

More Questions & Answers

Why should I be concerned about probate costs?

Probate costs are based on the Gross Value of your Probate Estate (before debts, expenses and taxes). Probate can be very expensive. Here are some typical examples:

Probate Estate	Probate Costs
\$100,000	\$5,950
300,000	14,350
500,000	23,683
800,000	35,350
1,000,000	44,683
2,000,000	68,016

What is a Living Trust?

A Living Trust is a legal document that looks a lot like a Will. In fact, it does what most people think a Will does – and much more. It is a method of Estate Planning that has been used effectively (in one form or another) for hundreds of years. It is usually “revocable” and can be changed or even canceled by you at any time during your life, for any reason. It is a “living” trust because it is set up by you during your life. However, although a Will usually guarantees that your assets will go through Probate, a Living Trust allows your assets to avoid Probate.

Do I lose control of property transferred into my Living Trust?

Absolutely not! You keep complete control over your property. As trustee of your Living Trust, you can do everything you could do before – buy, sell, spend or give away your assets.

Can a Living Trust be used to save death taxes?

Yes! A properly drafted Living Trust has the potential under current tax laws to save hundreds of thousands of dollars in Federal and/or State death taxes.

Why is joint ownership not a good way to plan an estate?

Jointly held property may pass to unintended heirs. The order of death cannot be predicted. Usually joint ownership merely postpones the need for Estate Planning to the death of the “second” owner (or if both owners should die at the same time). Joint ownership does not avoid Probate should you become incapacitated during life. There are additional risks. If a joint owner is sued, files for bankruptcy or becomes divorced, the ownership of the jointly-owned assets may be affected. In addition, if you should decide to sell or refinance the property, the consent of the co-owner may be required. Also, transferring property into joint ownership can create unintended capital gains, gift and estate taxes.

What else is typically included in a basic Estate Plan?

Although a Living Trust that is personalized for your needs and is available in a timely manner and at an affordable cost is the cornerstone of most Estate Plans, there are other documents that should also be included in your basic Estate Plan. To prevent yourself from receiving unneeded or unwanted medical care, you should consider a Living Will. Also, to allow another person to make health care or other important decisions for you should you become incapacitated, both a Durable Power of Attorney for Health Care Decisions and a Durable General Power of Attorney should be included in your basic Estate Plan.

**For a Free Initial Consultation,
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Everyone needs a Will or Living Trust

Which One is Right for You?

Peace of Mind comes from knowing that your affairs are in order

You Make the Comparison

What can happen at your death?

No Plan

Probate: Court orders your debts paid and assets distributed according to state law (which may not be what you want). No Ability to make charitable bequests or engage in death tax planning.

Costs: Your estate pays all court costs and legal fees (estimated at up to 6%, or more, of the “gross value” of your estate).

Time: Usually 9 to 12 months; possibly years for larger or more complex estates.

Privacy: None. Probate proceedings are public. The details of your debts, assets and beneficiaries are a matter of public record.

Flexibility and Control: None. Your property is controlled by the Probate process according to state law. Easy for anyone to challenge.

Will

Probate: Normally requires filing an inventory of your assets with the Court and notification to creditors. After waiting period required by law, Court orders debts paid and assets distributed according to the Will. A Will guarantees that your estate goes through Probate.

Costs: Usually the same as with No Plan (could be less).

Time: Usually the same as with No Plan (could be less).

Privacy: Same as with No Plan. Also, the terms of your Will (including the details of your beneficiaries) are a matter of public record.

Flexibility and Control: Limited. Although you can change your Will at any time, it is a matter of public record and can more easily be contested. Your family usually has no control over the Probate process.

Living Trust

No Probate: Your designated successor normally pays your debts and distributes your assets according to the terms of your Living Trust.

Costs: Minimal to none.

Time: Usually a few weeks for smaller estates; possibly a few months for larger estates.

Privacy: Total privacy. A Living Trust is not a public record. The terms of your Living Trust are confidential.

Flexibility and Control: Total. You can change your mind at any time (even revoke your Living Trust). Your property is controlled by the terms of your Living Trust that is very difficult to challenge.

How about if you become incapacitated during your life?

No Plan

No Probate: Court names conservator or guardian who oversees your care and must give records and reports to the Court.

Costs: Your estate pays all court costs, conservator/guardian and legal fees.

Time: Court controls all finances and approves all expenses. Creditors are notified and claims filed.

Privacy: Probate proceedings are public.

Will

No Probate: Same as with No Plan. A Will only speaks at your death and provides no protection during your life.

Costs: Same as with No Plan.

Time: Same as with No Plan.

Privacy: Same as with No Plan.

Living Trust

No Probate: Your designated successor manages your assets for your benefit according to your instructions in your Living Trust.

Costs: Minimal to none.

Time: Your successor may act immediately and without Court approval.

Privacy: Total privacy. A Living Trust is not a public record.

Questions & Answers

What is Estate Planning?

Regardless of the size of your estate, Estate Planning (1) provides for the orderly distribution of your assets at your death (so as to prevent quarrels over your assets and to reduce stress on your family), (2) eliminates the cost, delays and publicity of Probate upon your incapacity or death, (3) provides for minor children or “financially challenged” beneficiaries who may be dependent on you at your death, and (4) protects your assets should you become incapacitated during your lifetime. Of several legal choices, only two, a Will or Living Trust, qualify as true Estate Plans and only the Living Trust avoids Probate.

When is the right time to do Estate Planning?

If you answer “yes” to any of the following questions, now is the right time to do your Estate Planning:

- Are you concerned about who will receive your assets at your death – and whether the distribution can be made in a way that promotes (not destroys) family harmony?
- Have you recently moved, had children or grandchildren, or become married, widowed or divorced?
- Do you want to decide who would take physical custody of your minor children should something happen to you – as opposed to the Probate Court making the decision?
- Have you recently experienced a death or serious illness in your family or placed a family member in a nursing home?
- Do you want to make the decision in advance as to the use of extraordinary medical procedures should you be in a persistent comatose state – as opposed to the governor or attorney general for the state making those decisions?
- Are you considering a vacation or business trip?
- Are you concerned about losing up to 50%, or more, of your assets to Federal and/or State death taxes?
- In the event of your death or disability, will your financial affairs be subject to the costly, public and time-consuming Probate Court process?
- Are you concerned about who will take care of you should you have as disabling injury or illness?