

Kinds of Trusts

Revocable Living Trust

The technical legal name is a *revocable inter vivos trust*. *Inter vivos* means that it is created while you are living. *Revocable* means that it can be revoked (changed or discontinued) at any time. Most people simply call it a living trust.

Many consumers and professionals now prefer a living trust instead of a will because it avoids probate at death and a court conservatorship/guardianship at incapacity. A living trust also provides maximum privacy and control.

Testamentary Trust

A testamentary trust is created after you die by a provision in your will. Like a living trust, a testamentary trust can be used in tax planning or to manage assets for minors or other beneficiaries. However, a testamentary trust does not avoid probate and it provides no protections if you become incapacitated—because it is part of your will. A will can only go into effect after you die and must be submitted to the probate court for verification and ongoing supervision.

Irrevocable Trust

Irrevocable trusts are frequently used in tax, advanced and special planning. These can include life insurance trusts, charitable trusts, asset protection planning, special needs planning, Medicaid planning, business succession planning, beneficiary planning and so on.

Generally speaking, once an irrevocable trust has been established, you cannot change it or remove assets that have been transferred into it. However, a trust protector, often added to an irrevocable trust, can change the situs (location) to a state that has more favorable laws, and may be able to amend or revoke the trust agreement and replace it with another trust.