

ESTATE PLANNING: WILL VS. TRUST

At GuideStone®, we believe estate planning is a key component to the legacy you leave your loved ones.

Both a will and a trust allow you to name beneficiaries and distribute assets upon your passing, but understanding the differences will help you pick the best strategy for you and your family's future.



WILL VS. TRUST



What is a will?

A *Last Will and Testament* (will) is filed with a probate court and directs how your executor should disburse your remaining assets that are not already assigned to a beneficiary. A will only takes effect when you pass away.

 **Did you know?** Updating your will doesn't change the beneficiaries on your retirement plan, investments or bank accounts. That's right! A will only applies to assets that don't already have a beneficiary listed. Any accounts that list beneficiaries other than your "estate" will be distributed to them directly and bypass the probate process which may not ultimately align with your wishes. That's why it's important to check your accounts and ensure your beneficiary designation(s) are up to date.

What is a trust?

A trust is an entity with an assigned tax ID number that can own bank accounts, investments, real estate and other assets. It is managed by a trustee for the benefit of the named beneficiaries in the trust. If established properly, a trust can also help you avoid probate and reduce estate taxes.

 **What does it mean to "fund a trust?"** Funding a trust is the process of retitling assets to be owned by the trust. For example, you might file a new deed to transfer the ownership of your home to the trust.

How are wills and living trusts different?

	WILL	LIVING TRUST*
Designates beneficiaries	Yes	Yes
Avoids probate	No	Yes
Avoids estate tax	No	Yes, for certain trust types
Takes effect	At death	While you are alive
Names a guardian for minors	Yes	No
Can outline end-of-life care	Yes	No
Privacy	Becomes a public record when filed with the probate court	Not filed with the probate court and can be kept private
Cost	A will is more basic and is typically less expensive	A trust allows more complexity and is typically more expensive

*A living trust is the most common type of trust. A living trust means that the trust is effective while you are still living, as opposed to a testamentary trust that does not become effective until you pass away.

WILL VS. TRUST



Which one is better for me?

For many, a will is sufficient to clarify how to handle any remaining property and assets that don't already have a beneficiary assigned.

You may consider a trust if:

- You want to avoid probate.**
Some states are more expensive to probate a will.
- You have a large net worth and want to avoid estate taxes.**
An irrevocable trust may be a solution for you.
- You have more complex wishes regarding beneficiaries and asset distribution.**
- You have a beneficiary with special needs.**
- You have property in more than one state.**
This can complicate the probate process.
- Your estate plan contains a significant percentage of charitable giving.**

 **Did you know?** It's still a good idea to create a will even if you choose to establish a trust. In this case, it's typically a **pour-over will**, instructing the probate court to assign any remaining assets to the trust that weren't already owned by it. If you have minor children, a will establishes guardianship, whereas a trust does not.

COMMON QUESTIONS



1.

How often should I update my will or trust?

It's important to periodically review your estate plan, especially when you have major life events such as:

- Marriage or divorce
- Addition of a child
- Death of a beneficiary
- Moving to a new state
- Acquisition of new property/assets
- Change in health condition
- Starting a business

2.

If I create a trust, will I avoid probate?

Not necessarily. Many folks who create a trust fail to take the next step of retitling the applicable assets in the name of the trust. This is called "funding the trust". Even when done properly, it's easy to forget about it when they open a new bank account or purchase a new home or car. Those assets fall outside of the trust and must go through probate anyway.

Probate happens when the inheritance not already assigned to a beneficiary is over the state's limit.

3.

Should the will serve as a beneficiary of my retirement plan?

Directing all assets to your estate through your will may offer more simplicity and consistency across the various assets and accounts. However, distributing tax-sheltered assets like retirement plans to your estate is typically taxable upon receipt if the beneficiaries are individuals. The taxes can be rather significant. If you decide to direct all assets to your estate, you will write "my estate" as your beneficiary (typically secondary behind the spouse).

Instead of directing all assets to your estate, another option that may be more tax-advantageous would be **specifically designating** the individuals and charities as beneficiaries on your accounts. Accounts inherited by individuals can withdraw the funds (and pay taxes) over time as opposed to all upfront.

4.

Should the trust serve as a beneficiary of my retirement plan?

If you decide the trust will serve as a beneficiary, the trust must be set up properly to:

- Hold a retirement plan
- Receive a favorable tax rate
- Allow for an extended Required Minimum Distribution (RMD) schedule

This type of trust is commonly known as a **conduit trust**, which contains a **look-through provision**.

When designating a trust as beneficiary, it's common to see the spouse listed as the primary beneficiary and the trust as secondary.

Unless there are unique controls established within the trust (e.g., minors or people with disabilities who need limited access as beneficiaries), consider designating the beneficiaries directly on the account(s) as opposed to the trust.

5.

What if I want a certain percentage of my estate to go to a charity (e.g., 10% to a church or nonprofit)?

Your net worth and account balances change over time. Writing this in your will only ensures that a specific percentage of your estate subject to probate goes to charity. Simply creating a will is insufficient. You need to update your beneficiary designations on all applicable accounts. In this case, you would write "my estate" as the beneficiary (typically secondary behind the spouse).

If your net worth includes tax-sheltered assets like a retirement plan, consider using specific language to ensure the charitable portion is funded with those assets (e.g., "funded first from my 401(k)"). Donating a pre-tax retirement plan is more tax advantageous than donating after-tax assets.

Alternatively, consider writing the charity into your actual beneficiary designation. This ensures that the donation comes from the most tax-advantageous asset. You will need to review the percentage designated to the charity periodically because the account balance will change over time.

6.

Will my primary beneficiary need to update beneficiaries when he or she inherits the account?

Yes. It's a common misconception that your secondary beneficiaries become primary beneficiaries on the new owners' accounts. The new owner(s) will need to designate beneficiaries, and this does not have to be the original secondary beneficiaries. If you are concerned that they may not designate beneficiaries in line with your wishes, consider designating a trust as your primary beneficiary and writing the trust to properly care for the person you would have otherwise designated as a primary beneficiary.

7.

What is Estate Tax and how do I avoid paying it?

Estate tax is an additional tax on the transfer of wealth when someone passes away. This additional tax only applies to those transferring a significantly large estate. Simply creating a will or living trust does not exempt you from estate tax. Please contact your advisor to determine if estate tax may be applicable to you.



QUESTIONS?



To review your estate planning options, contact your GuideStone advisor. If you don't have an advisor, email GuideStoneAdvisors@GuideStone.org for information.

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