

Wills and Trusts

The foundations of your rock-solid estate plan

Caring well for our families is one of the most fundamental universal concerns we all have. You probably expect to use your wealth to take care of your family, both now and in the future, with things like health care, travel, educating children, and building memories together. But chances are you haven't thought nearly as much about positioning your assets so they are prepared, ready and able to help the people you love *after* you're gone. Even if you have made some headway in this area, your plan for your estate is probably a little—and maybe a lot—out of date.

If that describes your situation, don't fret. Even if you have many moving parts to your finances, you can get on track by focusing on two main areas of estate planning: **wills and trusts**. Here's how to do it.



Where there's a will, there's a way

Read this next sentence three times in a row: ***Everyone should have a will.***

Got it? A will should be the basic foundation of every estate plan—the starting point for a well-conceived strategy to transfer assets at death.

A will identifies precisely what you want to have happen with your assets and estate. Dying without a will means you have let the state decide what's best for you and your family. In addition, dying without a will means the settling of your estate will be difficult for loved ones, costly and public.

As with any decision, there are both positives and negatives to a will. That said, we strongly believe the benefits of crafting a will far outweigh the drawbacks.

ADVANTAGES

- You decide on the disposition of your hard-earned wealth.
- Estate taxes are mitigated—especially when the will is part of a broader estate plan.
- You specify who the fiduciaries will be.

DISADVANTAGES

- You have to accept that one day—far in the future—you just might die.
- There is a legal cost associated with writing up a will and with estate planning.

Trust in trusts

The second component of a smart estate plan is often a trust. A trust is nothing more than a means of transferring property to a third party—the trust. Specifically, a **trust** lets you transfer title of your assets to **trustees** for the benefit of the people you want to take care of—aka your selected **beneficiaries**. The trustee will carry out your wishes on behalf of your beneficiaries. Typically, you serve as trustee to begin with and also select successor trustees to act as fiduciaries following your wishes within your trust for the benefit of your beneficiaries.

Wills and Trusts Compared

Broadly speaking, there are two types of trusts:

- 1. LIVING** (established while you are alive) and
- 2. TESTAMENTARY** (created within your will after you've passed).

Living trusts are becoming more and more popular to avoid the cost of probate, avoiding publicity and reducing the risk of the estate settlement being contested. In the probate process, your representatives “prove” the validity of your will. The probate process also gives any creditors the opportunity to collect their due before your estate is passed to your heirs. There may be a long delay in settling your estate as it goes through probate. To add salt to the wound, probate can be costly, sometimes over 5% of the assets.

A living trust can avoid or mitigate the effects of probate. It is a revocable trust that you establish and of which you are also typically the sole trustee. The assets in your living trust avoid probate at death, and are instead distributed to your heirs according to your wishes. Living trusts also can help avoiding the necessity of multiple probate proceeds in different states when you own property in more than one state.

Living trusts are sometimes said to be superior to a will, but that is certainly not the case for everyone. It's important that you understand how they compare.

Is a trust for you?

1

Are your beneficiaries unwilling or unable to handle the responsibilities of an outright gift (investing the assets, spending the inheritance wisely, etc.)?

2

Do you want to keep the amount and the ways your assets are distributed to heirs out of the public eye?

3

Do you want to restrict or place conditions on the eventual ownership of the assets by the beneficiary to incentivize maturity?

4

Do you want to provide protection from your and/or your beneficiary's creditors and plaintiffs?

5

Do you own real property in more than one state?

6

Do you want to ensure your grandchildren can not be disinherited of your assets by a divorce/remarriage of one of your children?

7

Do you want to lower your estate taxes?

If you answered “yes” to any of the five questions, you may find it beneficial to set up a trust.

Comparing Wills and Living Trusts

WILLS	LIVING TRUSTS
<ul style="list-style-type: none"> ■ Are viable only at death. ■ Are public. ■ Are not very good when you're dealing with more than one state. ■ Must go through probate. ■ Are less expensive to put in place. 	<ul style="list-style-type: none"> ■ Can have uses while you're alive. ■ Are private. ■ Are good in every state and not encumbered by states. ■ Can generally avoid probate. ■ Are more expensive to put in place and administer.



Is a living trust for you? It depends on your particular situation. Nevertheless, you should certainly consider it in consultation with your advisor or wealth manager.

Your next move

We recommend that your estate plan be reviewed every year or two, **especially with tax reform changes in the air**. The review should be conducted by a high-caliber wealth manager or estate & tax attorney—one who takes the time to learn what's changed since you put your solutions in place, assess how those changes might impact your strategy, and make recommendations for getting your solutions current and in accordance with your wishes.

Financial Harvest Wealth Advisors, through its virtual family office, has a professional network team that can help with establishing effective and efficient estate planning that is consistent with the entirety of your wealth planning. Call or email us if you would like to chat about the appropriateness of trusts in your planning and critical decisions such as who serves as successor trustees and how to pass wealth that in a 'helpful but not entitling' way.



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