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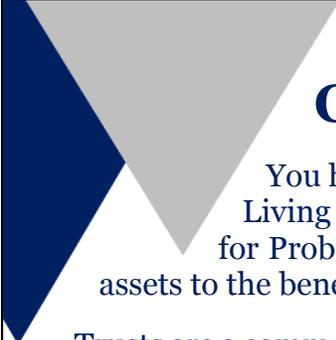
A Guide to Your Trust Based Estate Plan

Thank you for choosing Thomason Law. It was a pleasure working with you to create your Estate Plan. I hope that this process has provided you with peace of mind for your future. Please keep in mind that every document created in this plan can be updated or modified by you at any time. It is important to review your documents every 3-5 years, or after any major life altering events. If you need assistance reviewing or updating your documents, please do not hesitate to contact this office.

Features of Your Estate Plan

Your Estate Plan includes the following documents, which will work together to ensure that you are taken care of. This guide will go through each of these documents in more detail:

- ▶ **Living Trust:** provides directions for the use of your assets upon your incapacity or death. The primary goal of the Trust is to keep your estate out of Probate.
- ▶ **Last Will and Testament:** serves as a backup for your Trust. It should not be necessary to go through Probate, but if it is, this Will instructs the court to transfer your assets into your Trust.
- ▶ **Uniform Durable Power of Attorney:** appoints a person to act on your behalf, either immediately or upon your incapacity.
- ▶ **Advance Directive for Health Care:** allows you to make decisions regarding end-

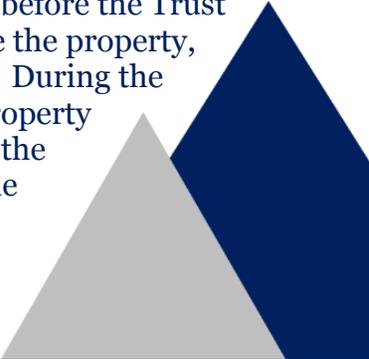


General Trust Information

You have created an Estate Plan centered around a Revocable Living Trust. The goal of this plan is to help eliminate the need for Probate upon your death and provide a smooth transition of assets to the beneficiaries.

Trusts are a common estate planning tool, most often used to avoid Probate. Probate is the court process that is required when a person dies with assets titled in their individual name. The Trust works by removing assets from individual ownership. During the lifetime of the Settlor (the creator of the trust), titled assets are transferred into the Trust by changing the name on the title from the Settlor's individual name to the Trust name. The Settlor is still the owner of the assets, but rather than owning the asset as an individual person the Settlor now owns the property as a Trustee. This provides a small change in the way the assets are owned. However, because assets are now titled in the name of the Trust instead of the name of the Settlor, Probate is not required upon the death of the Settlor.

Once assets have been transferred into the Trust, the Trustee will have the ability to manage the property. The Settlor will serve as initial Trustee, and will continue to manage assets the same way they did before the Trust was created. If the Settlor is no longer able to manage the property, the Successor Trustee will step into the manager role. During the lifetime of the Settlor the Trustee will use the Trust property for the Settlor's needs. Upon the death of the Settlor, the Successor Trustee can distribute the Trust assets to the beneficiaries named in the Trust. See the "Successor Trustee Guide" for more information.



Trust Funding to Avoid Probate

Creating the Trust is only the first step. It is very important that you properly fund the Trust by following the instructions in this guide. The Trust will only protect and control assets that are titled in the name of the Trust. The business card provided to you at your signing appointment shows how your assets should be titled. Be sure to have all current and future assets titled in this manner or have a beneficiary designated on the account. Use the following instructions as guidance and contact this office if you have any questions or need further assistance.

Use Beneficiary Designations

Not all types of assets can be owned in the name of the Trust. For assets that cannot be owned by the Trust, you will use the beneficiary designation forms to appoint a primary and contingent beneficiary.

- ▶ **Life Insurance** - Life Insurance policies cannot be owned by the trust. Appoint a primary and contingent beneficiary for these policies*
- ▶ **IRAs and 401(k)s** - These accounts cannot be owned by the Trust. Appoint a primary and contingent beneficiary for these Accounts*

* Each situation is unique. Typically, your spouse will be the primary beneficiary and then either your children, an individual, or your Trust will be listed as the contingent beneficiary. It is recommended that you consult with your attorney or financial advisor to see which beneficiary designation option is best for you.

Change the Owner Name

Change the name on all assets that have a Title. This will change ownership from you, as an individual person, to you, as the Trustee of the Trust. You will still be the owner of the asset and will not be restricted from using or selling the property; you will simply own the asset in a slightly different way. Assets will be included in the Trust once they are titled in the Trust name. Likewise, assets will be removed from the Trust when they are sold and no longer titled in the Trust name.

- ▶ **Real Property and Minerals** - A new deed must be filed in each county where land/minerals are located. Notify me if you need assistance.
- ▶ **Bank Accounts and Safe Deposit Box** - Take your Memorandum of Trust to your bank to have the title changed on all accounts and Safe Deposit Boxes.
- ▶ **Vehicles** –Take the Memorandum of Trust and your current title to the tag agency to have the title changed.
- ▶ **Stocks, Bonds, and Brokerage Accounts:** Take your Memorandum of Trust to your financial advisor to make this change.
- ▶ Assets that do not have a title, such as personal property, were transferred into the Trust by the Assignment found in your Trust document.

Living Trust

A Living Trust is a Revocable Trust. It is a flexible document that is meant to change as your needs evolve. The Trust works like a contract for your property by giving specific instructions for how to manage your assets during an incapacity and after your death.

Section 1: Establishment of the Trust

This section provides the basic information about the Trust, such as the name and date of the Trust, as well as appointment of the Trustees.

- ▶ The Trustee is the manager of the Trust. Typically, the Settlor will serve as the initial Trustee. Once they are no longer able to serve, the Successor Trustee will step in and manage the Trust property on their behalf. Section 1.03 provides a list of Successor Trustees.
- ▶ The Settlor is the creator of the Trust, and has special powers that the Trustees, or managers of the Trust, do not have. These powers are listed in Section 1.04, and include the ability to amend the Trust, add or remove Trustees and change the beneficiaries.
- ▶ The Settlor is the only person who can make changes to the Trust. Once they are no longer able to do that, the Trust will become Irrevocable, and set in stone. The Successor Trustee has the authority to manage the property in accordance with the provisions in the Trust but cannot change the terms of the Trust.

- ▶ The designated Power of Attorney will have the ability to act on the Settlor's behalf in the capacity of a Trustee only. They will not have the authority to make changes to the Trust document. That power is reserved solely for the Settlor.

Section 2: Distribution of Principal and Income During Lifetime of Settlor

This section covers what happens during the lifetime of the Settlor.

- ▶ The assets in the Trust are the property of the Settlor and are to be used for the Settlor during the Settlor's lifetime.
- ▶ The Settlor typically serves as the initial Trustee. The Settlor will be removed as Trustee if they are suffering from an incapacity or an incompetency. This will require two (2) doctors to determine that they should no longer be managing their assets. At that time, the Successor Trustee will step in and start serving as Trustee.
 - ▶ The Successor Trustee will use the Trust property to pay for all the Settlor's needs and care during the Settlor's lifetime. All assets in the Trust will be available for this purpose.
 - ▶ Trust assets should not be distributed to the beneficiaries until after the Settlor's death, unless specifically stated in the distribution provisions.

Section 3: Distribution and Administration After Death of Surviving Settlor

This section covers what the Trustee needs to do after both Settlers pass away. The 'Successor Trustee Guide' will provide helpful information about the Successor Trustees duties and what steps need to be taken.

- ▶ The Trustee will start by paying any debts that the Settlor had. This will include final illness expenses as well as funeral and burial costs.
- ▶ The Trustee will pay all necessary taxes. For most clients, this will mainly include income tax for the last year of the Settlers life. Tax laws change frequently, and it is recommended that the Trustee work with an Accountant to ensure that all necessary taxes are filed.
- ▶ Next the personal property will be distributed. The Trustee should locate the Memorandum of Distribution to see if any specific gifts are to be made and distribute those assets accordingly. All other personal property distributions are provided for in Section 3.05.
- ▶ Section 3.05 gives distribution instructions. Personal and household effects are listed first, followed by any specific gifts, including set dollar amounts, described land, or minerals that should go to a particular beneficiary. The remaining Trust assets are to be distributed in accordance with the provisions of this section.

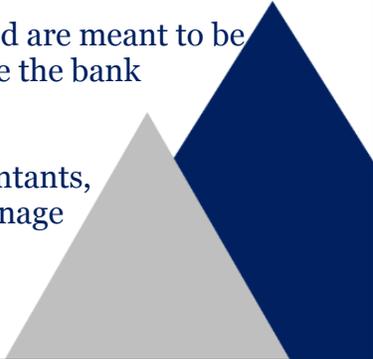


- ▶ If minor children will inherit, Section 3.06 will provide specific distribution instructions for them.

- ▶ Section 3.07 will be included in the Trust if the Settlor has anyone that want to specifically exclude from the Trust.

Section 4: Administration of Trust

This section provides the general Administration provisions of the Trust. Depending on how the Trust is structured, not all provisions in this Section will apply. The following provisions apply most often.

- ▶ Oklahoma law will govern the Trust because it was created in Oklahoma. If you move to a new state, your Trust will still be valid, but it is recommended that you have it reviewed by an attorney in that state.
 - ▶ Unless Section 3.05 provides otherwise, the Trustee can distribute property in cash or in kind, meaning they can make distributions of specific assets based on value, liquidate the estate, and distribute the money, or any combination thereof.
 - ▶ Powers of the Trustee are listed in Section 4.05 and are meant to be broad. These powers include the ability to manage the bank accounts, real property, business operations, etc.
 - ▶ The Trustee can hire professionals, such as Accountants, Attorneys, or Financial Advisors, to help them manage the Trust property. These services can be paid for with money from the Trust.
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Administration of Trust: Cont.

- ▶ Trustees are required to make a general report of the Trust assets. This report should include the value of the assets and what the Trustee did with the assets. This report must be made available to the beneficiaries to confirm that the Trust is being managed appropriately.
- ▶ A restriction on distribution is included in Section 4.10. If a beneficiary is not in a good place to receive their distribution (drug/alcohol abuse, divorce, bankruptcy, etc.) the Trustee can hold their portion in Trust until there is no longer an issue. This ensures that the beneficiary is in a good place to receive their inheritance, and the money does not go toward a destructive habit or creditor.
- ▶ The Spendthrift Trust provision protects the Trust from the beneficiaries' creditors, but not from the Settlor's creditors.

Section 5: Trustees

This Section explains how additional Trustees will be appointed and the responsibilities that the Trustees have when serving in that capacity.

- ▶ If the named Trustee does not wish to serve, he or she can step down at any time. The Settlor can appoint a new Trustee, or the next person listed in Section 1.03 will automatically move up to serve as Trustee. If none of the appointed people are able or willing to serve, and the Settlor is unable to appoint a new Trustee, then the beneficiaries will nominate a new Trustee.

- ▶ Each Trustee has an ethical and legal obligation to follow the terms of the Trust to the best of his or her ability. If they fail to do so they can be sued by the beneficiaries and held personally liable to ensure the beneficiaries receive what they are entitled to under the Trust.
- ▶ Trustees can be compensated for time and expenses. Compensation for their time would be calculated based on the current compensation rate for a Corporate Trustee. Expenses would be reimbursed at cost.
- ▶ Successor Trustees can be removed as Trustee if they are suffering from an incapacity or incompetency, with two (2) doctors notes.

Section 6: General Provisions

This section lays out the final, general provisions of the Trust.

- ▶ Oklahoma Law will govern this Trust because it was created in Oklahoma.
- ▶ The Savings Clause provides that if anything in the Trust is invalid, that paragraph will be removed, but the rest of the document will continue to be in effect.
- ▶ The Noncontestability clause states that if anyone tries to challenge the Trust, they will forfeit any distribution they would otherwise receive from the Trust and they will get nothing from the Trust.



Last Will and Testament

Your Estate Plan includes a 'Pour-over Will'. This unique type of Will serves as a backup for your Trust. The goal of the Trust is to avoid Probate upon your death. However, as discussed, the Trust will only protect assets that are properly transferred into the Trust during your lifetime. If the Trust has not been funded, and you pass away with assets titled in your individual name, without a beneficiary, Probate may be necessary. If that happens, this Will instructs the court to transfer the property into your trust.

- ▶ Your full legal name, different variations of your first, middle and last name, and any other names that you commonly go by are listed in the first paragraph. This will ensure that any assets titled in a different manner are also covered by this Will.
 - ▶ Section 1 describes your family status; if you are married or single, and how many children you have. It gives the legal definition of a spouse, child, and personal representative. The Personal Representative is the person who will act on your behalf during the probate process. They are appointed in Section 5 of the document. If you have chosen to exclude anyone from receiving assets from your estate, they will be named in this section as well.
 - ▶ Section 2 covers Funeral Expenses, Debts and Taxes. These things can be paid for by your Trustee under the provisions of your Trust.
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- ▶ Section 3 tells the court that you have a Trust and gives the name and date of the Trust. Rather than distributing the assets during the Probate process, you want the assets transferred to your Trust for distribution. Once the assets have been transferred to the Trust, your Trustee will be able to distribute the property according to the provisions in the Trust.
- ▶ Section 4 contains the same Savings Clause and Noncontestability Clauses that were found in your Trust. If anything is invalid, that paragraph will be removed. If anyone tries to challenge the Will during Probate, they will not receive anything from the estate.
- ▶ Section 5 appoints the Personal Representative. This is the person who will represent you and your estate during the Probate process. It is an optional position. If the first person you appoint is unable or unwilling to serve, the next person you appointed will serve in their place.
- ▶ Section 6 gives the Personal Representative the powers necessary to act on your behalf. These powers are broad, and are granted under Oklahoma Law.
 - ▶ If you have minor or disabled children, a Guardian will be appointed in Section 7 to care for them. This is also a voluntary position. If the first person selected is unable or unwilling to serve, then the next person that you appointed will serve in their place.

Uniform Durable Power Of Attorney

The Power of Attorney will have the ability to do nearly everything for you. Their actions will have the same effect as if you are doing those things for yourself. It is important to appoint someone that you trust to serve in this capacity. The document can be changed at any time.

- ▶ **The Effective Date:** If the Power of Attorney is effective Immediately, the named person can start acting on your behalf right away. If the Power of Attorney is effective upon your incapacity, it will require two doctors to evaluate you before the named person can act on your behalf.
- ▶ If you elected the same people to make medical and financial decisions for you, then you will have one document that covers both areas. If you chose to have different people then you will have two forms, one that covers financial powers and one that covers medical powers.
 - ▶ **Medical Powers** include the ability to talk to doctors, approve medications and operations as well as access medical records.
 - ▶ **Financial powers** include but are not limited to writing checks, paying bills, buying/selling property, signing contracts and conducting business in your name and on your behalf.



Advance Directive for Health Care

This document is also referred to as a Living Will. It covers end of life medical situations and organ donation and allows you to make your wishes known if cannot speak for yourself at the time.

- ▶ This document is different from a DNR. With the Advance Directive, the doctors will do everything that they can to save you. Once they reach a point where they do not think that you will recover, they will turn to this document for guidance on what to do next.
 - ▶ If you can speak for yourself, you will be able to do that at the time. If you can eat and drink on your own, or breath on your own, you will be able to do those things as well. The Advance Directive will apply to the three specific medical situations covered on pages one and two.
 - ▶ You can specify if you want to be given pain medication, even if there is a chance that the pain medication could pose a threat to your life.
 - ▶ The Heath Care Proxy can make medical decisions for you if you cannot make decisions for yourself, but they must do what you directed if you are in a condition covered by this form.
 - ▶ The organ donation section allows you to specify what organs you are willing to donate, if any, and the uses that you are willing to donate those organs for.
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This guide is intended to be general and applies to documents prepared by Thomason Law only. Each Estate Plan is unique. This guide will touch on some of the key provisions of each document but does not cover every paragraph. It may not correspond directly with your Estate Plan. If you have question about your specific documents, or need further clarification, please contact this office.