

Understanding Differences Between a Will and a Trust



Everyone has heard the terms “will” and “trust”, but not everyone knows the differences between the two. Both are useful estate planning devices that serve different purposes, and both can work together to create a complete estate plan.

One main difference is that a will goes into effect only after you die, whereas a trust can take effect as soon as you create it. A will is a document that directs who will receive your property at your death and appoints a legal representative to carry out your wishes. By contrast, a trust can be used to distribute property before death, at death, or afterwards.

A trust is a legal arrangement through which one person (or an institution, such as a bank or law firm), called a “trustee”, holds legal title to property for the benefit of another person, called a “beneficiary”. A trust often has two types of beneficiaries – one set that receives income from the trust during their lives, and another set that receives whatever is left over after the first set of beneficiaries dies.

A will covers any property that is in your name at the time you die. It does not cover property held in joint tenancy or in a trust. A trust, on the other hand, covers only property that has been transferred to the trust. In order for property to be included in a trust, it must be put in the name of the trust.

Another difference between a will and a trust is that a will passes through probate. That means a court oversees the administration of the will and ensures the will is valid and the property gets distributed the way the deceased wanted. A trust passes outside of probate, so a court does not need to oversee the process, which can save time and money. Unlike a will, which becomes part of the public record, a trust can remain private.

Wills and trusts each have their advantages and disadvantages. For example, a will allows you to name a guardian for children and to specify funeral arrangements, while a trust can be used to plan for disability or to provide savings on taxes.

Contact estate planning attorneys Justin T. Precht, Esq. at jprecht@ritter-randolph.com or Erica L. Groman, Esq. at egroman@ritter-randolph.com, who can tell you how best to use a will and a trust in your estate plan.