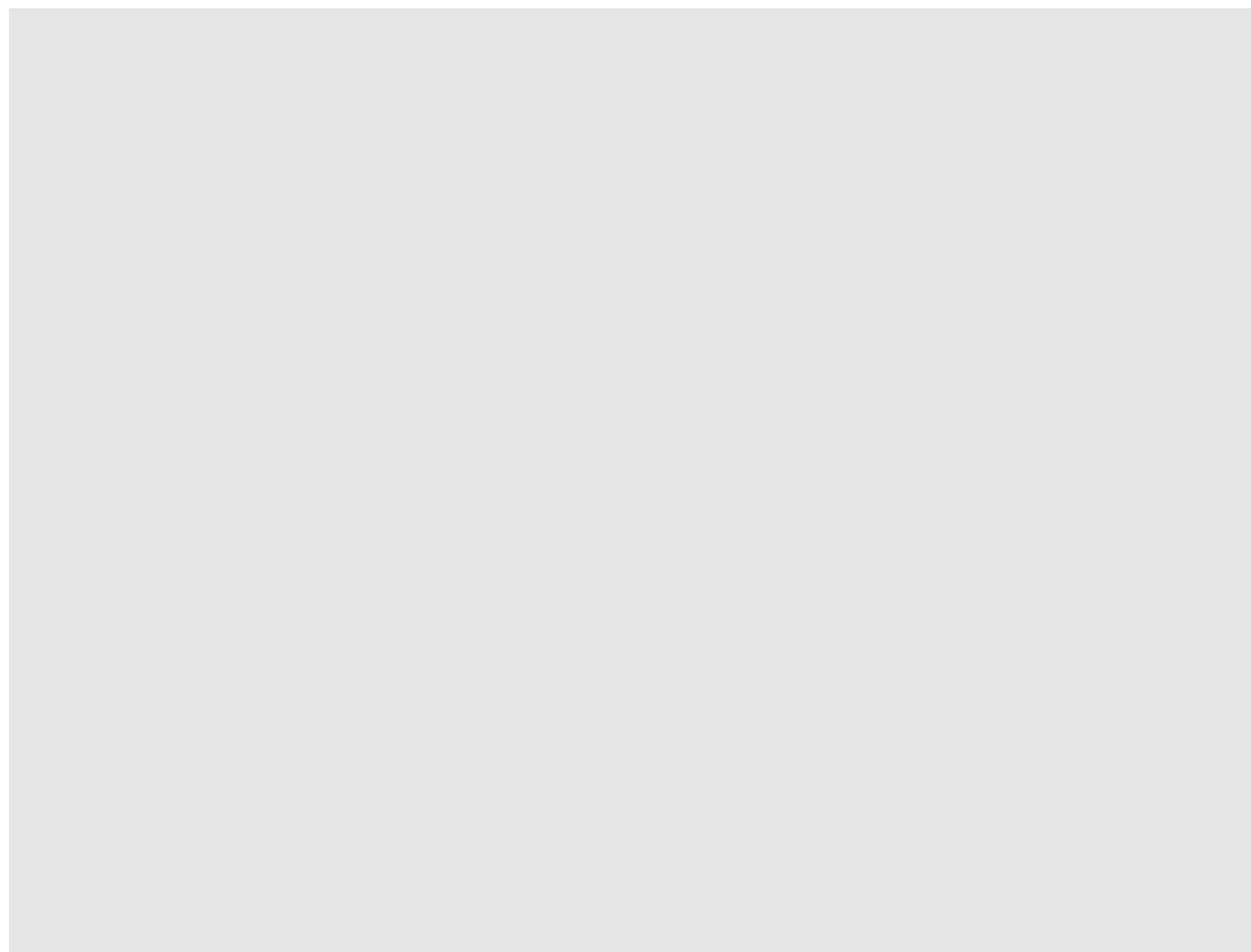


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## Marc A. Hebert's 'Money \$ense': Revocable living trusts

By Marc A. Hebert

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ONE QUESTION financial planners are asked quite often by their clients is: Do I need a trust? The answer is the usual maybe! That there are different types of trusts for different purposes complicates the answer. This article will discuss one option called the revocable living trust.

You might hear the revocable living trust called by another name: the inter vivos trust. Just like the name implies, the trust is revocable and can be changed during the grantor's lifetime. The grantor is the person who created the trust. The grantor has control of the trust provisions.

Also, as the name implies, the trust is set up during the grantor's lifetime. It will function while the grantor is alive. The trust can carry on after the grantor's death, at which point it then becomes irrevocable. This means the provisions cannot be changed.

This type of trust can help deal with a few issues. The property in the trust can be managed according to the trust terms for the grantor should he or she become incapacitated. By having this ability, the trust will avoid the need for family members to ask the court to appoint a guardian.

A trust will also avoid probate. Probate is a public process. Having property in a trust will keep it private. It also may help reduce probate costs. The probate process may take some time to complete as well. Finally, if there are assets owned in another state, a trust may avoid having to probate them in that state.

Some functions that a living trust will not do are minimize income, gift or estate taxes. This type of trust also will not generally protect assets from creditors.

The trust itself is created by a document that is drafted by an estate planning attorney. Usually the grantor will create, fund and name themselves as the trustee and sole beneficiary for their lifetime. In addition, sometimes a spouse will be named, too. A successor or co-trustee will be named as well just in case the original person is unable or unwilling to serve.

There will be beneficiaries named in the trust. These are the parties who will receive the assets that remain at the grantor's death. The trust will dictate the provisions under which these beneficiaries can receive the assets.

During the grantor's lifetime, the income earned and expenses incurred inside the trust will flow through and appear on the individual tax return. During life, the trust does not need its own tax return. At death, this may change as the trust becomes its own tax entity. Be sure to discuss these issues with a tax preparer.

Keep in mind: The grantor can have the greatest trust document, but it won't do any good unless the trust is funded. This refers to the trust taking legal title to the assets the grantor wishes to own in the trust. For example, this could be real estate, cars, checking accounts, brokerage accounts and life

insurance policies. New beneficiary designations might need to be completed for retirement accounts. The estate planning attorney who prepared the documents can provide direction to the grantor as to what needs to be done to complete the funding process.

Make sure to explore what the effect of transferring a home into the trust will have. Is the home reassessed as to its value? Does this affect the property taxes? Are income-tax deductions for state purposes still allowed if the home is owned by the trust?

Transferring CDs to a trust may have implications as well. If they are transferred before maturity, there might be early withdrawal penalties.

As mentioned above, creating a revocable living trust can have many considerations. Be sure to communicate with a certified financial planner or an estate planning attorney to help with the process.

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