

WILLS *vs* TRUSTS

Which One Makes Sense For You?

You know you need to make arrangements, but knowing which to do can be confusing. Should you create a will or establish a trust? To help, we’ve listed out the benefits of each below. When you know what’s right for you, or should you have additional questions, reach out to Siedentopf Law for assistance.

wills

trusts

No extra steps! A will automatically applies to all probate assets without any further steps, whereas a trust is essentially an empty box and property must be transferred into it.

Private! Anything filed in probate court, such as a will, is public record. Trusts are not public record and can keep your assets and instructions private.

Gets to the point. Simpler, shorter, and easier to understand. Boom.

Avoids probate. This is especially key if you own property in more than one state and would be doing probate in multiple states. Trusts allow property to be administered and distributed without the oversight of the court.

No ongoing maintenance. A will, once created, does not require additional maintenance other than the occasional update should life circumstances change. Trusts require maintenance and paperwork to transfer assets into them.

Provides for ill health of the grantor. A trust sets up a backup trustee who can manage assets. This can help avoid the need for guardianship and conservatorship and keep management of assets running smoothly.

Can appoint a guardian for minor children. Trusts cannot do this, they can only appoint a trustee to deal with assets for the children’s benefit.

Allows for more continuing control over assets. With a trust you decide who receives assets, on what schedule and under what circumstances. It also allows you to specify what or who your assets should not be used for or given to.

Can contain a trust inside it. Sometimes the benefits of a trust are needed while the ease of a will is desirable for children or to make sure assets get transferred. Wills can contain trusts that don’t come into being until the grantor dies.

Tax benefits for very large estates. A trust can contain complex tax planning provisions that may benefit estates which may be subject to the estate tax.

No other paperwork is needed to transfer assets if you have a will. If you have a trust and have children, you will still need a will to appoint a guardian for them, as well as a “pour over” will to ensure any assets inadvertently left out of your trust are covered.

Special needs recipients can maintain eligibility for government benefits. If the appropriate instructions are included in the trust, assets can be used for the benefit of beneficiaries without making them lose their eligibility for means tested government benefits.

Less expensive to create. Wills cost less than trusts to draft.

Creditor protection. Trusts can be structured in such a way that it is very difficult, if not impossible, for creditors of your beneficiaries (including ex-spouses) to access the trust funds.

Wills vs Trusts

Wills

Have Children

No Ongoing Maintenance

No Additional Documents
Required

Less Expensive

Trusts

More Privacy

Avoids Probate

More Continuing
Control

Tax Benefits for Very
Large Estates

Creditor Protection

Special
Needs
Family

Out of
State
Properties