

# WANG & KASHOU LLP

## FREQUENTLY ASKED QUESTIONS ON LIVING TRUSTS

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### **What is a “living trust?”**

A living trust, also called a revocable trust, is a legal instrument that allows you to have full control over your assets during your lifetime and directs the distribution of these assets after you pass away.

### **What are the advantages of using a living trust instead of a will?**

The primary advantage of using a living trust instead of a will is that placing your assets in a living trust allows your estate to avoid probate.

Probate is the court-supervised procedure by which an individual’s assets are distributed to the individual’s heirs and beneficiaries after death. Probate has several disadvantages:

- First, the administrative fees of probate, which are typically set by statute and based on a percentage of the gross value of the estate, can substantially lessen the value of your estate. For example, an estate worth \$200,000 would be subject to fees of \$7,000 and an estate worth \$500,000 would be subject to fees of \$13,000.
- Second, probate administrations can be time-consuming and cumbersome, often taking one to two years (or more) to complete.
- Third, probate administrations are public court proceedings, where details about your assets and beneficiaries are open to the general public.

### **Does a living trust help to avoid estate taxes?**

No, a living trust will not affect the amount of estate tax that is due. Under current laws, however, the estate tax applies only to individual estates greater than \$1,000,000 this year and estates greater than \$1,500,000 next year.

### **Who should consider putting their assets in a living trust?**

Under current laws, an estate with an aggregate value greater than \$100,000 is automatically subject to probate proceedings. *Thus, any person with a net worth greater than \$100,000 should consider establishing a living trust in order to avoid probate.*