

Have you considered a living trust?

Written by Lawrence Castillo "Perspectives" By Lawrence Castillo Guest Columnist
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"A living trust...is more flexible and more private than a will. It affords you, your assets, and your heirs greater protections should you become incapacitated."- Consumer Reports

Most people understand that a will is an estate management document that takes effect after a person dies.

However, there is also a way to administer your estate and ensure your wishes are followed. A living trust is a fund set up while you are alive to help you plan your estate more efficiently and privately.

A living trust is a legal vehicle used to pass on the assets of an estate, such as property, investments, collectibles, and other assets. It is sometimes chosen by people who want to help their heirs avoid a lengthy and expensive probate process or fear they may become incapacitated later in life.

A living trust provides clear instructions about dividing assets once the original owner passes away.

You can fund a trust using several sources, including:

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Cash and bank accounts

Real estate

Insurance

Intellectual property, including patents, copyrights, and trademarks

Formation of a living trust involves the owner of the assets, called the "grantor," removing his or her name from ownership. Then, the assets are placed into the trust's name. This process is known as funding the trust.

Once funding occurs, the grantor designates a "trustee," charged with ensuring that all the trust provisions execute correctly. A trustee must be carefully selected and could be a relative or close associate of the grantor, or even a reputable third party such as a lawyer, banker, or accountant.

Establishing a trust fund enables the grantor to leave an inheritance to their heirs, also called "beneficiaries." The grantor can even place specific conditions on receiving trust items.

Living trusts come in two different versions: revocable and irrevocable. Revocable trusts tend to be the least complex and most common type. Revocable trusts offer flexibility in that they can be changed or canceled by a grantor.

Advantages of a Living Trust

All living trusts offer some unique estate management advantages. These include:

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Increased privacy.

Unlike wills, living trusts are not public documents. The public cannot get copies of a living trust without permission from the trustee.

Shorter, less expensive probate. With a trust, the trustee can take care of end-of-life issues, like dealing with creditors, more efficiently. The trustee can act immediately, without the need to wait for a probate judge to decide.

The Downsides of a Living Trust

Before deciding to set up a trust, you should recognize that there are potential downsides.

Trusts can be costly: Depending on your circumstances and your goals for a trust, it can be expensive to set up. Some people attempt to set up trusts themselves, using forms or an online platform to avoid this.

You must participate in the process: When a grantor establishes a trust, he or she has the sometimes tedious job of retitling assets. Failing to retitle assets means the trust will not perform to expectations.

Whatever you decide, always use an authorized attorney to prepare your trust. Never use an insurance agent who claims to be working with an attorney; these can be more costly and are frowned upon by the legal community.

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