



Trusts • Estates • Asset Protection

Planning for the known. Protecting from the unknown.

12 Reasons to Do a Revocable Living Trust

In Arizona, if you own a home or other assets worth more than \$75,000, the **Revocable Living Trust** is by far the preferred estate planning vehicle. The Living Trust has all but replaced the Will as a better way to do estate planning, and here are a few reasons why:

- #1 **AVOID PROBATE:** Under current Arizona law, if your estate is worth more than \$75,000 (or \$100,000 in real estate) your estate is subject to probate. Probate in Arizona is a slow (at least a year, but oftentimes much longer), expensive and public process. With a Living Trust, the Successor Trustee who *you* appoint steps in immediately and distributes the estate according to your directions. There are no time waiting requirements and minimal expenses in the average estate.
- #2 **PROTECTION DURING INCAPACITY:** Without a Living Trust, there are two options if you become incapacitated and can no longer manage your finances. One alternative is a formal, public hearing to determine your incompetency and appoint a conservator. Aside from being distasteful, this proceeding is costly and requires annual accountings through the Court. The second alternative is to rely on a “Durable General Power of Attorney.” Unfortunately, banks and financial institutions will often bend over backwards to *not* honor a power of attorney. A far better option is the Living Trust where you designate a Successor Trustee who steps in your shoes during incapacity, pays your bills and keeps things going for you, but your Trustee cannot use the trust assets for anyone but you. This one feature alone justifies having a Living Trust. Don’t leave your family “in a pickle” because of your failure to plan properly for the future.
- #3 **CONTROL:** As Trustee of your own trust, you retain full and complete control over all your assets. Even if you are incapacitated, no one can spend the trust assets for anyone but you. Your family has no access to the trust assets so long as you are living and healthy. Also, since you reserve the power to amend or revoke the trust, you may easily amend your trust to conform to changing needs and circumstances as they arise.
- #4 **PROTECT YOUR CHILDREN’S INHERITANCE FROM CREDITORS, LAWSUITS AND EX-SPOUSES:** After parents pass away, inheritances are oftentimes squandered by a child’s creditors, ex-spouse, bankruptcy, lawsuit or reckless spending. You can design your Living Trust so that your hard-earned assets are kept safe from these “unintended beneficiaries” who may be looking to get their hands on the money after you pass away. Also, the trust can protect your beneficiaries from their own irresponsible behavior such as financial recklessness, drug or alcohol addictions, etc.

- #5 PROTECTING ASSETS FROM SECOND MARRIAGES:** A simple Will or owning assets “with right of survivorship” with your spouse often causes problems after the first spouse dies. Without a well-designed Living Trust, the surviving spouse may re-marry and can redirect family assets in favor of the new spouse or others in a way that was never intended. With a Living Trust, you and your spouse can make sure that your assets are available to meet the needs of the survivor, yet at the same time preserve the remaining assets for your children.
- #6 PLANNED GIVING TO CHILDREN:** With a Living Trust, you can direct your Successor Trustee to hold your assets “in trust” after you die and make payments to your children (or their guardian) only for specified purposes (e.g., education and health expenses) or only when they reach a certain age. Many of my clients direct their Successor Trustee to “sprinkle” distributions to their children over time so that the children do not receive their inheritance all at once, thereby encouraging thrift and self-reliance.
- #7 PRIVACY:** Unlike a Will which requires probate, your estate is not a matter of public record. Your estate remains private and is handled only by those whom you have selected.
- #8 EFFECTIVE IN OTHER STATES:** If you own properties in States other than Arizona, your Living Trust will control those properties as well, thus avoiding probate proceedings in each state where you own property. If you move to another State, your trust will “follow you there.”
- #9 PROTECTION FROM LEGAL CHALLENGE:** Disgruntled relatives may try to contest a Will on grounds such as “undue influence” or “mental incompetence.” These types of attacks are much more difficult to prove when you create a revocable Living Trust well before you pass away.
- #10 CHOICE OF TRUSTEE:** Any person may serve as Successor Trustee of your Living Trust, regardless of their relationship to you or place of residence. You can also select a professional trustee to manage the estate after your death.
- #11 COORDINATED DISTRIBUTION OF ASSETS:** With assets properly titled and directed (including life insurance, pension and retirement plans, etc.) all your assets will “pour over” into your trust upon your death, permitting centralized control over their investment and distribution. Without a trust, different assets may be distributed at different times, causing inequities and delays which you did not attend.
- #12 PEACE OF MIND:** The comment we most often hear as clients leave our office after executing a Living Trust is “Why didn’t we do this years ago? It feels so good knowing everything is in order!”

And it should feel good. You have performed one of the kindest acts for your family and for yourself possible. What a good feeling it is to know that in the event of your death or incapacity (times wrought with emotion and tender feelings), you have spared your family the inconvenience, the time and the expense connected with handling your affairs through the Arizona court system.



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