

MEMORANDUM

Date: August 1, 2011

From: The Law Offices of Jeffrey G. Marsocci, PLLC

Re: Taxpayer Identification Number for Revocable Living Trusts

To Whom It May Concern:

It has come to our attention that a number of banks and financial institutions have been insisting that people obtain a taxpayer identification number for a revocable living trust in order to transfer an account into the name of the trust, and so we have provided some general information on this matter. This is not necessary or proper to obtain a taxpayer ID number for a revocable living trust when the grantors/trustors of the trust are alive, and it will only result in unnecessary tax paperwork for your clients. The revocable living trust is classified as a "Grantor Trust," and therefore during life the social security number of the grantor or a grantor (also known as a "Trustor") is all that is needed.

Treasury Regulations, Subchapter A, Section 1.671-3, states as follows:

"Attribution or inclusion of income, deductions, and credits against tax

(a) When a grantor or another person is treated under subpart E (section 671 and following) as the owner of any portion of a trust, there are included in computing his tax liability those items of income, deduction, and credit against tax attributable to or included in that portion.

For example:

(1) If a grantor or another person is treated as the owner of an entire trust (corpus as well as ordinary income), he takes into account in computing his income tax liability all items of income, deduction, and credit (including capital gains and losses) to which he would have been entitled had the trust not been in existence during the period he is treated as owner."

In other words, all income is reported on the individual's 1040 tax form and not on a separate 1041 tax form for the trust. Forcing your clients to apply for a separate taxpayer identification number in order to properly fund their revocable living trust will result in annual paperwork from the Internal Revenue Service demanding a separate tax return for the trust. This will result in lost time and money for your clients responding to the IRS (probably on an annual basis) simply to inform the IRS that no separate tax return is required while noting the particular financial institution(s) that insisted a separate taxpayer identification number was required.

People choose to work with banks and financial institutions for various reasons. One of those reasons is usually that the institution is easy to work with. One of the reasons people choose to enact a revocable living trust is to avoid complications and bureaucracies for their heirs once they pass on. When faced with a decision that balances continuing to patronize a bank or financial institution that wrongly insists on a course of action that will needlessly provide more bureaucracy and tax paperwork with the federal government versus correctly making things easier for their beneficiaries through properly funding a revocable living trust, the client will, unfortunately, have to make a decision.

Please keep the above referenced Treasury Regulation and possible business consequences in mind when assistance clients with funding their revocable living trust.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Jeffrey G. Marsocci". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

Jeffrey G. Marsocci *
Attorney at Law

** Please note that this memorandum was obtained through a website owned and operated by Jeffrey G. Marsocci, Esq., an attorney licensed in the State of North Carolina, and because you are reading this disclaimer, the people using the letter are not our clients. However, the analysis of this situation is correct and consistent with federal banking and federal tax laws. We encourage banks and other financial institutions to bring this to the attention of their own lawyers and disseminate their findings throughout your branches so your clients will not have the same difficulties our clients have had in funding their revocable living trusts. For more information on revocable living trusts, please visit our website at www.livingtrustlawfirm.com.*