

## Trust can be a vital ingredient in a good will

Written by Tim Decker, AIF®  
Friday, 18 December 2015 00:00

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As they age, many people naturally begin to focus on their wills. While planning your bequests is always a good idea, people often overlook a crucial option: Instead of using a simple will, use a will with a built-in trust.

In many cases, with the guidance of a qualified attorney, a trust can be more effective than a simple will in achieving your estate goals, and provides far more flexibility for changing life circumstances. The provision in wills that does this is called a testamentary trust. You can't incorporate these into a simple will. Instead, you need what's known as a normal will.

Life itself and your future are uncertain—especially after your death, when you no longer have any say in what you've left your loved ones. Simple wills can be inadequate for addressing the unanticipated because upon your demise, all of your assets are distributed outright, with no further stipulations. Situations may develop in the lives of your survivors that could thwart your ultimate goals.

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A normal will with a testamentary trust built in can help you deal with the unexpected, and gear your bequests accordingly. A trust is considered a living entity. In contrast to a living trust, established while you're alive, a testamentary trust is funded by your estate, with a set of instructions and conditions on who gets what, when they get it and, sometimes, what they can do with the money.

The beauty of trusts is that they can be far more configurable than simple wills. A trust can do precisely what you prescribe in the language of its governing document. Trusts name a trustee, or co-trustees, who are usually trusted individuals or professionals, to administer and follow the instructions of the document.

### **Trusts can be used to address various scenarios. These include:**

- The possibility that your spouse may remarry after you die. Let's say you have a simple will that leaves everything to your spouse, who then creates a simple will that leaves everything to her or his second spouse. Then, if your spouse dies before the new spouse, the surviving spouse may leave everything to children from a first marriage. So, the unintended consequence of your simple will might be to start a chain of events that results in your own children being cut completely out of their inheritance. Other events, such as a divorce by your surviving spouse, could also claim assets you left to your heirs. A trust can help prevent this. For example, a trust could be set up to give your spouse regular access to money in your estate—as much as he or she wants—while providing that upon his or her death, your children get what's left. In such cases, you could make your spouse the trustee, provided that she or he can handle money well. If not, you could appoint someone else as trustee, or co-trustee, who could oversee the payout of regular disbursements to your spouse in keeping with the trust's provisions.
- The unfortunate reality that sometimes, because of drug, alcohol, psychological or other problems, some of your heirs may have poor judgment that would prevent them from managing their inheritance wisely. Again, regular disbursements administered by a responsible trustee might be the solution, while helping protect assets as well.
- The possibility that young beneficiaries might be financially irresponsible. Let's say that you want to leave money directly to your children or grandchildren. But when you die they're just not able to handle money wisely. Your trust can determine what they get, when they get it and what purposes they may use it for—for example, paying for college or medical care not covered by insurance—until they reach a certain age.

So, before you automatically decide on a simple will, consider your values, goals and family

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situation. Then discuss this with a qualified estate planning attorney to see how a trust might best fulfill your will's goals.

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