



**We all tend to put off thinking about our own mortality, but everyone needs a Living Trust - here's why:**

- Avoid probate – a lengthy process, sometimes lasting several years, which can take up to 10% of your estate's value.
- Privacy – unlike a will, a living trust does not have to be registered with the court in most states.
- Business continuity – if for any reason you become incapacitated, a living trust lets you hand over the assets owned by the living trust to someone else.
- Tax – there are estate tax benefits for your spouse.

**In fact, Living Trusts are just good basic estate and tax planning practice.**

### **WHAT IS A LIVING TRUST?**

Also known as a 'Revocable Living Trust' it is a written document; a flexible estate planning tool that can be used in three ways: whilst you are living, in the event that you become incapacitated and to direct how your property will pass after your death.

The list of property types that can be held in your living trust is almost endless; your personal residence/ personal bank accounts/ jewelry/ intellectual property/ furnishings/ life insurance/ works of art/ collectibles, etc.

It is called a "Living Trust" because it is operative while you are alive (as opposed to a will) and is a separate legal 'person' in the eyes of the law.

### **HOW DOES IT DIFFER FROM A WILL?**

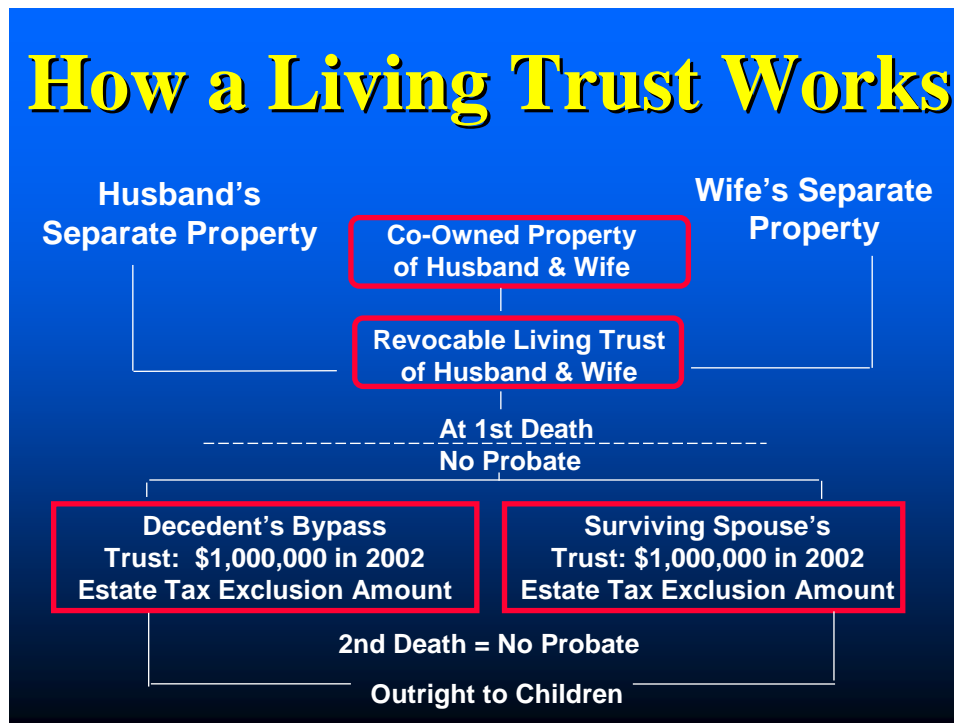
A will only takes effect at death. Like a will, the living trust allows you to select those who will be responsible for distributing your assets after your death; however it allows assets to pass outside probate. Probate is the court procedure that validates a will and authorizes the transfer of ownership from a deceased person's estate to the wills' beneficiaries.

Here's an illustration:

## Living Trust vs. Will

	Without A Will	With A Will	With A Living trust
<b>At Physical / Mental Capacity</b>	Probate: Court appoints a conservator/ guardian who oversees your care, must keep detailed records to submit to court. Courts control your assets and approve or disapprove all expenses.	Probate: Same as with no Will	No Probate: Your Successor Trustee manages your financial affairs as long as necessary. In some states, conservator/ guardian may be required for healthcare decisions.
<b>Court Costs</b>	You pay all court costs, legal fees.	Same as without a Will	None
<b>At Death</b>	Probate: Court orders your debts paid and possessions distributed according to state law, which may not be what you wanted.	Probate: After verifying your will, court orders your debts paid and possessions distributed according to your will.	No Probate: Debts are paid and possessions distributed to beneficiaries by your successor trustee according to your written instructions.
<b>Court Costs</b>	Your estate pays all court costs and legal fees (often estimated at 8 - 10% of estate's gross value).	Same as without a Will. Costs can even be higher if your Will is contested.	None. (A small fee for appraisal of real estate may be required in states that have an inheritance tax.)
<b>Time</b>	Often 1-2 years, or more.	Same as without a Will	Usual 4 - 8 weeks. Larger estates depend primarily on state tax filing requirements.
<b>Flexibility and control</b>	None: property is controlled and distributed by probate court according to state law.	Limited: You can change your will any time, but it can be contested.	Maximum: You can change your trust at any time, even cancel it. Hard to contest.
<b>Privacy</b>	None: Public record.	None: Same as no Will.	Maximum: Privacy preserved.

# How a Living Trust Works



"This chart is provided as an illustrative tool only. It is not intended as a blueprint for action in your particular circumstances and must not be construed as legal advice."

- You are the original trustee and the primary beneficiary for life. When you die, those selected by you become the beneficiaries.
- If established *prior* to the death of the first spouse, married couples can pass up to \$2,000,000 to their heirs completely free of estate tax. (Single persons may leave up to \$1,000,000 estate tax free.)
- Combining a Revocable Living Trust Estate Plan with a Pour-Over Will, Powers of Attorney, an Advanced Health Care Directive, Joint Property Agreement, Retirement Beneficiary Designations and Trustee's Instructions, provides even more complete planning.
- Your personal residence goes into the living trust – thus retaining \$250,000 (per spouse) capital gains tax if you sell the home. For a married couple, that's an attractive \$500,000 capital gains tax exemption.
- By changing ownership from your personal name to your Living Trust, you avoid probate altogether and the need for conservatorship on those assets owned by the living trust.
- It is recommended that your adult children be the successor trustees, unless your children are minors, in which case two close friends or two trusted relatives can serve as such.
- Combining your living trust with other tax-advantaged entities such as the Family Limited Partnership, Corporations, LLCs, a Life Insurance Trust or a Multi-Generation Dynasty Trust is part of sound and prudent integrated planning for your family's long term security.
- The living trust controls assets so they are either distributed outright after your death or, if you wish, they can be gradually turned over to your heirs as they grow in maturity and financial responsibility.

GRADUAL INHERITANCE:

X percent at age 25  
Y percent at age 30  
Z percent at age 40

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