



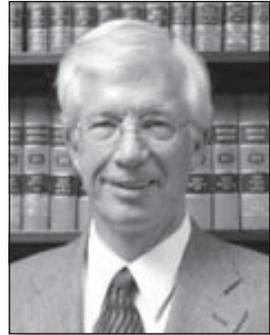
# Trust Terminology and Types of Trusts

ARLYN J. BOSSENBROOK (East Lansing, Michigan)

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**P**eople create trusts to implement their plans for themselves, their family, and their property. There are many different types of trusts. Trusts can be customized to fit a person's or family's particular circumstances.

**Revocable Living Trusts.** A Revocable Living Trust is a written document containing the Grantor's plans for his or her property and his or her family. The Trust comes into existence when it is signed by the Grantor. (Grantor, Settlor, Creator, Trustmaker, and Trustor are names for the person who establishes a Revocable Living Trust.) The Trust may be revoked or amended by the Grantor.



**Trustee.** The Trustee is in charge of managing the trust property. The Grantor usually appoints himself or herself as the initial Trustee. Upon the Grantor's incapacity or death, a Successor Trustee takes over the management of the trust property and is responsible for carrying out the Grantor's instructions. Trustees may be individuals or institutions. Trusts can be managed by more than one Trustee, called Co-Trustees.

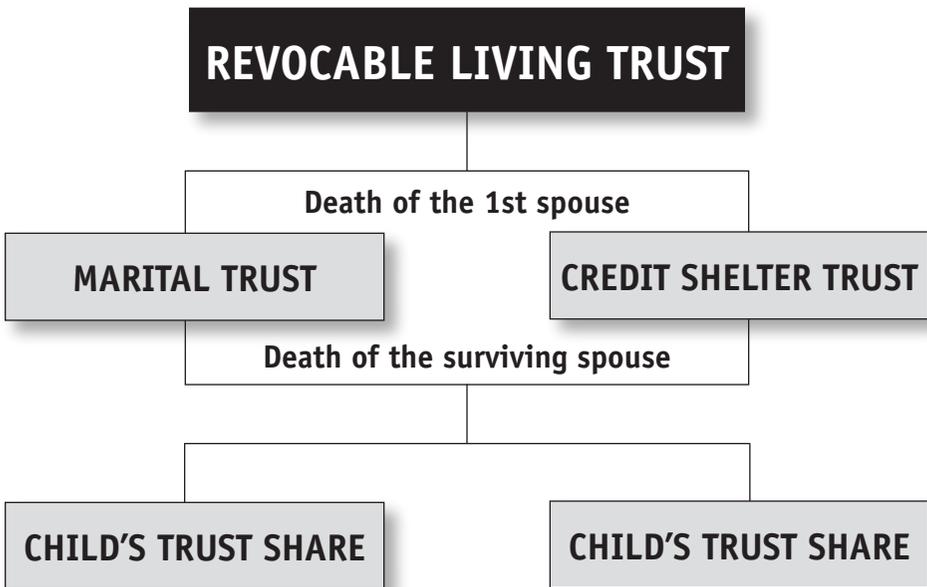
**Trust Beneficiary.** The Trust Beneficiary is the person or entity entitled to receive distributions of Trust property. During the Grantor's lifetime, the Grantor is also the Trust Beneficiary. Upon the Grantor's death, the Trust's subsequent beneficiaries are changed to the Primary Beneficiaries and if any of them have predeceased the Grantor, to the Contingent Beneficiaries. Charities or non-family members may be named as beneficiaries.

**Trust Funding.** Trusts control property held in the name of the Trust. The Grantor funds the trust by transferring title to his or her property to the Trust. The property then becomes "trust property." Trust Funding is accomplished by sending a letter to banks and other financial institutions asking them to change title on the accounts from the Grantor's individual name to the Trust. Real estate is transferred to the Trust by deed. Trusts may also be the beneficiary of the Grantor's life insurance policies or retirement accounts, but this should be done on a case-by-case basis with the advice of an attorney.

**Avoiding Probate.** Property that is "trust property" will avoid Probate Court proceedings at the incapacity or death of the Grantor.

**Sub-Trusts.** A Revocable Living Trust may contain Sub-Trusts which come into being upon the happening of an event. For example the Trust may state, “Upon my death, if my spouse survives me, my estate will be divided into a Marital Trust and a Bypass Trust.” The Trust may go on to state, “If my spouse has predeceased me, my Trust property shall be divided into equal trust shares to my children.” The Marital Trust, the Bypass Trust and the trusts for the children are Sub-Trusts contained in the Grantor’s Revocable Living Trust.

**Bypass Trust (Family Trust, Credit Shelter Trust) & Marital Trust.** If a husband and wife have a combined estate valued at more than the Federal Estate Tax exemption amount (\$2 million in 2008, and \$3.5 million in 2009), the Trust document will divide the Trust property into a Bypass Trust and a Marital Trust in order to minimize Federal estate taxes. The surviving spouse may be the Trustee and Beneficiary of the Bypass Trust and the Marital Trust.



**A Qualified Terminal Interest Property Trust (QTIP Trust).** A Qualified Terminal Interest Property Trust, commonly referred to as a QTIP Trust, is a special type of Marital Trust which may be used in a second marriage when a Grantor wants to provide trust distributions to his or her spouse during the spouse’s lifetime and upon the spouse’s death, distribute the remaining trust property to the Grantor’s children from his or her first marriage.

**Separate Trusts and Joint Trusts.** If husband and wife have a combined estate valued at more than the Federal Estate Tax exemption amount, they may have separate trusts which provide for Federal Estate Tax planning or they may have one joint trust which provides for Federal Estate Tax planning.

**Protective Trust.** An inheritance left to a child outright could subject the inheritance to the child's creditors, marital problems, addiction problems, inability to manage money, and Federal Estate Taxes on the child's estate. Leaving the child's inheritance to the child in a Protective Trust, rather than outright, will address these concerns. Dynasty Trusts are special types of Protective Trusts which continue to hold property in trust for the benefit of succeeding generations.

**Trust Amendment.** After the Grantor has established a Revocable Living Trust, he or she may change all or any part of the Trust by signing a Trust Amendment. A Trust Amendment must be signed and dated by the Grantor.

**Testamentary Trust.** A Testamentary Trust is a trust contained in someone's will. It comes into existence upon death and is subject to Probate Court proceedings.

**Irrevocable Trust.** An Irrevocable Trust is created during the Grantor's lifetime and cannot be amended by the Grantor. Irrevocable Trusts may be used for gifting and for reducing Federal Estate Taxes.

**Life Insurance Trust.** A Life Insurance Trust, or ILIT, is an Irrevocable Trust established to be the beneficiary of a life insurance policy. If the premiums are gifted to the Trust, the life insurance proceeds will not be included in the Grantor's estate for Federal Estate Tax purposes.

**Special Needs Trust.** A Special Needs Trust is a trust established for the benefit of a child who has disabilities and is entitled to government assistance. An inheritance for a disabled child held in a Special Needs Trust will not disqualify the child from receiving government assistance. Distributions from the Trust are made at the discretion of the Trustee for the child's special needs. A Special Needs Trust may be established as a stand-alone trust or it may be a Sub-Trust contained in a Revocable Living Trust.

**Asset Protection Trusts.** A Grantor's property held in a Revocable Living Trust is not protected from the claims of the Grantor's creditors. Property held in a Bypass Trust or a Protective Trust is protected from creditor claims against the Trust's Beneficiary. Several states now permit Domestic Asset Protection Trusts, which allow a Grantor to transfer his or her property to an irrevocable trust of which he or she is the beneficiary. If the statutory requirements are met, the property is protected from the Grantor's creditors.

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*Arlyn J. Bossenbrook, P.C. designs estate plans which gives clients control during their lifetimes and passes their estate to their loved ones as they desire, while minimizing taxes and costs.*

**Comparison of Revocable and Irrevocable Trusts**

	<b>REVOCABLE TRUSTS</b>	<b>IRREVOCABLE TRUSTS</b>
<b>Avoids probate</b>	Yes	Yes
<b>Gift tax applies</b>	No, not a completed gift	Yes, is a completed gift
<b>Estate tax avoidance</b>	No	Yes, unless an exception applies
<b>Income taxed to grantor</b>	Yes	No, unless grantor trust rules
<b>Owner retains control over assets in trust</b>	Yes	No