

## How Trusts Work

Do you have property that will need to be managed after you pass away? If you do, you may need to establish a legal trust. A trust is a written legal document or agreement that gives one or more persons - the trustee(s) - the title to the property that another person owns (the initial trustee).

A living trust is a trust created during your lifetime. In a living trust, while you are still alive, you transfer the title to your property from your name (as the creator, settlor, or initial trustee) to that of your designated trustee.

A living trust is created by a document called a "declaration of trust" or a "trust agreement." The declaration of trust, or trust agreement, includes the names of your trustees and beneficiaries, describes the trust property, and provides the terms of the property transfers.

When you put your property into a trust, the trustee of the trust then owns the property; you are no longer the legal owner of the transferred assets. However, you still have control of your property during your lifetime. Since you are likely your trust's initial trustee, you will still be in charge of your property until you pass away, or become incapacitated due to illness or other circumstances. A living trust is an efficient way to organize your assets and manage them as a single unit. As importantly, a trust allows for efficient property distribution after you pass away.

Living trusts are often established to plan ahead for property management or disbursement when there is a diagnosis of a terminal illness that is likely to eventually incapacitate a person.

For your beneficiaries, a trust can eliminate the need for probate and reduce or eliminate federal estate, or death tax. A trust allows the greatest value of the property to remain with the people you want to inherit it.

Different types of trusts work in different ways and each has different goals. However, in all cases, the instructions in the trust agreement govern how the designated trustee will carry out its final instructions. As the settlor (creator) of the trust, you provide the rules that your designated trustee(s) will follow. Typically, the settlor creates the trust by signing a valid trust agreement, and then adding a minimal amount of assets into the “trust corpus.”

The trustee(s) can be the settlor, a family member, some other trusted individual, a professional bank or trust company, or some combination. The trust document will provide instructions on how the trustee should manage the specified assets, including when the trustee should pay out income and/or principal to the trust beneficiaries. If the trust remains unfunded, other than the minimal assets to make it valid, then the trust is considered inactive.

The trust document may also direct what happens if the serving trustee resigns or can no longer serve in that role, by naming a successor trustee, or a method for naming someone else, to assume the trustee’s role.

It is important to note that the settlor does not own assets managed by the trust; they are owned by the trust. As a result, when the settlor passes away, the trust assets do not need to be transferred through a probate process; the trust itself will direct what happens, if anything, at that time.

The trust will live on until the trustee distributes all of the trust assets and terminates the trust, based on instructions provided in the trust document.