

## **REVOCAABLE TRUSTS AND REAL ESTATE TAX EXEMPTIONS**

One of the most widely used estate planning tools is the “revocable trust.” A trust is a written legal agreement created by an owner of property (otherwise known as the “Settlor”) by which the owner transfers the ownership of some or all of his or her property to himself, herself, or another individual or corporation (otherwise known as a “Trustee”) who holds the title to and manages that property for the Settlor in accordance with the provisions of the agreement. Revocable living trusts may be used for probate avoidance, with respect to property that is owned by the trust at the time of the Settlor’s death. Trusts may also be incorporated into an estate plan to reduce and sometimes eliminate estate taxes.

A common asset frequently owned by a trust is a personal residence. In order for the trust to accomplish its desired purpose, the Settlor must transfer title of the residence to the trust. This is accomplished by the Settlor signing a deed which transfers ownership of the residence to the trust. In most instances, the Settlor will not notice any difference in the character of the property once it is conveyed to the trust. Frequently, the Settlor will still reside on the property, and pay for maintenance and real estate insurance.

One area where trust ownership may affect a personal residence is in the area of property tax deductions and exemptions. Indiana law permits a “homestead” exemption for real estate taxes for certain qualified taxpayers. Since the trust is technically the owner of the residence, it is considered the taxpayer. An individual is still entitled to these exemptions as long as he or she uses the property as his or her principal place of residence, the residence is located in Indiana, the individual has a beneficial interest in the taxpayer, the taxpayer owns the property, and the residence consists of a single-family dwelling. In a case where a Settlor conveys his or her home into a trust, these requirements are usually satisfied since the trust owns the property, and the Settlor retains an interest in the trust, usually as a beneficiary, which results in his or her benefit.

With regard to “over-65” and “mortgage” deductions, an individual is usually entitled to these deductions as long as he or she is the trustee of his or her own trust. Problems may arise when another individual or corporation is trustee.

While a Settlor who conveys his or her home into a trust is usually entitled to real property tax deductions and exemptions, the Settlor must be sure to re-file for these deductions and exemptions, since there has technically been a change in ownership from the Settlor to the trust.

March 2005