

WILLS vs. LIVING TRUSTS

Issue	Will Plan	Living Trust Plan
What	A Will provides legal instructions for the court that explain how you want your assets distributed at death.	Legal instructions for your family that describe how your assets will be controlled after your incapacity or death.
Who Controls	You nominate a Personal Representative (also known as an executor) to steer your estate through the probate process.	You serve as your own trustee in life and then name a trustee to succeed you after your incapacity or death.
Lifetime Effect	None. A will only takes effect: after death, <i>and</i> when empowered by the court through the probate process.	A trust is effective from the date you create it in life and continues after your death. A trust allows your trustee to make financial decisions upon your incapacity.
Death Administration	A will must be probated at death to have any effect. Probate is a public process that frequently takes years, costs thousands of dollars in fees, and requires the Commissioner of Account's supervision and approval.	Your trustee administers your trust privately at your death when he or she deems it appropriate. Trusts are typically administered in a matter of months. They do not require court supervision or approval.
Costs	A will costs less to create and more to probate at death.	A trust costs more to create and less to administer at death.
Family	Younger families with limited assets often use wills to nominate a guardian for minor children.	Established families use trusts to limit the costs, stress, and chaos of guardianship and probate proceedings.
Net Worth	Smaller estates (less than \$300,000) typically use will plans.	Moderate estates use either wills or trusts, depending on their family situation and personal goals. Larger estates (\$500,000 or more) should use trusts because the costs of probate typically far exceed the cost of creating a trust.
Protection of Heirs	Wills can create testamentary trusts for an heir, but such trusts are subject to probate and cumbersome annual accountings with the Commissioner of Accounts.	Living trusts can protect children of prior marriages, young heirs, heirs in troubled marriages, those who have special needs, and reduce tax exposure.