



# Living Trust-Based Estate Planning 101

Bryan D. Eisenbise, JD, MBA, LLM(Tax)  
Owner and Principal Attorney, Living Trust Law Group

---

## WHAT IS A LIVING TRUST?

At its most fundamental, a living trust is a document that accomplishes four objectives:

1. To appoint others to manage your affairs should you be unable to do so yourself (e.g., dementia, coma, etc.).
2. To declare how you want your assets to be distributed after your death.
3. To simplify everything for your family after your death (i.e., avoid "probate").
4. To avoid any unnecessary taxes on your assets and family upon your death.

## WHAT IS "PROBATE" AND WHY DO I WANT TO AVOID IT?

Unless you make alternative arrangements, your family (or other beneficiaries) will have to petition the Court to receive their inheritances. The ensuing process is called "Probate." The consensus is that one wants to avoid Probate because it can cost up to 8% of the value of your assets and can take two or more years to complete.

## HOW DO I AVOID PROBATE?

Contrary to common belief, *creating a last will and testament does not avoid Probate.* Although it is not the only way to avoid Probate, creating a living trust is by far the most common way of doing so.

## WHAT IS A LIVING TRUST AND HOW DOES IT WORK?

A living trust is a document that is created by you to which declares your wishes as they relate to two general areas: 1) Who will be handling your affairs should you become incapacitated or deceased, and 2) How do you want your assets distributed to your family (or other beneficiaries) after your death.

Just like you are the only one who controls your assets now, you begin as the only one in charge of your trust upon creating it. The title of the person in charge of a trust is "Trustee." When you become incapacitated or deceased, a new trustee (whom you have chosen beforehand) takes over. This successor trustee can be a family member, friend, or anyone else you choose.

In a situation where you are incapacitated, the trustee is managing your assets for your continued benefit (i.e., making sure your bills are getting paid and that your finances are

in order). Upon your death, the trustee wraps up your final affairs and distributes your assets to your beneficiaries in the manner that you dictate in your living trust.

## WHAT ELSE DO I NEED IN ADDITION TO A LIVING TRUST?

Although the living trust is the most important document, there are others that you create at the same time you create your living trust. These documents are collectively referred to as a "Living Trust Bundle" or "Estate Plan" and consist of the following:

- Revocable Living Trust. As mentioned above, the living trust is the core component of an estate plan. It allows you to appoint others to handle your affairs should you be unable to do so and distribute your assets upon your death.
- Power of Attorney. The power of attorney allows you to appoint others to manage your other personal affairs should you be unable. Given the similarity of responsibilities, these agents are usually also the successor trustees.
- Advance Health Care Directive. Like the power of attorney, the advance health care directive appoints agents to act on your behalf, but solely relating to medical decisions. It used to be called a "living will" or "medical power of attorney."
- Last Will and Testament (Pourover Will). The trust is going to handle everything upon your death, but we also include a will as a back-up to the trust. If you have any minor children, the will is the document where guardians are appointed.
- Other Documents. Other documents exist to support the four primary documents above. These documents include (but are not limited to) the "General Assignment/Declaration of Trust," "HIPAA Authorization," "Certification of Trust," "Assignment of Personal Property," and "Quitclaim Deed."

## HOW DO I CREATE MY LIVING TRUST AND OTHER ESTATE PLANNING DOCUMENTS?

Although they are all individual documents, everything mentioned above is almost always created together in conjunction with one another. In other words, it is not common to create a living trust without also creating a power of attorney, etc.

I go into further detail of our specific process below in the section titled, "Working with Us" but generally speaking, the process begins with you providing information about yourself, your family, and your personal estate planning decisions.

Once that information is confirmed, the attorney drafts the documents and reviews them with the client. Once everything is in good order, the documents are signed and notarized.

## **CAN I CHANGE MY LIVING TRUST OR OTHER DOCUMENTS?**

Absolutely. However, changes do not occur as often as many people think. If you sell your home, purchase additional real estate, or move your assets around, you do not need to change your living trust. You only need to change your living trust if you change your mind about one of your decisions (e.g., adding a beneficiary).

To change a living trust requires a "Trust Amendment," which is a separate document that is attached to the living trust. For pricing information, please see the section below entitled, "Working with Us." To change other estate planning documents, it is often less expensive to simply create a new one.

## **DOES MY LIVING TRUST AND OTHER DOCUMENTS NEED TO BE UPDATED?**

Living trusts are very resilient and do not need to be updated to remain in full force and effect. In other words, living trusts don't "expire" simply because they were created a long time ago.

However, certain changes in the law might create an opportunity that can't be taken advantage of without making a change to your trust. For example, there might be a new type of insulation invented that could keep your house cooler in the Summer. To take advantage of this new technology, you would need to replace your old insulation. However, if you chose to do nothing, your existing insulation would still be just fine.

## **WHAT DOES IT MEAN TO "FUND" MY TRUST? DO I REALLY NEED TO TRANSFER MY ASSETS TO MY TRUST?**

I often use the analogy of a basket and that when you create a living trust you are essentially creating a basket in which you can place your assets. For the provisions of the trust to apply to any given asset, that asset would need to be placed in the "basket." The process of placing your assets in your trust is referred to as "Trust Funding."

Funding your trust sounds more intimidating than it really is. It takes place once your living trust is created and if you work with us, we guide you through the process and provide you plenty of information and even a checklist.

Although we will discuss the specific logistics of funding your trust, below are a few quick examples that show how easy the process is:

- For any bank or brokerage accounts, you would simply notify the institution that you created a living trust. They will update your accounts to reflect this.
- For any retirement accounts, you would update the beneficiary designation to reflect your living trust as the beneficiary (after your spouse).
- For any real estate, you would record a quitclaim deed showing a transfer to yourself, but in the name of the trust (we take care of this for you). Note that this is not a formal “transfer” and has no impact on your property taxes or mortgage.

However, the information in this section is not universally applicable advice. Every situation is different, and it may make sense to not place an asset in your living trust to accomplish your objectives.

## WORKING WITH US

I have built my practice focused solely on providing high-quality affordable living trust bundles through a simple and painless process. Below are a few ways we do that:

- We have a Client Service Coordinator who is in communication with you at every step to walk you through the process.
- Our engagement agreement is one page and can be signed online right in your email inbox. Payment is also handled online (through any form of payment).
- Our information gathering process does not involve us sending you a lengthy intake form to fill out. In fact, we schedule a phone call (or Zoom) to simply talk about your estate planning decisions while we take notes.
- We have a first draft and summary (and a 5-minute personalized video reviewing the draft) ready within about a week.
- When the final draft is approved by you, we print it out, put everything in a 3-ring binder with tabs and reference materials and send it to you for your signature. We also have a video walking you through where to sign but are also available by phone or Zoom.
- Every client is entitled to free, unlimited lifetime consultations and questions to make sure you feel comfortable with the work we have done for you.

- Although we are unable to standardize our fees for all clients, we will be able to quote you an exact flat fee prior to us beginning any work. And we guarantee our fee to be the lowest you will find for the service we provide.
- Our many Google and Avvo reviews speak for themselves. But the most common reaction we get from our clients is that the process is surprisingly simple and fast.

## WHAT ARE THE NEXT STEPS?

The next step is a simple one: Set up a free one-on-one consultation (via phone or Zoom) with me. You can do so clicking on the link in the email that this document was attached to or by visiting our website at [www.LivingTrustLawGroup.com](http://www.LivingTrustLawGroup.com).

The consultation will be an incredibly valuable experience whether you are ready to move forward or not, as my primary objective will be to answer all of your questions and address what it is that prompted you to look into creating an estate plan in the first place.

If you want to move forward at the end of the consultation, we will look at our calendars together and schedule your next Information Gathering Meeting (with no payment required at that time).

If you simply want to get started, just email me a few times that work for you to schedule your Information Gathering Meeting and we can jump right in!

## SOME CONCLUDING THOUGHTS

I'm here to help! Let me know if you have any questions or if there is anything I can do for you. I will be periodically sending you additional information you should find very helpful. This is my personal email so feel free to respond and I'll get back to you as soon as I can.



*Bryan D. Eisenbise, JD, MBA, LLM(Tax) is the owner and principal attorney at Living Trust Law Group. He has dedicated his 14-year career to helping individuals and families finally get their living trust and other estate planning documents done quickly, easily, and affordably.*

*Bryan earned his BA from Cal State Fullerton in Business Management, his MBA and JD from Texas Tech School of Business and School of Law, and his LLM(Tax) from Chapman University School of Law. Bryan is a member of the State Bar of California (#252817) and is admitted to practice before the Supreme Court of California and the Federal District Court in California.*

*Bryan is a proud 4th-generation Southern Californian and resides in South Orange County with his wife and three children.*

Bryan@LivingTrustLawGroup.com · P: 1-866-644-1869  
[www.LivingTrustLawGroup.com](http://www.LivingTrustLawGroup.com)