



## Will vs. Trust: Know the Difference



Wills and trusts are common documents used in estate planning. While each can help in the distribution of assets at death, there are important differences between the two.

**What Is a Will?** A last will and testament is a legal document that lets you direct how your property will be dispersed (among other things) when you die. It becomes effective only after your death. It also allows you to name a personal representative (executor) as the legal representative who will carry out your wishes.

**What Is a Trust?** A trust is a legal relationship in which you, the grantor or trustor, set up a trust, which holds property managed by a trustee for the benefit of another, the beneficiary. A revocable living trust is the type of trust used most often as part of a basic estate plan. "Revocable" means you can make changes to the trust or even revoke it at any time.

A living trust is created while you're living and takes effect immediately. You may transfer title or ownership of assets, such as a house, boat, automobile, jewelry, or investments, to the trust. You can add assets to the trust and remove assets thereafter.

**How Do They Compare?** While both a will and a revocable living trust enable you to direct the distribution of your assets and property to your beneficiaries at your death, there are several differences between these documents. Here are some important ones.

1. A will generally requires probate, which is a public process that may be time-consuming and expensive. A trust may avoid the probate process.
2. A will can only control the disposition of assets that you own at your death, including property you held as tenancy in common.



## Different Documents, Different Features

Even if you have a revocable living trust, you should have a will to control assets not captured in the trust.

Features	Will	Revocable living trust
Control distribution of assets	Yes	Yes
Assets included	Only probate assets	Assets transferred to the trust
Effective date	At death	Immediately
Avoid probate	No	Yes*
Public record	Yes	No*
Creditors' claims	Limited time to file claims	Claims may be made at any time
Avoid estate taxes	No	No
Appoint guardian for minor-age children	Yes	No

\*Depends on applicable state laws.

It cannot govern the distribution of assets that pass directly to a beneficiary by contract (such as life insurance, annuities, and employer retirement plans) or by law (such as property held in joint tenancy).

3. Your revocable trust can only control the distribution of assets held by the trust. This means you must transfer assets to your revocable trust while you're living, which may be a costly, complicated, and tedious process.

4. Unlike a will, a trust may be used to manage your financial affairs if you become incapacitated.

5. If you own real estate or hold property in more than one state, your will would have to be filed for probate in each state where you own property or assets. Generally, this is not necessary with a revocable living trust.

6. A trust can be used to manage and administer assets you leave to minor children or dependents after your death.

7. In a will, you can name a guardian for minor children or dependents, which you cannot do with a trust.

Generally, most estate plans that use a revocable trust also include a will to handle the distribution of assets not included in the trust and to name a guardian for minor children. In any case, there are costs and expenses associated with the creation and ongoing maintenance of these documents. Keep in mind that wills and trusts are legal documents generally governed by state law, which may differ from one state to the next. You should consider the counsel of an experienced estate planning professional and your legal and tax advisers before implementing a trust strategy.