WILLS AND LIVING TRUSTS

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Why You Need a Will

Two out of every three Americans die *intestate*, that is, without a will. If you do not have a will when you die, the law of your state may then determine what happens to your estate, your assets and any minor children. In addition, the state process is usually governed by a probate court, which is often slow, sometimes expensive, and open to the public. Although many individuals find it difficult to think or talk about having a will, it is an important and necessary planning.

Basically, a will is a legal document that transfers what you own to your beneficiaries. Establishing a will is a relatively easy process, depending on your individual circumstances. You should consult with your lawyer regarding your will.

There are several life occurrences when it's a good time to make or revise a will. You should have a will when you get married, and have it reviewed when you purchase a home, have children or acquire sizable assets.

However, a will usually must go through the probate process, and the decedent's estate pays all related legal costs, which often totals between 3-8% of the estate. As your estate grows and you seek greater control over your property and an effective estate planning strategy, you may want to consider an alternative to a will—a living trust.

When a Will Won't Do, Consider a Living Trust

If you would rather avoid probate and possibly reduce probate-associated costs or, if you'd like to keep your family business private and not open to the public, a living trust is another way to transfer wealth effectively to your heirs. Also known as a *revocable inter vivos trust*, a living trust is a legal device, created by you during your lifetime and which holds property for the benefit of named beneficiaries. The living trust document includes instructions—as outlined by you—for the property's management and distribution upon your incapacity or death.

The table below illustrates some of the differences between a will and a living trust.

	Wills	**Living Trusts**
Avoids probate?	No. The court orders payment of debts and distribution according to instructions in your will.	Yes. Based on written instructions, trustee pays debts and distributes assets to beneficiaries immediately.

Legal costs?	Yes. The estate pays all court and legal fees, which can total up to 3-8% of estate.	No. There are no court or legal fees. (However, there may be legal fees for setting up the trust.)
Timely?	No. Processing can take up to two years.	Yes. Immediate payment to beneficiaries.
Contestable?	Yes.	Yes, but difficult to do successfully.
Flexible?	Somewhat. Wills may be changed at any time.	Depends. Revocable trusts can be changed or discontinued at any time; Irrevocable trusts usually cannot.
Privacy?	No. Probate is a matter of public record.	Yes. Trusts are not part of public record.

It's never too early to consult your financial adviser, attorney and tax professional to begin planning for the future. Plans laid today can help ensure that, in the event of your death, minor children would be provided for and your assets would be distributed to your heirs according to your wishes.

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