

Revocable Living Trust (RLT) vs. Traditional Will



Comparison

	Revocable Living Trust	Traditional Will
<i>Estate Tax</i>	No estate tax savings. Trust assets are included in the grantor's gross estate and subject to estate tax. The same estate tax planning methods are available as with a traditional will.	Assets owned by the decedent are included in the gross estate and subject to estate tax. The same estate tax planning methods are available as with a revocable living trust.
<i>Income Tax</i>	During life, the grantor pays tax on any income generated from assets held in trust. Upon the grantor's death, the trust reports income on a calendar year basis.	No income tax benefits during life. The estate may choose fiscal year reporting to allow deferral of income.
<i>Asset Re-Titling</i>	Substantially all of the grantor's assets must be re-titled into the name of the trust.	No need to re-title assets.
<i>Additional Required Documents</i>	A pour-over should also be executed. The pour-over will provides that any assets not in the trust's name will go to the trust upon the testator's death.	No other document is required.
<i>Probate</i>	Trust assets are not subject to probate. Ancillary probate may be avoided for property owned in other states.	The estate (except for life insurance, retirement plans, other assets which may pass by beneficiary designation, or property owned as joint tenants with rights of survivorship) passes through probate.

	Revocable Living Trust	Traditional Will
<i>Privacy</i>	Generally, trust assets and beneficiaries remain private. Although the trust is not filed in court, some institutions (such as banks or brokerage firms) may request a copy of trust before an account may be opened.	The estate remains private until death. Upon the testator's death, there is a public record of estate assets and the beneficiaries.
<i>Real Estate Held in Multiple States</i>	Multiple probate proceedings may be avoided for real estate held in more than one state. A separate RLT may be required for the out of state property.	Ancillary probate proceedings may be required in each state where real estate is held.
<i>Transfer of Assets to Beneficiaries at Grantor's Death</i>	Trustee continues to administer assets under the terms of trust.	Executor must wait until the will is probated to begin estate administration. Assets such as life insurance or retirement plans pass directly to the beneficiary.
<i>Fees</i>	Setting up a trust, and transferring assets may incur substantial legal fees. Upon the testator's death, fees may also be incurred to transfer assets that pour into the trust.	Upon death, legal fees are generally incurred to probate the will. In some states the fee is a percentage of estate assets.
<i>Length of Estate Administration</i>	Administration may be quicker, depending on the complexity of the trust and the assets.	Statutes require that the testator's estate be fully administered generally within 3 years.
<i>Creditor Protection</i>	Assets are not protected from the grantor's creditors. Upon the grantor's death, unless notice is published, unknown creditors are generally allowed one year to file a claim. If notice is published, unknown creditors have generally four months to file a claim. Notice should be mailed to known creditors.	Unknown creditors' claims are generally barred 4 months after notice is published. Notice must be published or mailed to known creditors.
<i>Grantor's Incapacity</i>	May provide for management of trust assets in the event of the grantor's incapacity.	Does not provide for third-party asset management during life. Management of assets may be accomplished through a power of attorney.



Lloyd R. Wilson & Associates

Lloyd Wilson, CLU® AEP®

Phone: (205) 933-2700

Fax: (205) 933-2711

Email: lrwilson@thenautilusgroup.com

Website: <http://lloydwilsonassociates.com>

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