



Retirement Estate Assets Protection Planning

## Living Trust vs. Will: What's the Difference?



Though it's uncomfortable to think about death, it's crucial to take certain steps to protect your assets before that time comes. Living trusts and wills are two estate planning options designed specifically to help you prepare for the inevitable. While one focuses largely on the management of your assets during life and after death, the other covers your medical preferences in the event of incapacitation. So how do you make the living trust vs. will choice?

Choosing either or both of these options can make life significantly easier for you and your loved ones. Below, we take a closer look at the similarities and differences between living trusts and living wills. Ultimately, you may end up wanting both.

## What is a Living Trust?

A living trust is a legal entity that allows an individual to place his or her assets under the management of a trustee. The trust's ownership can either lie under the management of the individual or someone of his or her choosing. In other words, the trustee is either someone the trust maker appoints or the actual trust maker. It's important to note that the trustee typically has a fiduciary duty to protect the trust maker's assets. In addition, the trust can also have multiple named beneficiaries. These are people whom the trust maker gives access to their assets.

Now that we understand what living trusts are, let's explore the two different types. When opening a living trust, you can decide whether you want it to be **revocable** or **irrevocable**. A revocable living trust allows you to retain full control over and cancel the trust whenever you choose. The irrevocable living trust, on the other hand, blocks you from cancelling it.

While largely opened for during an individual's lifetime, a living trust can also continue to be enforceable after its maker's death. However, it won't continue if the trust maker decides to have it terminated at a specific date. Furthermore, if for some reason you're unable to maintain the trust, you'll have the option of choosing a successor trustee. A successor trustee manages the trust in your place. Successor trustees are also responsible for distributing the trust's funds to your beneficiaries, following your death. Therefore, the fate of your trust will ultimately depend on your wishes.

But what assets can you transfer into a trust?

You can make instructions about the succession of real estate, bank accounts, stocks and even life insurance under a living trust. Some assets, however, cannot be transferred to a trust, and others may require you to issue a new title under the trust's name.

The method for setting up a living trusts depends on what state you do it in. The process in Iowa won't be the same as in Ohio, Georgia or California.

## What is a Will?

A living will is a legal agreement that allows you to describe the medical procedures you'd like doctors to take while you're in critical health. It acts to ensure that your wishes will be met on the occasion where you become incapacitated or medically unable to voice and make decisions for yourself.

But what conditions call for such a legal right? Comatose, seriously injured and terminally ill individuals stand to benefit from a will. Living wills essentially give you the power to control which procedures you'll undergo beforehand. They also determine whether you want resuscitation, tube feeding or life support procedures. Additionally, living wills will permit you to specify matters like guardianship for your children, organ donation wishes and personal hygiene requests.

However, it's important to note that a living will differs from a last will. A last will gives you the power to decide what happens to your estate and assets following your death. The living will, on the other hand, strictly details your wishes regarding medical incapacitation.

Finally, if you'd rather have someone other than doctors carry out your will, you can sign a power of attorney (POA) document. A POA gives a specific person the authority to execute your living will. Once you choose a representative, they'll be responsible for communicating the exact preferences of your will to doctors and family members.

## Living Trust vs. Will: What Are the Differences?



Now that we've established the living trust vs. will comparison, you might be wondering how the two differ. While both living wills and trusts carry out your preferences, whether they're financial or medical, the two estate planning options diverge in the purposes they serve.

A living trust enables you to place certain assets under the management of a trustee. The assets in the trust are protected during the owner's lifetime and then transferred to their beneficiaries

if that's what they desire. A living will, however, honors your medical wishes if you become incapacitated. It's your legal assurance that both medical professionals and family members will follow your wishes when you're unable to communicate them.

## Similarities Between Living Trusts and Wills

In the living trust vs. will comparison, it's clear they both protect you in the unfortunate circumstance of mental incapacitation or death. While a "living will" honors your medical wishes, a "living trust" honors your financial wishes. Your successor trustee will manage your assets if you're unable to, and a POA or family members will carry out your medical preferences. The key relation, then, is that both protect you if you're unable to protect yourself.

## Who Should get a Living Trust?

When it comes to living trusts, you ultimately determine whether you need extra protection for your assets. Living trusts provide an extra layer of security for assets like real estate, bank accounts and mutual funds, so it'd be best to measure whether or not your assets would benefit from such a fund.

Furthermore, a living trust can be a safety net in situations of illness and incapacitation. If you aren't able to manage your trust's money, your trustee will be able to oversee it in your absence. This will prevent the courts from hiring someone to manage your estate. Living trusts also allow you to leave your assets to your children if you so desire.

## Who Should get a Living Will?

You should get a living will if you feel you will be unable to communicate your medical wishes. This allows you to determine the exact procedures you want done in situations of terminal illness and critical health. If you don't establish a living will, doctors will make the decisions that they feel best suit your medical condition. These may not represent your medical preferences. As such, it's important that you specifically list your wishes in the will. The "living will" ultimately provides medical professionals and family members with a set plan on how to progress in the event of your incapacitation.

## Bottom Line



In the living trust vs. will decision, it's important to recognize both are helpful documents that ultimately fulfill your financial and medical wishes. The two estate planning options are signed during your lifetime, but both also protect you and your loved ones after death. If you'd like extra security for certain assets, a living trust may be a solid choice for you. If you become terminally ill or incapacitated, a "living will" is a good precursor to having your medical wishes upheld. Nonetheless, whether you choose one or both, the financial stability of both you and your loved ones is what's most important.

## Tips for Managing Your Money

- **Make a Plan:** When considering the living trust vs. will match-up, don't avoid planning altogether. It's important to identify where you are financially and whether a living trust is necessary. A "living will" takes weight off the shoulders of family members, because it lists your specific medical wishes. While both options aid those who succeed you, remember to assess your situation and whether either plan is reasonable.
- **Seek Professional Help:** You may not be where to begin in setting up a living trust or will. In that case, consider meeting with a financial advisor. Financial advisors can help you map out your financial situation and determine the steps you should make moving forward.

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Pat Baxter  
REAP Legacy, Inc.  
1901 Harrison Street, Suite 1100  
Oakland, CA 94612  
510-409-0086  
[pat@reaplegacy.com](mailto:pat@reaplegacy.com)  
<http://www.reaplegacy.com>