, your successor trustee is responsible for carrying out your wishes. Not only can your Declaration of Trust state your desires, but also the trustee you select to carry out your desires can transfer your assets to whomever you choose immediately, without having to wait for court direction.

## **Basics of the Revocable Living Trust**

### **2. Who Can Be a Trustee?**

In executing a Declaration of Trust, you usually designate yourself as Trustee. You may, however, wish to select a professional trustee to manage your assets in trust. For example, someone with a large estate whose does not want the headaches of managing certain assets can contract with a professional trustee or another person to manage his or her affairs. In some cases, persons who travel outside of the country a good deal of the time hire professional trustees to make sure their affairs are handled according to their needs and desires.

### **3. Trustees, Successor Trustees and Beneficiaries.**

The person creating a revocable living trust is called the “Trustor” (sometimes called the “settlor”). Unless a professional trustee is designated, the Trustor is usually also the Trustee of the Trust. A beneficiary is a person who is designated by the Trustor to receive assets and income from those assets, and who has the right to the use of the assets in the Trust. During your lifetime, you are the beneficiary.

### **4. What is the Difference between a Funded and Unfunded Revocable Living Trust?**

Your revocable living trust will take effect when you sign all of the necessary papers before a notary public. But that’s not the end of it. Until you transfer assets into the Trust, it will remain “unfunded” and useless. To fund the Trust, you must transfer title of any assets that you intend to pass by the Declaration of Trust into the Trust. For instance, if you currently hold title to a house in your name as John and Jane Doe, you would transfer the title to the house to The John and Jane Doe Revocable Living Trust. After assets are transferred into your trust, your trust is considered “funded.”

### **5. What do I do to Bequeath Particular Assets to Particular Persons?**

With a revocable living trust, you can specify to whom you wish certain assets to go. You can specify family members, friends, business associates, and charitable organizations.

### **6. Can I Ever Change my Mind?**

Yes. Remember that a revocable living trust is fully “revocable” at any time during your life. If circumstances change, the trust can—and should be—amended to comply with your current wishes.

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### **7. What is a Pour-Over Will?**

Since it may be impractical to include everything you own in your trust by deed, account or name, you can designate your beneficiaries in a "Pour-Over Will." Unlike the normal Last Will and Testament you may be used to, the Pour-Over Will directs your Executor to "pour over" any asset which you failed to include in your trust, into your trust, for distribution under the terms of your living trust. Such a Pour-Over Will is part and parcel of the estate plan. It very rarely has to be subject of a probate proceeding, but is insurance covering unusual situations since the trust itself represents your estate plan. For example, if you win the lottery and die of surprise, your Pour-Over Will will take care of transferring your winnings to your trust for distribution to your beneficiaries.

### **8. What Is A Durable Power of Attorney for Health Care Decisions?**

It is recommended that all persons include a health care power of attorney as part of their estate plan package. By signing a health care power of attorney, you select a trusted family member or friend to make medical decisions for you in the event you are unable to make those decisions yourself, or to give consent to treatment yourself. A health care power of attorney also empowers you to inform your family and health care providers about whether you wish to be kept alive by artificial means if you have an incurable and irreversible condition that will result in death in a relatively short time, or if you become unconscious and to a reasonable medical certainty will not regain consciousness.