



Trust a living trust

A primary goal of estate planning is to ensure your assets are distributed to your loved ones according to your wishes and in a timely manner. A living trust (also referred to as a revocable trust, declaration of trust, or inter vivos trust) can help you achieve this goal.

Trust guidelines

When you establish a living trust, you transfer ownership of all of your assets to the trust. You can name yourself or someone else, such as a family member, friend, bank or trust company, as the trustee.

If you name someone else as trustee, you can require him or her to consult you before buying or selling assets. And if you're not satisfied with your named trustee, you can modify his or her powers, name a new trustee, or revoke the trust completely.

The trust becomes irrevocable when you die, and the trust assets are distributed according to your wishes — for example, immediately, during a period of years or based on specific milestones, such as a graduation or birthday. Meanwhile, any assets remaining in the trust can continue to grow and provide for your family for years to come.

Why it's a good idea

A living trust offers several estate planning benefits. First and foremost, assets held in the trust prior to death avoid probate.

Probate can be time-consuming because of the required notifications and court proceedings. In addition, it's a public process, so anyone can learn about your financial affairs, which can increase the chance that someone will challenge your wishes regarding how your assets are distributed. Avoiding probate is especially beneficial when you own real estate or other property in more than one state, so that your estate might have to go through ancillary probate (multiple probate proceedings).

Living trusts also can be particularly useful for married couples in community property states who had a substantial amount of property or assets prior to the marriage. The trust can help keep those assets separate from those that would be considered community property.

Considerations and limitations

Some time, paperwork and cost are involved in establishing a living trust. For example, the titles to your assets must be transferred to the trust.

In addition, you have to ensure future assets are registered to the trust. You also will need a pour-over will to transfer any assets outside the trust to the trust on your death. Professional fees, such as investment advisory and trustee fees, will apply if you appoint a bank or trust company as the trustee.

It's also important to understand a living trust's limitations. The trust doesn't reduce estate taxes, because trust assets are included in your taxable estate. It also doesn't protect assets from your creditors, because you're still in control of the trust assets.

Right for you?

A living trust can provide for your family's financial future per your wishes. But a living trust isn't necessary for everyone. Discuss with your estate planning professional whether a living trust is right for you.

Added protection in the event you become incapacitated

With a living trust, the trustee can manage your financial affairs should you become incapacitated. Or, if you're the trustee, you can name a successor trustee to take over management of the trust and make financial decisions on your behalf in such a situation.

You can specify in the trust how incapacity must be determined — typically, one or two letters from a physician are required. You may also include special provisions, such as specifying that you want to be cared for at home rather than at a nursing home or other long-term care facility, and authorizing the trustee to continue making charitable contributions.

Providing instructions about your comfort, care and finances is especially important when your successor trustee is a bank or other institution or a distant family member who may not be aware of your personal wishes.

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