

The Living Trust ~ A Will's Companion

We should be ever mindful that estate planning is an important element of stewardship—the prayerful care of God’s blessings. At a minimum, this means having a valid will. However, in modern estate planning, a simple will often does not do the complete job. For example, people wishing more privacy want to avoid the scrutiny of the probate court in their family's personal and financial matters. Let us explore, therefore, probably the most powerful of estate planning documents—the “living trust.” Following are some frequently asked questions about living trusts and how they are so useful in estate planning.

What is a living trust?

A living trust is an agreement between you as grantor—the person establishing the trust—and a trustee. The agreement provides for management of the trust assets and distribution of income and principal to beneficiaries. The trust gets its name, “living,” from the fact you establish it during your lifetime, rather than at death through a will. Moreover, you can amend or revoke your trust at any time.

May I be trustee of my living trust?

Yes. Generally, the grantor of a living trust is also the trustee during his or her lifetime. This is referred to as a “self-trusteed trust.” On the other hand, you may prefer to name someone else as trustee of your trust.

Who are the beneficiaries of my living trust?

During your lifetime, you are the beneficiary of your living trust. Thus, when you establish the trust, you wear all three trust

hats: the grantor, trustee and beneficiary. Your trust agreement also provides for distribution of trust assets to your family, your faith community or other beneficiaries.

Must all the trust assets be distributed when I die?

No, and that is one of the beauties of a living trust. Upon death, your successor trustee will manage the trust assets according to the terms of the trust agreement. Depending on your family’s circumstances, some assets may be distributed soon after your death, and others at a later time.

For example, specific bequests to your parish, the Dechant Foundation in the Diocese of Dodge City or other Catholic charities may be distributed soon after death. However, distributions to your children may be deferred until they reach certain ages when they may be more able to manage significant amounts of assets. Your trust can also be used to manage assets for a family member who may have a special medical or education need. Your trust is a powerful asset management tool because the trust agreement can provide for your family’s particular circumstances and needs as well as your charitable intentions.

Are there tax advantages to my having a living trust?

There can be. During your lifetime, there is no change in your income tax status because your trust is not treated as a separate taxpayer; all the income from trust assets is included in your individual income tax return. Upon death, all of the assets in the trust will be included in your gross estate since you had control of the assets during

your lifetime.

However, your living trust can provide a big estate tax advantage upon death if you are married and have a sizable estate. This advantage comes from the tax law interaction of the unified transfer credit and the unlimited marital deduction.

Is a living trust necessary if I am single or have only a small estate?

There are several advantages to a living trust even in if you are single or have an estate that will not be subject to estate tax. For example, a living trust—

- Can be useful to hold assets for the benefit of minor children or beneficiaries with special needs.
- Is a private matter, in contrast to a will where anyone can go to the probate court files to see what assets you owned and who gets them under your will. You would especially want to avoid this if you own a business or valuable property.
- Avoids probate not only in your state of residence, but also in other states where you own property.
- Provides for a successor trustee, not only upon your death, but also during your lifetime to manage your affairs if, for example, you are incapacitated through accident or illness.

Is signing my trust agreement enough to get all of these living trust advantages?

No. You must transfer your assets into the name of the trust. This includes changing the names on bank accounts, stocks and bonds and real estate. Otherwise, these as-

sets may become part of your probate estate and many of the trust advantages would be lost. Also, you should name your trust as beneficiary on your life insurance policies. Your attorney, life insurance counselor or financial advisor can assist you with these procedures.

If I have living trust do I still need a will?

Yes. Your will is still the basic estate planning document, even though your trust agreement will control the specifics of the distribution of your estate. In your will, you provide for such matters as guardian of minor children. Also, any asset you overlook in lifetime transfers to your trust will be transferred to your trust through your will. (See our brochure, *A Disciple's Will*, for further information.)

Do I need other estate planning documents in addition to my will and living trust?

Yes. In order to complete the estate planning package, you should carry out a durable power of attorney for property matter to handle assets not in your trust. You should also carry out a designation of patient advocate to empower someone to make medical decisions for you when you are unable to do so (See our brochure, *Durable Powers: What are They and Who Needs Them?*, for further information.)

We are here to help you help the Church

The Office of Development would be pleased to assist you in your charitable gift planning prior to your visit with your attorney. We can show you ways to ensure that your goals are met and your legacy is created. Please contact us to discuss your gift to your parish or the Dechant Foundation in the Diocese of Dodge City in your will or other estate planning documents.

This brochure is for your information on living trusts. It is not intended to be legal advice. You should consult with your attorney for the planning and drafting of your living trust agreement and other estate planning documents.

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"We brought
nothing into the
world,
nor have we the
power to take
anything out..."

1 Timothy 6:7

**The
Living
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The powerful
companion to a
Disciple's Will**