

## **DCU Opinion Number 01-1**

**Date:** January 16, 2001

**From:** Parker Cann, Director

**Subject:** State Credit Unions May Issue Shares to and Receive Deposits from Members in the Form of Revocable Living Trust Accounts

### **Issue**

The question has arisen whether Washington state chartered credit unions (state credit union) may issue shares to and receive deposits from members in the form of “revocable living trust accounts.”

### **Analysis**

We understand that a revocable living trust account typically involves the same individuals as grantors and trustees, with third parties as beneficiaries. We assume for the purpose of this opinion that the grantors/trustees and the beneficiaries are all members of the credit union.

The Washington Credit Union Act, Chapter 31.12, and the Financial Institution Individual Account Deposit Act, Chapter 30.22, authorize state credit unions to issue shares to and receive deposits from members in the form of a trust account. RCW 31.12.402(1); RCW 31.12.416(1); RCW 30.22.050(5).

In addition, state credit unions may exercise any power or authority conferred as of December 31, 1993 on a federal credit union. RCW 31.12.404. Federal credit unions may accept shares/deposits in the form of revocable trust accounts, termed “testamentary accounts,” or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary. 12 C.F.R. 745.4 (1993).

### **Share/deposit insurance**

Recent news articles have made living trusts hugely popular. However, insurance coverage on them is not well understood. For additional guidance on deposit insurance of revocable living trust accounts, see NCUA legal opinion letters, available on the NCUA website at [www.ncua.gov](http://www.ncua.gov). From the NCUA website, go to reference information, then legal opinion letters; then click “search” and type in “living trusts” or “revocable trusts”.

For your quick reference, I have provided three examples of NCUA legal opinion letters on revocable trusts. NCUA’s opinion letter 99-0208 answers insurance coverage questions about a hypothetical revocable living trust account for husband and wife as co-grantors and co-trustees. NCUA’s opinion letter 97-0539 explains insurance coverage if the credit union knows the beneficiary’s names and degree of kinship to the member, and goes on to suggest credit unions require sufficient documentation as to who can withdraw and pledge funds in the account, the credit union’s need to know of any changes to the requested account information, and a legal opinion from the drafting attorney of the trust that the trust is revocable under state law. In addition, NCUA’s opinion letter 00-0943 provides guidance on share insurance coverage if the living trust includes a defeating contingency that is related to the beneficiary’s interest in the trust assets.

### **Conclusion**

We conclude that a state credit union may issue shares to and receive deposits from members in the form of a revocable living trust account.

However, we strongly encourage credit unions to seek the advice of knowledgeable counsel regarding the form of the contract of deposit as well as any tax or trust issues.

**Opinion index heading: Member accounts: RCW 31.12.416, .418**

**Opinion index and list descriptor: State Credit Unions Can Receive Deposits as Revocable Living Trust Accounts**