

When Robert Sterling Clark died in New York, the cost of administering his estate was \$856,747, the executor was paid \$2,965,683, and the attorney charged \$1,065,530. It cost \$4,822,430 to “protect” Clark’s heirs.

Hyde Stewart, an Ohio postman, died leaving \$22,864 and no Will. When the estate was settled after twenty-five months, it had paid out \$2,077 in administrator’s fees and \$3,500 in attorney’s fees.

“Probate Eats Up Nearly Half of an Estate of \$19,425” - a front page headline in a Missouri newspaper.

Can this happen to your estate?

How can you avoid falling into the “probate trap”?

THERE IS A SOLUTION...Read on...

Dear Friend:

Probate has a bad name.

Generations ago, the probate system was conceived as one orderly way of transferring the property of a deceased person to his or her heirs. It was designed to protect the heirs.

Today it has become an ugly, legal nightmare where lawyers, clerks, guardians, administrators, estate appraisers and bonding companies bilk widows and orphans out of their inheritance.

All across the nation, greedy lawyers in league with conniving judges and bureaucrats plunder huge chunks - and sometimes all - of an estate.

First, let’s see what’s wrong with probate, and then let’s see how you can avoid probate - so that your family can get to keep the assets that are rightfully theirs.

There are three things wrong with probate.

First, it costs too much.

In most states, probate fees are set by law as a percent of the “gross” estate. Say, you left an estate consisting of your home, an automobile, stocks and bonds, savings and a few other personal possessions worth \$200,000. The executor’s commission and attorney’s fees to probate this estate in California would amount to \$10,300. Average fees in other states range from 3.8% in Utah to 11% in Alaska.

Let me show you how high the stakes are: Maryland legislature has been trying for the past seven years to ban percentage fees in probate cases; every year a lobby organized by probate lawyers has been able to defeat the bill.

The second thing wrong with probate is that it takes too long.

On the average, it takes two to five years to settle an estate. For all practical purposes, the estate is frozen during probate while the judges, court officials and attorneys have a field day picking it apart. The beneficiaries, in the meantime, wait, wait...and wait. This is why many lawyers would rather write Wills for \$60 and then make a bundle when the Will is probated.

The third abuse of probate is the unwanted publicity it creates.

Everything in probate court is a matter of public record and, unfortunately, they're individuals who go from probate court to probate court compiling lists which are then sold to unscrupulous people who prey on widows and try to separate them from their inheritance.

### How Can You Escape From the Vagaries of Probate?

Now that you know why you should avoid probate, let me show you the most effective way of doing it.

The law has provided everyone with a magic key to probate exemption; it's called "inter vivos trust" or a "Living Trust." With a Living Trust, you can pass on your assets to your spouse or children or other heirs in entirety - without delay, and without the lawyers, administrators, courts, or the appraisers skimming off from the top.

Here's how a Living Trust works. You create the trust by preparing a trust instrument in which you simply identify:

- Assets you're transferring to the trust
- Beneficiary of the trust (your spouse, children or other heirs)
- Trustee (i.e., you) who'll manage the trust

Precisely to help you avoid or reduce the costs and the nightmarish problems of probate, we've put together **THE LIVING TRUST KIT**. The Kit is designed for a layperson to transfer his principal assets to a Living Trust, name himself as trustee, and designate beneficiaries who'll inherit the estate - without the rigors of probate - upon his death.

The Kit contains step-by-step instructions, filled out samples, and all the necessary forms you'll need to establish your Living Trust.

By creating a simple Living Trust document, you'd have freed yourself of the legalized larceny of probate. Simple as that.

### Essence of Living Trust: Simplicity, Flexibility and Control

Living Trust is set up by you while you're alive. You name yourself as "trustee" and you maintain full control over your assets just as before. You can do whatever you wish to do with them - manage them, sell them, or give them away. The trust does not become effective till you die or become incapacitated.

### ***What Does Probate Cost?***

California's probate fees - set by law - are about average among states. These fees are based on the "gross value of estate" and do not include the cost of extraordinary services, such as appraiser's fees, sale of assets, tax preparation, or litigation.

<u>Assets</u>	<u>Mimumum Fees</u>
\$ 50,000	\$ 3,300
100,000	6,300
150,000	8,300
200,000	10,300
300,000	14,300
500,000	22,300
700,000	30,300
1,000,000	42,300
2,000,000	62,300

The person you would designate as beneficiary of the trust (your husband or wife or children) is called “successor trustee.” Upon your death, the successor trustee takes over the estate immediately without going through probate and terminates the trust. It’s that simple.

Your trust would be a Revocable Living Trust. You can abolish the trust or alter its terms or change the beneficiaries at any time you wish. It provides you with the maximum amount of flexibility.

### More Benefits of Living Trust

Let me point out two more benefits of Living Trusts. First, disgruntled heirs find trusts extremely difficult to contest. When an estate goes to probate, the court freezes its assets for several months and asks anyone to come forward and contest the Will if they please. Someone contesting a Will doesn’t even need to hire a lawyer. But to contest a trust, a disgruntled heir needs to hire a lawyer and file a civil suit. In the meantime, the trustee is free to distribute the assets to the beneficiaries immediately. Your estate isn’t tied up in lengthy litigation.

A Living Trust offers another important benefit. A growing number of older Americans are putting their assets into Living Trusts because they want to avoid being placed under a court-appointed guardian if they become unable to manage their affairs. With a Living Trust, you can specify in advance whom you want to manage your affairs if you ever become incompetent.

### How Effective Is the Living Trust?

Let’s take a simple example of a savings account. Upon your death, the bank would very likely block the account while the Will is being probated. It will not allow any withdrawal from the account without a court order.

However, with a Living Trust, your beneficiary walks into the bank with the trust instrument and the death certificate - and walks out with the money. No two-to-five year delay. No ten percent in expenses. And no publicity.

### What Happens If You Own a Business?

Probate can be particularly harsh on a going business. It almost always deals it a fatal blow. Most businesses simply come to a grinding halt while the dead man’s Will is being probated. Your business records become public records - open to competitors and creditors alike.

However, under a Living Trust, the successor trustee can continue to run the business without having to wait for the ponderous machinery of judiciary to grind out an approval. Your business doesn’t become everybody’s business.

A word about taxes. A Revocable Living Trust has no effect on your taxes. They’re no advantages nor are there any disadvantages. As a trustee, you’ll continue to report all trust transactions on your own income tax return.

In the final analysis, the greatest advantage of a Living Trust lies in the saving of attorney’s fees, administrator’s and executor’s commissions and court costs. It’s a magical, wonderful formula that allows you to avoid probate.

### Order Your Kit Today and Save!

Use of a Living Trust is valid in all fifty states. Normally, you would set up the trust in your present state of residence or domicile. However, if you find it more advantageous to have the trust interpreted under the laws of a different state, the Kit allows you to designate your preference.

THE LIVING TRUST KIT contains everything you'll need to establish your Living Trust: Ready-to-use forms, step-by-step instructions, actual examples and explanations of various terms. It shows you how to prepare the trust document, how to implement the trust by transferring title to the property to the trust, and eventually, how your beneficiary can distribute the trust assets to himself or herself and dissolve the trust. All in one handy Kit.

*What Do Attorneys Charge to Set Up a Living Trust?*

People with high-powered attorneys and financial advisers have always used Living Trusts to escape probate. Attorneys often charge hundreds, even thousands, of dollars to set up a Living Trust. Legal Fees of \$700 to \$1,800 to set up a simple trust are not uncommon. All too often, an attorney has his secretary type a few standard forms (similar to the ones you'll find in the Kit) and he then turns around and charges you a whopping fee.

Satisfaction Guaranteed - Or Your Money Back

The regular price of THE LIVING TRUST KIT is \$79. However, in this Special Introductory Offer, you'll save at least 49%. The Kit is backed by a full money-back guarantee. If for any reason you feel that the Kit isn't for you, simply return it within 90 days for an immediate refund. No questions asked. You risk nothing. Act now while you're thinking about it.

Sincerely,

P.S. When you order the Living Trust Kit, you'll also have the privilege of consulting with our financial and estate planning experts. We provide services ranging from simple phone consultation to preparation of actual documents and in-person services of an estate planning attorney, if desired. We have made special arrangements with a qualified trust attorney who can help you set up the trust to meet your specific circumstances.

So order your Living Trust Kit with confidence. With our offer of free examination you risk nothing.

"As soon as I picked up the book and began to read it I was surprised how easy it was to understand."  
M.S., Sacramento, CA

"My wife and I attended a seminar on avoiding probate. This book covers the topic more thoroughly than the seminar and explains all the procedures more thoroughly. One lawyer who put on a seminar charges \$895.00 to make out a living trust and keep it updated." J.F., Newark, CA

# Living Trust: Cure for the Agony of Probate

## You Can Keep It All in the Family

Vijay Fadia  
Los Angeles

Using a little foresight, let's say, you've written a will to distribute your assets to your children after your death and now you're feeling pretty secure that you've safeguarded your children's inheritance. But this may be a false peace of mind. You may be leaving for your children months, even years, of agony in probate court, whopping attorney's fees, hassles with court officials and emotional anxiety of waiting for their inheritances. Surprisingly, there's a simple solution to this problem and a growing number of people are taking advantage of it.

### Revocable Living Trust

Like many Americans, Jane learned the value of a revocable living trust firsthand, but paid a heavy price for it. When her father died four years ago, he left his business, family residence, a vacation home in Arizona and other assets to her. Fortunately, he had left a will and at first it seemed everything would go smoothly. But the problems started cropping up almost immediately. Although Jane, an accountant by profession, was named the executor and sole beneficiary of the estate, she had to hire an attorney to probate the will. She was fairly familiar with her father's financial affairs but, when it came to probate, there was very little she could do to expedite the process. It seemed like the court and attorneys were getting involved in every decision. Finally, the probate was over more than two years later but took a heavy financial and emotional toll on Jane. The once-thriving business was pretty much ruined.

After this experience, it did not take much to persuade Jane and her husband to set up a revocable living trust. All of their assets were transferred to the trust, with both of them acting as trustees. Because the trust is revocable, they can change its terms, or even cancel it at any time. When one of them dies, the surviving spouse will continue to act as trustee and control and

manage their assets. In the event of incapacity or incompetence, the living trust will allow them to avoid lengthy and costly guardianship and conservatorship court proceedings. As Jane put it, "I want everything to be as easy as possible for my kids if something happened to me. I wouldn't want them to go through what I did with my father's estate."

### Flexibility

The beauty of a revocable living trust is its flexibility. In setting up the trust, you transfer legal ownership of the assets to the trust, but you name yourself as trustee of the trust. Thus, although you've relinquished the nominal ownership of the assets, you continue to be the beneficial owner; you can manage, sell, mortgage or give away your assets as you please and the trust won't interfere. If at some point in time you wish to change terms of the trust, including designation of beneficiaries, or even revoke it in entirety, you can do so.

### Advantages Over Will

Many estate planners swear by living trusts; their advantages over wills are many. The problem with a will is that it must be proved valid in probate court. To probate a will, you'll definitely need to hire an attorney and attorney's fees can run into thousands of dollars. There may be executor's commissions and other court costs.

California's probate fees - set by law - are about average among states. For an estate of \$500,000 (by no means a small or uncommon estate where home prices start around \$200,000,) the cost of probate in terms of attorney's fees and executor's commissions would range around \$22,300. This is a big chunk out of your children's inheritance.

Worse than the financial blow, probate can exact an emotional toll on the surviving family. Your heirs may have to wait several months and sometimes years to collect their inheritances, depending upon the efficiency of the executor, attorney and probate court. Delays of eighteen months to two years are

not at all unusual.

Probate records are public records and are available to all kinds of salespeople, scrupulous or otherwise. Many a widow has been persuaded to make unwise or unsuitable investments under pressure from fast-talking hucksters.

Living trusts, on the other hand, require no court proceedings; a successor trustee (who may also be a beneficiary) simply distributes the assets according to the trust's instructions and dissolves the trust. "The process is much quicker, cheaper and more private than settling a will, and it may save on taxes, too," according to a well-known authority on trusts in Atlanta.

### Few Disadvantages

According to most estate planners, revocable living trusts have few disadvantages. Inertia may be the biggest foe in most cases. Most trust instruments are relatively simple to prepare, and you'd need to formally transfer the title of various assets to the trust. This requires some paperwork and you'd need to contact your banks, brokers, insurance agents, etc. In most cases, they are familiar with revocable living trusts and you'd get excellent cooperation from them. Once this paperwork is completed, trust will not affect the way in which you control or manage your various assets.

Along these lines, your setting up a revocable living trust will have no effect on your income tax situation. If you act as trustee of your own trust, as is normally the case, you wouldn't need a separate taxpayer identification number. You would continue to report all trust income, losses and deductions on your individual income tax return under your own social security number.

## Can Save Taxes, Too

Living trusts can, with proper planning, save on federal estate taxes. If a couple has a so-called "A-B" living trust, with separate trusts for husband and wife, they can pass on up to \$1.2 million tax-free to their children, trust attorneys say. Under this method, each trust can make the maximum utilization of the \$600,000 federal estate tax exemption. The surviving spouse can draw the trust income for life, and also have the right to invade the principal of the other trust, if there be a need. When the second spouse dies, both trusts go to the children. Without the A-B plan, the children would pay \$235,000 in federal taxes on the \$1.2 million estate, says a tax attorney.

## Trusts Hard to Contest

When a will is probated, the executor of the estate is generally required to notify all potential heirs - whether they are named in the will as beneficiaries or not - that the will is in probate. A disgruntled heir, rightfully or wrongfully denied his share of the estate, can rock the boat at this time by alleging undue influence or lack of mental capacity. In many instances, he may not even need to hire an attorney to start such a will contest. Facing the prospect of a long, drawn-out court battle, oftentimes the executor or the other heirs will settle with the disgruntled heir by giving in to the "blackmail."

This is exactly what happened when J. Seward Johnson, 87, of Johnson and Johnson fortune died leaving the entire estate worth \$500 million to his third wife, Basia, then 46. Johnson's six children, disinherited by their father, contested the will. In a settlement, the children and a charity got \$169 million. The wife got to keep the remaining fortune and the attorneys reaped a \$24 million bonanza.

Living trusts, on the other hand, are extremely hard to penetrate. A living trust is set up during your lifetime and, presumably, you've been administering the trust for several years. It would be difficult to challenge your competency to set up the trust under these circumstances.

Upon your death, the trust estate is distributed to the named beneficiaries almost immediately, without the intervention of a probate court. Anyone wishing to contest the trust would have to sue each

and every beneficiary - after they've received the assets, ruling out the possibility of blackmail.

Remember, the trust is an entirely private affair and no one, other than the beneficiaries, needs to know the contents of the instrument. This precludes disgruntled heirs from using the threat of a court battle to tie up the estate in years of litigation.

## Joint Tenancy Not a Solution

Most married couples (and often, a parent and a child) hold title to a property in joint tenancy with the right of survivorship. Upon the death of one joint tenant, the surviving joint tenant inherits the asset without going through probate.

So far so good. But when the second spouse dies, unless he or she has placed the property in joint tenancy with someone else, that property will be probated. A living trust is one sure way to avoid that problem.

Most estate planners advise against joint tenancy for a variety of reasons. For some persons, in certain situations, joint tenancy may be a wise decision. However, in a vast majority of cases, joint tenancy spells major disadvantages.

For instance, say you own your home and care in joint tenancy with your son. If the son gets into an accident, and the injured person files a lawsuit, you'd be named a defendant along with your son. If an adverse judgment is rendered, your personal assets are at risk.

Or take this scenario. You and your wife own all assets in joint tenancy with a view to avoid probate when one of you dies. But your wife has to be put into a nursing home due to Alzheimer's disease. Now you would need to go to probate court before being able to do anything with the jointly-owned assets. In this case, joint tenancy actually turned out to be a curse.

## Guardianship

Living trusts are well-suited to handle just such a contingency. A growing number of Americans are putting their assets into living trust because they want to avoid being placed under a court-appointed guardian if they become physically or mentally disabled and are unable to manage their affairs. "With a living trust, you can designate the person (generally the successor trustee) who'll take over your affairs in the event you become incompetent," says an estate planner who

advises senior citizens on a regular basis. This avoids the cost and public embarrassment of a court conservatorship or guardianship proceeding.

## Why Aren't Living Trusts Better Known?

If living trusts are such a wonderful device for passing on your inheritance to your children, why aren't they better known?

Well, the truth is they are getting increasingly more popular, more so in certain parts of the country than others. You'll regularly find articles on living trusts in most major personal finance or money magazines and also in newspaper columns. These articles universally laud the benefits of living trusts against wills, or the scarier option of dying without a will.

This does not mean that every attorney in your town knows about living trusts, or is willing to help you set up a living trust. Many simply do not know enough about living trusts, and there are some who would rather you didn't know anything about them. These attorneys derive a substantial portion of their income from our probate system and they are not about to kill the "cash-cow." These attorneys are building a "will file"; each will they write, they hope, will ripen into a probate estate.

Then there are some attorneys who've seen the writing on the wall and have decided to join the bandwagon. They have discovered that helping people set up a living trust can be just as lucrative as probating an estate, especially if you can charge \$595, \$895 or \$1,500 to set up a simple revocable living trust. They advertise free seminars in local newspapers and sign up clients just for such a service.

While doing it, they can portray themselves as heroes. A law firm in Southern California, in its free - seminar advertisement for a living trust, touts itself as "defying the system by placing principle above profit." It is "willing to forego millions of dollars in probate fees in favor of preparing a one-time, foolproof, affordable plan." This just proves the point I've been trying to make here: Probate is a multi-million dollar business and, like the ad says, "you should avoid it like the plague."

*Mr. Fadia can be reached at 4455 Torrance Blvd; Suite 220, Torrance, CA 90503*

*From the desk of...* Jay M. Barry

Dear Friend,

Over the past seven years, nearly 90,000 copies of the Living Trust Kit have been sold nationwide. The book has gone through several editions, each with additional forms, easier-to-follow instructions and better strategies to protect your children's inheritance.

Coinciding with the recent explosive growth in the PC market, we have received repeated requests from our customers about the availability of software to prepare living trusts on a PC. After working with attorneys and software gurus for months, we finally released the software version of the Living Trust Kit on a diskette for IBM-compatible computers. Now you can professionally prepare living trust documents on your PC. There are helpful, user-friendly screens that guide you through the process step-by-step. You'll be able to prepare the schedule of assets that transfers property to the trust along with other supporting documents. And you'll be able to amend and update your trust in the future as the situation warrants. The entire process is now made immensely simple.

But here's the best news. The regular price of the entire package is \$99. But in this Special Offer you pay only \$69 - a saving of \$30. For this you'll receive not only the Living Trust software but also the entire 300-page Kit and a User's Guide to take you through the program. You simply cannot beat this price.

Whether you decide to take advantage of this special software offer or not, I urge you to send for the Living Trust Kit on a no-risk basis. Look it over for 90 days and then decide for yourself. I personally guarantee your satisfaction. Best regards,

P.S. I'll send you the 1998 IRS manual as a Free Bonus for prompt reply. Be sure to indicate your preference for the Living Trust - just the book or the software version and the diskette size - on the enclosed order form. By the way, I'm already pleasantly surprised with the success of the software.

*"Software was highly satisfactory. I am a first-time user of this kind of material and couldn't be happier."* - J.D.C. Ft. Lauderdale, FL

*"I would recommend your book and software to everyone but I think time is running out before Congress makes this information useless."* -M.M. Cashion, OK