

**ESTATE PLANNING  
SHOULD YOU HAVE—  
A WILL OR  
A LIVING TRUST?**

There is an awful lot of confusion out there on this topic, which ought not to be the case.

Let's keep it simple shall we?

**The average family or single person does not need a Living Trust!** In Colorado and in most states, the Uniform Probate Code (UPC) has been in place for quite some time, which greatly simplified and considerably reduced the cost of the old process of probating a will. Years ago, before the UPC, everyone took a percentage interest in the estate as a fee in the probate process. That was true of the executor, the attorney, and yes even the court. On top of that the process was formal, cumbersome and time consuming—nobody was pleased to have to go through the probate of a loved ones will. All of that changed with the UPC, but the need to “avoid probate” is one of those old urban myths we just can't seem to shake.

Even if you have a taxable estate, the process of reducing the estate tax as much as reasonably possible, within the bounds of the law, is the same whether you use a will or a trust for your basic estate plan.

So who should consider a trust instead of a will?

Well, if you are married, approaching your elder years, and concerned about the inability of your spouse to handle affairs if something were to happen to you, then a trust may be quite appropriate to assist your spouse immediately upon your death, by having another family member ready to step into your shoes immediately to manage the family affairs. Or, if you own real estate outside of your state of domicile, a trust can avoid the need for ancillary probate proceedings in every state where such property is located. Your family may also have other exigent circumstances that would best make use of a trust, but that is probably not the case for most people.

For most of us, the will is much cheaper to put in place at the outset, does not result in annual maintenance fees, is easy to modify if circumstances change, and upon a death is easily and inexpensively administered through informal probate proceedings under the UPC.

So, if you want to hobnob with the Joneses to compare notes about how much you had to pay for your new trust and what a nightmare it was to transfer all of your assets into that trust, and the records you have to keep to maintain its operation, then by all means please do so. However, if you want to relax and keep it simple, a good old last will and testament will do.