

# Living Trusts and Estate Planning: A Ventura County Credit Union Member Benefit

## What is Proper Estate Planning?

- ❖ Having a plan to manage your health, and financial decisions should you find yourself in a situation where you are unable to do so (“*incapacitation*”); and
- ❖ Being able to ultimately distribute your property to chosen “*heirs and beneficiaries*” in a manner YOU so wish (quickly, privately and cost-effectively).

## Who Needs Estate Planning?

**EVERYONE!** You do not need to be wealthy to have an estate plan; you simply need to have possessions or money, even the smallest amount, to be passed on. Additionally, estate planning refers to medical and health procedures and power of attorney documents that make sure your wishes are carried out if you are unable to make decisions on your own behalf.

*"As many as 120,000,000 Americans do not have up-to-date estate plans,"* says Clark McCleary, president of the National Association of Estate Planners & Councils (NAEPC). *"That makes it one of the most overlooked areas of personal finance, but it's also one of the most important. Estate planning protects you, your family and your family's future, so it shouldn't be put off."*

## What is Probate?

Probate is the court procedure used to change title to assets from the name of an individual who has passed away, into the name of the living beneficiaries. It is also where all creditors of a decedent file claims to collect their debts and where interested parties who have a complaint regarding the deceased can file their complaint (a will contest). Even without a contest, probate can be costly and time-consuming and taking anywhere from nine months to two years to complete in California. Probate is also a public proceeding.

## What is a Revocable Living Trust?

A Revocable Living Trust is a legal document that holds title or ownership to your real property and other assets. When you create a Revocable Living Trust you transfer ownership of your assets to the trust. Transferring assets is typically called "funding." When you transfer title you DO NOT relinquish any control. You can still buy, sell, borrow or transfer.

It includes the details and instructions for how you want your estate to be handled at your death, and who will have the authority to do so. However, unlike a Will a properly funded trust:

- ❖ Does not go through probate.<sup>[1]</sup>
- ❖ Prevents the courts from controlling your assets at incapacity.<sup>[2]</sup>
- ❖ Gives you control over the assets you leave to your minor children or grandchildren.



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## Why a Living Trust?

Living Trusts are most commonly created for the following reasons:

1. To avoid probate
2. To have control
3. To reduce estate taxes

## What Will Happen to my Property If I Die Without a Trust?

If you die intestate in California, with real property totaling over \$55,450 and personal property over \$166,250 in gross value, the transfer of your property is accomplished through a court supervised proceeding called “probate” that generally takes a minimum of nine months, typically a year or more. These proceedings generally are expensive and time-consuming and can tie up your property for several months.

## What is Incapacity, and How Do I Plan For It?

Incapacity planning is a broad area of law that covers how you are cared for if you become physically or mentally unable to care for yourself. The type of care could range from simple tasks like buying groceries, paying bills, and handling financial matters to more important decisions such as selling real estate, or making critical medical decisions. Depending on the needs of the individual or family, incapacity planning could include a number of planning techniques such as Durable Powers of Attorney for Assets and Advance Health Care Directives.

# Comprehensive Estate Plan

Detailed Estate Planning  
Revocable Living Trust  
Summation of Relevant Trust Provisions  
Declaration of Intent  
Pourover Will  
Advance Health Care Directive  
HIPAA

Durable Power of Attorney for Asset Administration  
Deed transferring Primary Residence into the Trust  
Detailed Successor Trustee Manual  
Individual Bequest Sheets  
Personal Message Guide  
Two Sets of **notarized** Originals  
Letters of Instruction for Financial Institutions

	Law Firm Pricing	Ventura County Credit Union Member Pricing
Individual	\$2,500	<b>\$1,695</b> + \$25 Title Search
Married	\$3,500	<b>\$1,995</b> + \$25 Title Search



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