



## LIVING TRUSTS UNVEILED: BUSTING MYTHS AND UNLOCKING REALITIES

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### Introduction

Estate planning is much more than preparing for the unforeseen future; it is about making sure your assets are handled the way you want through every phase of life. That's where the idea of a living trust comes in, stepping beyond the traditional Will to offer you more control and peace of mind. Living trusts stand out as a key component in smart estate planning, offering a versatile and effective way to manage and protect your estate. Let's explore the practical benefits of living trusts and how they can serve as your ally in securing your legacy.

### Understanding Living Trusts

A living trust is a legal arrangement that allows individuals to place assets in a trust<sup>1</sup> during their lifetime, with the flexibility to modify or revoke the trust as circumstances evolve. The key components of a living trust include the grantor (person who establishes the living trust and transfers assets into it), the trustee (person responsible for managing the trust assets according to the terms of the trust document), the beneficiaries, and the trust document itself, which outlines the terms for asset management and distribution. Unlike wills, living trusts offer a dynamic approach to estate planning, providing benefits such as probate avoidance, privacy protection, seamless transition of asset management and ensures that their estate planning wishes are executed with precision and flexibility, tailored to their unique life situations and needs. Importantly, a living trust kicks into action the moment you set it up, offering immediate benefits.

### Tackling the Myths of Living Trusts Head-On

Misconceptions about living trusts can lead individuals to make uninformed decisions about their estate planning. It is essential to debunk these myths and provide clarity on the realities of living trusts:

#### *Myth 1: Living Trusts Are Only for the Wealthy*

The idea that living trusts are only beneficial for those with substantial wealth is widespread but inaccurate. In reality, living trusts offer strategic advantages for individuals at various financial levels. They are versatile tools that can be customized to protect assets, provide for

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<sup>1</sup> A legal entity that holds assets on behalf of beneficiaries according to the terms set out by the grantor in the trust document.



special-needs relatives, ensure minors are financially secure, and much more. Their ability to offer estate planning, privacy, and asset management makes them applicable and beneficial for estates of all sizes.

*Myth 2: Living Trusts Are Overly Complicated and Expensive*

It is understandable to be concerned about the perceived complexity and cost associated with setting up a trust. However, the structure and expense of trusts can vary significantly based on their type and intended purpose. When considering the long-term benefits, such as potential tax savings, streamlined estate administration, and avoiding the probate process, the initial effort and cost can be seen as a worthwhile investment.

*Myth 3: Living Trusts Serve the Same Purposes as Wills*

While trusts and wills are both essential elements of a comprehensive estate plan, they serve different purposes and offer unique benefits. Unlike wills, trusts offer privacy, avoid probate, and allow the grantor to manage assets during their lifetime and beyond.

*Myth 4: Establishing a Living Trust Means Losing Control Over Assets*

A common concern is that creating a trust will irrevocably lock away assets, making them inaccessible. This is not true, as not all trusts are irrevocable. Revocable trusts, for instance, allow the grantor to retain control over the assets and make changes to the trust terms or even revoke the trust entirely if their situation or intentions change. Moreover, grantors have the option to serve as a co-trustee and even designate themselves as one of the beneficiaries. This unique arrangement allows individuals to actively participate in the management of the trust, ensuring they can continue to oversee their assets while enjoying the benefits of the trust arrangement.

*Myth 5: Living Trusts Are Only for Evading Taxes*

Viewing trusts as a tool for tax evasion is a misconception. While it's true that trusts can offer tax advantages, they are designed for lawful tax planning rather than evasion. Beyond potential tax advantages, trusts serve to protect assets, ensure privacy, avoid probate, provide for dependents, and control the distribution of assets to beneficiaries under specific conditions. While tax benefits are significant, they represent just one aspect of the broader strategic value of trusts.

*Myth 6: Once a Living Trust Is Set Up, It Requires No Further Attention*

The notion that trusts are a "set-it-and-forget-it" arrangement with no need for ongoing management is incorrect. Effective trust administration often requires regular review and



adjustments to ensure alignment with the grantor's evolving objectives and compliance with legal and tax obligations. One of the major advantages of a living trust is its flexibility: if the grantor becomes dissatisfied with the management of the trust assets, the individual has the freedom to change the trustees, modify the beneficiaries list or demand improved management practices.

*Myth 7: Living Trusts Are Only for Property Distribution After Death*

This is false. Living trusts offer significant versatility during the grantor's lifetime. This includes managing investments, real estate, and other financial affairs, as well as providing for the grantor's care and financial management in cases of incapacity. The revocable nature of most living trusts means the grantor retains full control to modify the trust's terms or dissolve it as life circumstances change. This flexibility ensures that living trusts can serve a multitude of purposes beyond merely distributing assets post-mortem.

*Myth 8: Beneficiaries Have No Rights Before the Grantor's Death*

There's a misconception that beneficiaries are entirely without rights until the death of the grantor. In reality, beneficiaries have rights such as the right to receive information about the trust, the right to an accounting of trust assets, and, in some cases, the right to challenge the trustee's actions if they are not in accordance with the trust terms or are not in the beneficiaries' best interests. The specific rights of beneficiaries can vary depending on the type of trust, but they are generally protected by law to ensure fair and transparent management of the trust.

*Myth 9: Professional Guidance Is Unnecessary*

The rise of digital resources and DIY living trust kits has led some to believe that creating a living trust is a straightforward do-it-yourself project. This overlooks the complexity and highly personalized nature of estate planning. Generic templates cannot fully accommodate the unique aspects of an individual's financial situation, family dynamics, or the specific legal requirements of different states. Relying solely on these one-size-fits-all solutions can result in trusts that fail to effectively address specific needs or, worse, do not comply with necessary legal standards, potentially causing more problems for beneficiaries in the future.

### **Maximizing Your Estate Plan with Living Trusts**

Living trusts are an important estate planning tool, offering a range of benefits that go far beyond mere asset distribution. They offer privacy, flexibility, and control over the management and protection of your assets, both during your lifetime and after. By dispelling



the myths surrounding living trusts, one can understand its true value and potential in tailoring an estate plan that precisely fits your unique circumstances and goals.

### **Making It Personal**

Off-the-shelf solutions don't always cut it. At SimmonsCooper Partners, we understand the importance of personalized estate planning and the critical role living trusts can play in securing your legacy. Our team of legal professionals are here to provide you with the support needed to navigate the intricacies of Trusts and estate planning. Whether you're looking to establish a new living trust, update an existing one, or explore other estate planning options, we are here to help.

For further details or to start a conversation about securing your assets, please contact:

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*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*