

What's A Trust, and Why Do I Need One?



An Irrevocable Asset Protection Trust can **shield your assets against creditors and lawsuits**, and depending on the type of Trust, a Trust may also reduce your taxes. The Trust is a legal document that contains your instructions for what you want to happen to your assets when you die and protection from creditors while you're alive. But, unlike a Will, a Trust can avoid probate at death, control all of your assets, and prevent the court from controlling your assets if you become incapacitated.

There are four types of Trusts: Revocable, Irrevocable, Living and Testamentary Trusts. With Revocable Trusts, you can alter or revoke the provisions within the Trust at will, but an Irrevocable Trust is essentially permanent. Provisions within an Irrevocable Trust can **only** be changed if approved by all the beneficiaries in the Trust.

A common reason people create Trusts is that it's a private way of protecting their assets and determining which of their beneficiaries gets what. An alternative is to go through something called the probate process. This is a public judicial process where court officials authenticate a deceased person's last will and testament documents.

During your estate planning process, it's helpful to know whether your state has estate or inheritance taxes. Estate taxes may affect your Trust, and your estate size will determine how much you're taxed. For example, Montana doesn't have an inheritance tax or estate tax, but a federal estate tax applies to those with estates worth more than \$11.4 million (\$22.8 million for married couples).

I have a trust; do I need a will?

A key distinction between Trusts and Wills is Trusts give you control over your assets while you are still alive. Wills do not. In other words, Trusts take effect as soon as you create them, while Wills are effective **after your death**. With a Trust you can distribute property to beneficiaries while you're still alive. With a Will, your beneficiaries would only receive assets after your death. Even if you do have a Trust, you'll likely need a will as well, as a will can also do the following:

- Name an executor
- Offer instructions for taxes and debt
- Establish guardianship for minors
- Select managers for children's property



Upon death, the court then determines how to distribute the decedent's assets to any beneficiaries. This process can take months and incur numerous expenses. In some cases, the probate process could take a year or more to complete and essentially deplete a large portion of the assets causing your decedents to not receive what you intended for them to retain.

Whether you use the probate process, a Trust or a Will, establishing an estate plan is a necessary route for protecting your assets.