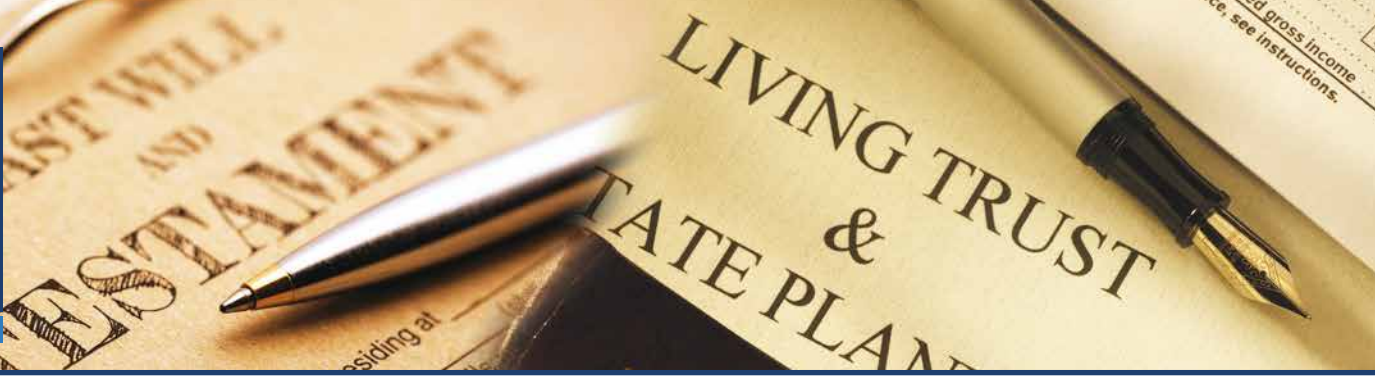




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It is Time for You to Switch from a Will to a Living Trust

The earliest “Will” has been dated to the 26th Century B.C.E. in what was ancient Egypt. Today’s Wills are almost indistinguishable from Wills drafted in England in the 1400s: Your Will from New York is not structurally different from a Will drafted in “Olde” York. So, it might shock you that after 4,600 years of history and 500+ years of Anglo-American jurisprudence, it comes down to me to tell you that Wills have become a detriment and financial burden to your estate, and you should create a Living Trust to transfer your property when you pass away.



What is the Difference Between Creating a Will vs. a Trust

WILLS: When you execute your Will your job for creating your estate plan is done: The Will stays in some cabinet and does nothing until you pass away. At that time your chosen Executor files a Petition, the Will, and some other paperwork with the Surrogate’s Court. Many months of paperwork and waiting takes place (more on that below). Once the Court “approves” your choice of Executor your Executor does the hard work of transferring your assets to your estate. This next step often takes a few months because financial institutions require both the Court’s paperwork and their paperwork to be correct, reviewed, and properly submitted.

LIVING TRUSTS: When you sign your Living Trust your work has just begun: You still have to change your Deed, brokerage account, business, and some back accounts to be owned by your Living Trust. You also need to update beneficiary designation forms for your life insurance and retirement plans to (possibly) name your trust as beneficiary.



Of course, you will be dead when all this goes down, but I’m guessing heaven has a \$5 blackjack table.

AND SO: When you sign your Will you are leaving the future “heavy lifting” to your Executor after you die; when you create a Trust you are doing all of the hard work up front, leaving your Successor Trustee with very little work to clean up when you pass away. Remember that when you die a lot of your knowledge dies with you. You likely save 5 times the cost, time spent and frustration by creating a Trust and funding it during your lifetime rather than leaving the hard work to your Executor when you die.

3. Someone Else Pays These Initial Costs: Since the Court hasn’t granted your Executor power over your assets yet, they will have to use their money to pay initial costs.

4. Your Will Becomes Public: When the Court receives your Will it becomes public record.

5. Nearest Family MUST be Informed: Your “next-of-kin” (your nearest family members) MUST be given a copy of your Will, even if you have disinherited them.

6. Legal Burden is On Your Executor: ALL of your next-of-kin must agree with your Will, if even one person does not, your Executor is burdened with fighting against him or her to validate the Will (more time and money).

7. Foreign Family Members Cannot Serve as Sole Executors: The Court has no jurisdiction over non-US citizens and non-Green Card holders, so the Court will not risk appointing them.

8. Your Estate May Pay for Court Appointed Attorneys: The Judge’s mahjogg partner or campaign contributor may be appointed by the judge to represent minor children, disabled beneficiaries, or family that cannot be found. And yes: Your estate pays their attorney fees.

Wills	Trusts
<ul style="list-style-type: none"> • Probate is Public • Contract with the State • Court involvement is required • Takes a lot of time (6 – 12+ months) • No work required after signing (your Executor does the hard work during Probate after you pass away) 	<ul style="list-style-type: none"> • Trusts are Private • Contract with Settlor and Trustee • No Court paperwork or oversight • Fast (2 days after your passing) • Still need to “Fund” your trust: accounts, Deeds, business entities and beneficiary designations

Why Was Probate So Bad (and Why is it Terrible Now)?

When you die your Will goes through the public court process known as Probate. But Probate does not only require that the Surrogate’s Court oversee the administration of your Will:

1. Court Costs: You must pay a filing fee to the Court, which costs \$500 - \$1,300.

2. Attorney Costs: You typically have to pay an attorney to oversee the process, costs \$5,000 - \$20,000 (or more, depending on complexity, or even more for Will disputes).

All of this has been true for hundreds of years, which is why Probating a Will already has a bad reputation. But there is a new, more compelling reason that makes switching to a Living Trust even more relevant at this time:

9. The Burden of Time



I remember when this guy weighed a buck eighty in July of 2022 when I saw him at Kings Surrogate’s Court

article continues on next page →

Due to mandatory “E-Filing” of Probate paperwork in 2020, historically meager pay raises and hiring freezes for clerks in New York’s Surrogate’s Courts, more people trying to conduct complex Probate without hiring legal help (*thereby over-burdening already-overworked clerks*), more foreign owners of New York real estate, and the ever-increasing complexity of today’s financial world, the most basic Probated estates (*which used to take 3 months to have an Executor appointed*) **may now take as long as 9 - 12 months in many large New York counties (and the Bronx and Kings –the current disgrace of New York’s Surrogate’s Court system - may take 18 – 24 months).**

- Because Probate now takes so long, the REAL waste of Probate is waiting on the Court to appoint your Executor.

- During this wait, your estate is still paying real estate taxes and maintenance.

- Your desired Executor cannot liquidate your assets in the bank to pay these expenses.

- Your investments in the stock market cannot be liquidated to minimize market risk.

- Your real estate cannot even be listed for sale with a real estate broker.

So the money wasted merely by waiting for the Court to appoint your Executor may cost your estate TENS OF THOUSANDS OF DOLLARS in avoidable real estate taxes, and huge percentages of stock market losses on your portfolio.

In a few words: Even in the most-simple estate matters, Probate is now a guaranteed 5-figure burden on everyone’s estate who is hoping to transfer money using a Will.

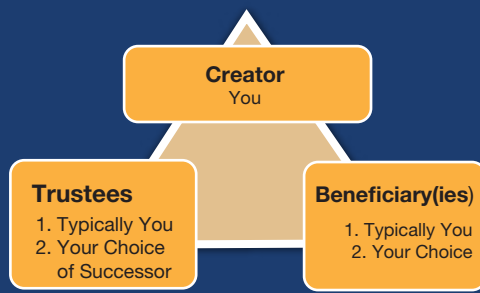
So Why Spend the Time and Money on Creating a Living Trust?

Fully funding a Living Trust to avoid your Will going through Probate ultimately saves you 5 times the cost and time spent by your friends and family collecting and distributing your estate in the future. And here are the reasons why:

1. No Court Intervention: When you die the Court is NOT involved with your Living Trust. There are no Court filing fees.

2. Minimal Attorney Fees: Unless you have complex business affairs, there should be no major attorney fees, perhaps as little as \$1,000.

3. Your Trust is Private: You and your Successor Trustee do not have to file it with the Court, it is private from all family and friends whom you don’t want to know about it.



4. No “Notice Requirements”: No one who is not a Trustee or Beneficiary needs to know about your Trust (*I.e., your disinherited son never needs to know about it*).

5. Burden to Dispute is on Disinherited Individual: Your Trustee is NOT responsible for reporting to your next-of-kin. In fact, your next-of-kin has the active legal burden of disputing your Living Trust (*which is very difficult because he likely does not need to know it exists*).

6. Foreign Family Can Be Sole Trustee: If your family overseas are the only people you trust, you may name them as sole Successor Trustee of your Living Trust.

7. No Court-Appointed Attorneys: Provided you correctly draft your Living Trust, the Court will not appoint an attorney to represent minors and disabled Beneficiaries.

And here is the MOST RELEVANT reason to switch to a Living Trust:

8. You Preserve Your Estate Assets and Don’t Waste Your Trustee’s Time:

- As opposed to waiting 6 – 12 months for Court processing and paperwork, all your Successor Trustee needs for your Trust is an original copy of your Death Certificate.

- So, within **2 days** of your death your home can be listed for sale.

- Within **2 days** your brokerage accounts can be liquidated to minimize investment risk.

- Within **2 days** your banking assets can be collected, so your Successor Trustee can utilize your money to administer to your post-mortem affairs (*instead of them having to use their money to begin the process*).



Your Trustee, free from having to go through Probate! Seriously

Who Should REALLY Consider Creating a Living Trust?

1. People who want to distribute more money to their beneficiaries with less time and costs.

2. If you want to disinherit near family members.

3. If you want your estate affairs kept private.

4. People who do not have close family members (Example: Your closest relatives were cousins, or you have no siblings, nieces and nephews).

5. If you have beneficiaries who are minors or disabled.

6. If you want to control when your beneficiaries receive money.

7. If you want to protect your estate from your beneficiaries’ soon-to-be ex-spouses, creditors and poor financial decisions, and substance abuse.

8. If most of your family are non-US citizens and live overseas.

Who Should Not Bother Creating a Living Trust and Just Keep their Will?

In a perfect world every person has a Living Trust which is effective and fully funded. But in a perfect world everyone eats 30 net carbs a day, does 40 minutes of cardio, and calls their Aunt Mortha in Florida to ask her for the 30th time about that time Paul Newman took her out for dinner. So here are people who can live without a Living Trust:

1. People who either don’t want the added costs of Living Trusts or are not concerned with spending legal fees to leave more money to their beneficiaries when they die.

2. Married couples with no children and no primary beneficiaries other than one another, and don’t expect a Will dispute when the second of them dies.

3. Families whose beneficiaries don’t need the money and can wait for the estate to be distributed.

WOW! That’s a Lot to Think About! Dan, Where Can I Get More Information?

What am I? Chopped Liver? ME! You already know that I love talking about Estate Planning and am happy to discuss your questions and comments with you. I also have several Webinars, Newsletters, Presentations and Blogs on my website. Please feel free to reach out to me if you have any other questions or comments about Wills, Trusts, taxes, or other ways to build your assets, save money on fees and court costs, and maintain control of your money for the rest of your life and thereafter.



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