

Wills vs. Revocable Living Trusts

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A Last Will and Testament is the most common document used for giving away possessions after death, but it is quickly decreasing in popularity in favor of the Revocable Living Trust. The traditional Will is a writing that instructs a probate court on distributing your assets after all of your bills are paid. Which heirs get which items or what percentage of the estate, when it goes to them, and how taxes are handled are explained in a properly drafted Will. It can also include legally binding instructions on the desired type of funeral service and burial you want, list the people you want to administer your estate, name those you want to take custody of minor children, and outline any age restrictions on the people receiving bequests.

A Will can also provide some of the benefits a Revocable Living Trust does, such as establishing a credit shelter trust to save on estate taxes and restricting property to heirs. Overall, a Will is better than nothing, but it is not nearly as versatile or complete as a Living Trust. In general, people that chose to create an estate plan using Wills rather than a revocable living trust are concerned about the short-term set-up costs. However, the money saved by using a revocable living trust is generally the best investment you could hope for.

Wills, once filed with the court after a death, are also public documents and are open to anyone. Many people do not realize the appalling lack of privacy in this. Sales people frequently go to probate courts, review files of estates, and note the name and address of heirs and how much money they received. So if you left your child your estate, his or her name, current address, and the amount of money distributed to them is available to anyone that wants to see it. And people looking for this information are not limited to salespeople... con artists also have access to this information.

Revocable Living Trusts offer much more privacy since these lists are kept with the trust documents and do not have to be filed anywhere (except with government taxing agencies, and these documents are not open to the public.) A Last Will and Testament is generally better than not having a plan at all, but the drawbacks are substantial compared to using a Revocable Living Trust. ■