

Understanding Living Trusts

- **How They Work**
- **How They Avoid Probate**
- **How They Save Taxes**

What is a Living Trust?

A living trust is a very flexible document for your estate planning and may save money at the same time. The living trust provides a vehicle of ownership that manages your property if you become incapacitated and distributes it on your death, all without probate.

Checkett & Pauly will draft a trust agreement for you to sign. This agreement will name you as trustee and will name you as the present or "life" beneficiary and your heirs as future beneficiaries. In addition, it will contain terms directing the future trustee as to how you want the property managed in case of your incapacity or death.

Title to each of your assets will be changed from your name to the name of the trust. Deeds will have to be executed and filed. Once this is accomplished, you no longer own the property in the legal sense. When you die-because you have transferred all of your assets to the trust-there will be no estate to probate. However, the trust will still exist, and the trustee must execute your directions for distributing the property.

Remember, you created the trust, you control the trust, and you can always amend or revoke the trust.

Do I lose control of the assets in my trust?

Absolutely not. You keep full control. As trustee of your trust, you can do anything you could do before-buy/sell assets and change or even cancel your trust (that's why it's called a revocable living trust). You even file the same tax returns. Nothing changes but the names on the titles.

Is it hard to transfer assets into my trust?

No, and Checkett & Pauly will help and guide you every step of the way. We must change titles on real estate (in and out of state) and titled assets (stocks, CDs, bank accounts, other investments, insurance, etc.), as well as your jewelry, furniture, and personal effects. Also, beneficiary designations on some assets like life insurance may be changed to your trust so the trust controls them if a beneficiary is incapacitated or no longer living when you die. (IRA, 401(k), etc., can be exceptions which we will talk about.)

Is a living trust expensive?

Not when compared to all the costs of court interference at incapacity and death. How much you pay will depend on how complicated your plan is. We will give you a fee estimate.

Is a "living will" the same as a living trust?

No. A living trust is for financial affairs. A living will is for medical affairs-it lets others know how you feel about life support in terminal situations. Checkett & Pauly has a videotape on living wills available to all clients at no charge.

Can a living trust save on estate taxes?

Absolutely, but only in tandem with an estate plan designed to avoid tax as well as probate. If you die and the net value of your estate is more than \$5,000,000, federal estate taxes must be paid. If married, your living trust can include a provision that will let you and your spouse leave up to \$10 million estate tax free. But in order for you to avoid estate tax, a very technical trust must be prepared - one for each spouse - --and your assets divided between the trusts. This is a sophisticated estate plan but one that may save your family many thousands of dollars.

Who should have a living trust?

Age, marital status and wealth don't really matter. If you own titled assets and want your loved ones (spouse, children or parents) to avoid probate interference at your death or incapacity, consider a living trust. Benefits of a Living Trust:

- Avoids probate at death and eliminates multiple probates if you own property in other states
- Prevents court control of assets at incapacity
- Brings all your assets together under one plan
- Provides maximum privacy
- Allows quicker distribution of assets to beneficiaries on death
- Assets can remain in trust until you want beneficiaries to inherit
- Can reduce or eliminate estate taxes
- Inexpensive, easy to set up and maintain
- Can be changed or canceled at any time
- Difficult to contest
- Prevents court control of minors' inheritances
- Can protect dependents with special needs
- Prevents unintentional disinheritance and other problems of joint ownership
- Allows professional management if desired
- Knowing you have done your best to protect your family