

Estate transfers: To trust or not to trust

Key takeaways:

- Most estate transfers can be handled without a trust.
- Alternative solutions usually cost less than a trust.
- There are specific estate transfer scenarios where a trust is indicated.

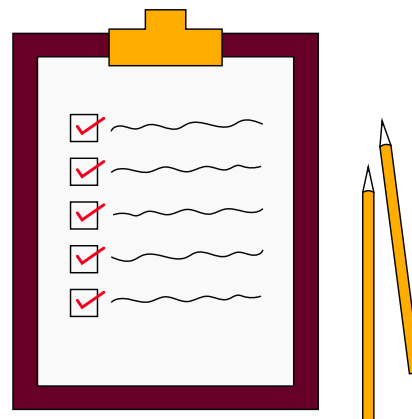
Trusts have become a go-to solution for many estate planning attorneys and financial advisors. But should they be? The expense to set up and administer a trust may outweigh the intended benefits particularly when there are simpler and less costly alternatives to consider. Knowing what those alternatives are and when to employ them can help determine if a specific estate planning situation can be handled without a trust.

5 trust alternatives

There are five primary trust alternatives that should be considered first to determine if they're sufficient to meet an estate planning need. These alternatives are to:

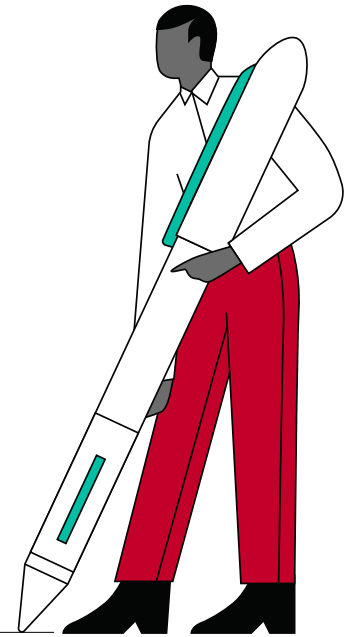
1. Make an immediate, complete, and direct transfer to beneficiaries during the investor's lifetime.
2. Use a last will and testament to outline the investor's wishes.
3. Structure co-ownership of property by selecting the ownership structure that makes sense for the circumstances.
4. Leverage payable-on-death (POD) or transfer-on-death (TOD) accounts.¹
5. Designate beneficiaries on retirement plans and insurance contracts.

While most estate transfers can be handled efficiently and effectively through one of the above solutions, there are exceptional scenarios, such as those outlined in the table on the following page, that necessitate going beyond alternative solutions and require a trust.



¹ Payable-on-death and transfer-on-death accounts are often paired with Totten trusts, which can be easily established by signing paperwork with the account provider. For more information on the role of Totten trusts, speak with your tax advisor.

Estate planning needed	Trust indicated
Wealth transfer	Wealth transfer costs potentially exceed costs of establishing a trust. <ul style="list-style-type: none"> • Potential for estate and gift tax (EGT). • Complex assets requiring multi-step transfer, valuation, or expert support.
Beneficiary protection	Concerns about state marital and community property laws overriding an intended transfer. <ul style="list-style-type: none"> • Blended families • Future marriages
Specific purpose	Special circumstances for which only a trust will accomplish an efficient transfer. <ul style="list-style-type: none"> • Special needs trust • Spendthrift or minor trust • Life insurance trust
Administrative issues	Concerns about: <ul style="list-style-type: none"> • Probate process • Privacy of transfer • Grantor incapacity



Note: For a refresher on estate planning needs, refer to the Term definitions..

Wealth transfer and estate taxes

Efficient transfer of wealth on its own doesn't require a trust. Alternative solutions like beneficiary designation, POD accounts, and co-ownership options are generally sufficient. All these options will transfer assets immediately upon death without additional steps or expense. There are exceptions however that would indicate the need for a trust, such as:

- Estate and gift tax (EGT). The EGT applies once gifted assets exceed the lifetime exemption amount.² Trusts provide flexibility in removing assets from the estate to avoid EGT on the continued growth of those assets. This can be especially valuable with quickly appreciating assets. Waiting until death to transfer these assets may cause the estate to grow past the lifetime exemption and trigger EGT.
- Transferring complex assets. Complex assets include non-liquid assets like closely held stock, mineral rights, those that will require valuations or multiple steps to transfer.

Term definitions

Wealth transfer. Incorporating tax and financial efficiency in the transfer of assets to beneficiaries.

Beneficiary protection. Removing assets from the estate to ensure they reach the intended beneficiaries.

Specific purpose. Addressing concerns around a single objective; may be part of a broad wealth transfer strategy.

Administrative. Addressing concerns about the probate process and potential grantor incapacity.

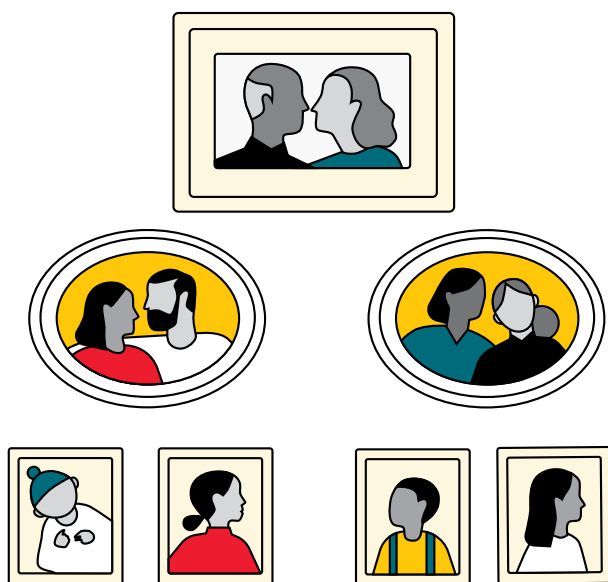
² The lifetime exemption amount for 2024 is \$13.61 million per person.

Beneficiary protection

Estate planning focuses on ensuring that all assets get to the intended beneficiary. This alone doesn't require a trust. Trust alternatives like beneficiary designations, POD, or TOD accounts will immediately transfer assets to the intended beneficiary. However, when there's a potential for competing interests in the assets, it may be necessary to protect specified beneficiaries by locking in the transfer during the investor's lifetime. This is particularly important if state laws about marital assets and community property could override non-trust alternatives, leaving the beneficiaries unprotected.

Examples of these situations include:

- A blended family. The grantors may want to protect the "yours and mine" children by locking in a transfer during life. Additionally, assets that transfer to a surviving spouse without trust protection would become marital property in the event the surviving spouse remarries. A grantor may want to make sure that after their death a surviving spouse and children remain protected.
- A beneficiary who is a minor or one who's a spendthrift. In both scenarios, a trust would limit the access the beneficiary, or their creditors, have to those asset(s).



Specific purpose

Specific purpose trusts are often used in holistic estate planning to address extraordinary circumstances. Most of these transfers would normally occur using alternative solutions.

For example, life insurance isn't normally held in trust. The policy itself pays out income to the beneficiary tax free. However, life insurance isn't free from EGT. If the estate exceeds the lifetime exemption amount, an Irrevocable Life Insurance Trust (ILIT) allows large estates to avoid owing EGT on the policy proceeds.³

Administrative concerns

These concerns focus on the probate process, privacy concerns, and grantor incapacity. Alternative solutions address most of these concerns. Beneficiary designations, POD accounts, and co-ownership options all transfer assets immediately and privately, bypassing probate. However, there are situations when a revocable trust, which is less expensive to establish and administer than other trusts, may be called for. These situations include concerns about:

- Assets transferred by last will and testament that need to go through public probate.
- Grantor incapacity. A trust would allow a successor trustee to manage and transfer the assets under the terms set by the grantor.

Knowing what needs to be accomplished in an estate transfer is the key to choosing the appropriate mechanism for achieving it. Although a trust may still be required to address more complex situations, an alternative solution may be the smarter—and less costly—option when the situation is a simpler one.

³ This is a simplified example. For more information on using an Irrevocable Life Insurance Trust (ILIT) in estate planning, consult your tax advisor.

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