

What a Living Trust Can Do For You

A Living Trust Eliminates A Guardianship

If you become disabled or unable to manage your estate, your Living Trust avoids the need for a court mandated conservatorship. The successor Trustee you've named will step in and manage your affairs without government interference and expense.

A Living Trust Avoids Probate

Although there will be the need to perform a Trust administration after your death, the assets in your Living Trust avoid the delay and cost associated with the probate process. Furthermore, because probate is avoided, your estate planning goals will not be subject to public scrutiny as is often the case in probate proceedings.

A Living Trust Provides Privacy

Because a Living Trust avoids probate, it provides privacy. Probate is a public process. Anyone can find out how much you had, to whom you left your assets, and other information about you. They could be nosy neighbors or relatives, or worse yet, they could be scam artists.

A Living Trust Can Reduce Or Eliminate Federal Estate Taxes

With a Living Trust, a married couple can pass twice the exempt amount absolutely estate tax-free to their heirs.

A Living Trust Allows You To Restrict How Your Estate Is Managed And Spent Even After Your Death

It can provide for the care, support and education of your children by turning over assets to them at an age chosen by you. Even insurance proceeds can be paid to the Trust so your successor Trustee can manage them for the benefit of your family.

A Living Trust Can Protect Children From Their Creditors And Ex-Spouses

A Living Trust can leave your assets to your children in a manner that will reduce the ability of their creditors or ex-spouses to take your children's inheritance from them.

A Living Trust Can Protect Children From Earlier Marriages

Both the surviving spouse and the children from a previous marriage can receive fair treatment and protection under the terms of your Living Trust.

A Living Trust Can Ensure That Your Wishes Are Carried Out And Are Not Subject to Attack

Most Living Trusts contain a "No Contest Clause," which prevents greedy beneficiaries and their lawyers from successfully attacking your estate plan.

A Living Trust Gives You Peace Of Mind

When your Living Trust is completed, you and your family can relax, knowing that your estate will be managed and distributed by someone you have selected and trust.

A Complete Estate Planning Portfolio Includes:

Trust Property: Summary of assets owned by the Living Trust

Pour Over Will: Transfers any assets outside of the Trust into the Trust

Property Agreement: In community property states, this agreement changes Joint Tenancy assets between spouses to community property. This takes advantage of the step-up in basis to fair market value on both halves of the property at the death of either spouse. In other states, it changes Joint Tenancy assets to Tenancy in Common assets. This allows estate equalization and use of both spouses' federal estate tax exclusion.

Certificate of Trust: Summary of selected portions of your Living Trust

Funding Instructions: Guidelines for transferring assets to your Living Trust

Life Insurance Summary: Information on all Life Insurance Policies and their locations

List & Family Information: Where all important documents are located and whom to notify in case of death or incapacity

General Durable Power of Attorney: Authorizes someone to manage your non-trust property if you become incapacitated

Durable Power of Attorney for Health Care, Health Directive, and Living Will: (May also be called an Advance Health Care Directive) Authorizes termination of life support if you are terminally ill and authorizes the person of your choice to make healthcare decisions for you if you become incapacitated

Estate Planning Letter: Details the distribution of small personal property items with sentimental value, as well as burial and funeral instructions

HIPAA Release: (A release required by the Health Insurance Portability and Accountability Act of 2003) Allows the agents under your Advance Healthcare Directive/ Durable Power of Attorney for Health and the trustees under your Living Trust to carry out their duties

Funeral Trust: An insurance policy, which you may choose to fund, that earns interest and provides immediate funds to pay for your final arrangements; Avoids risks involved in pre-paying for funeral arrangements at a specific funeral home

Frequently Asked Questions About Living Trusts

Can I act as my own Trustee?

Yes. If you are competent to handle your financial affairs now, there's no legal reason why you can't be the Trustee of your own Living Trust. In fact, most Living Trusts have the people who created them acting as their own trustees. If you're married, you and your spouse can act as Cotrustees.

What can I do with my assets once they are in my Living Trust?

If you're the Trustee, you can do anything you want with the Trust assets. When you set up your Living Trust, you are transferring the title of all your assets from you as an individual to yourself as the Trustee of your Trust. You then must manage the property for your benefit as the Beneficiary. This means that you will have absolute and complete control over all the assets of your Trust. If you want, you can spend, save, invest or even give the assets away at your discretion. There are no restrictions on what you can do with the assets in your Living Trust. Moreover, if you don't like the terms of the Trust, you can amend it or revoke it at any time without penalty.

Will my Living Trust avoid income taxes?

No. The purpose of creating your Revocable Living Trust is to avoid guardianship, probate, and reduce or eliminate federal estate taxes. It's not a vehicle for reducing income taxes. In fact, if you're the Trustee of your Living Trust, you will file your income tax returns in exactly the same way you filed them before the Trust existed. There are no new returns to file and no new liabilities are created.

If I transfer real estate into my Living Trust, will my property taxes go up?

No. Transfers into your Living Trust have no effect on your property taxes.

If I'm only a part owner of property, can I transfer my share into a Living Trust?

Yes. Your share can go into the Trust without changing the interests owned by others.

Can I name Trustees and Beneficiaries who live out of state?

Yes. There is no limitation regarding where your trustees or beneficiaries must reside.

Will I have to consult an attorney every time I buy new assets?

No. Once your current assets are transferred to your Living Trust, you take title to all new assets in the name of the Trust and they will automatically be owned by your Trust.

Does my Living Trust need to be registered or recorded anywhere?

No. Your Living Trust is a private document which is not recorded; however, if you own any interest in real estate, the new deeds showing Trust ownership will be recorded.

Can I sell assets owned by my Living Trust without complications?

Yes. You sell assets in the same way you currently do. You will, however, add the word "Trustee" after your signature.

Can I change the terms of my Living Trust?

Yes. While you are alive and competent, you can alter your Living Trust or even revoke it without penalty at any time.

Can I transfer real estate into my Living Trust?

Yes. In fact, all real estate should be transferred into your Living Trust; otherwise, upon your death, depending upon how you hold title, there will be a probate in every state where you own real property. When it's owned by your Living Trust, there is no probate anywhere.

Is my Living Trust just a tax loophole that the government will close down?

No. Your Living Trust has been authorized by the law for centuries. The government has no interest in making you go through a guardianship or a probate; those proceedings only clog up the court system. The only portion of your Trust that will be affected is the amount of the federal estate tax exemption. The exemption is \$5,490,000 in 2017. A properly drafted Living Trust can double the amount you can pass tax-free.

Can I transfer my separate property as well as my community property into my Living Trust?

Yes. All of your assets (both separate and community) are transferred into your Living Trust, but they are not commingled. Separate property assets retain their separate property character while in your Trust. If you divorce, all assets come out of your Living Trust in the same way they went in; community property is divided between the spouses and separate property is returned to the party who originally owned it.

Can any attorney create a Living Trust?

No. The drafting of your Living Trust should only be done by an attorney trained in the area of tax and Trust law. It's important that you seek out a law firm which limits its practice to the creation of Living Trusts. After all, your Trust will be the document which manages and disposes of all your hard earned wealth. Make certain you choose a law firm that is both qualified and experienced.

What if I move to another state? Is my Living Trust still valid?

Yes. Your Living Trust is valid in all 50 states and the District of Columbia, regardless of the state where it was originally created.

Is a Living Trust only for the rich?

No. A Living Trust can help anyone who wants to protect his or her family from unnecessary probate fees, attorney's fees, court costs and federal estate taxes. In fact, if your total estate is greater than \$100,000, a Living Trust offers substantial protection for your family.

Is a Living Trust a good idea for a single person?

Yes. If you're widowed, divorced, or unmarried, a Living Trust offers protection for your estate. It will completely eliminate a guardianship, a probate, and you can pass \$5,490,000 free of federal estate taxes in 2017. It also allows you to leave your assets to your children, family, or friends so that they will be protected from their creditors and ex-spouses.

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