

Will vs. Living Trust

In this article, we would like to discuss the advantages and disadvantages of a Will vs. a Living Trust. When you pass away, you leave behind an estate composed of your real property, personal property, and other assets. Unless you leave instructions defining how these assets should be divided, the state decides which of your relatives will inherit your property.

Advantages of a Will:

1. Very simple and inexpensive to establish.
2. A large degree of flexibility if you have a spouse, minor children, or others for whom you want to provide financial support after your death. You can name Gleanings for the Hungry and other charities you wish to bless.
3. You can direct your funeral arrangements, how your children should be raised, and to whom your personal assets should be distributed.
4. You may choose to write out your personal testimony to share with your loved ones.

Advantages of a Living Trust:

1. Protects your financial privacy by completely avoiding probate. Only the beneficiaries of a living trust know how much revenue the trust generates, and only the trustee knows the full extent of the trust's assets.
2. Living trusts allow you, the testator, to better handle your assets, investments and interests, control your business interests, and manage your real property during your life. And then you can give this authority to a new trustee after your passing.
3. You can establish a living trust during your lifetime, allowing you to take advantage of these same tax breaks while still alive.

Disadvantages of a Will:

1. All wills must go thru probate.
2. The will becomes public record once filed. This allows the public to access and review the testator's will during and after probate.
3. Probate also opens the possibility for challenges against the validity of the will or your capacity, which possibly can overturn the will and potentially subject the entire estate to intestacy probate.

Disadvantages of a Living Trust:

1. Living trusts are more complex and therefore cost more to establish.
2. Once the trust document is signed, you must transfer your assets into the name of the trust.
3. A Pour-over will should be drafted; assets you may have failed to put in the trust, then go to the trust.
4. Takes more management to have the trust function properly.

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This information is provided for educational purposes only. For legal advice, contact an attorney.