



**Martin Northern**  
Branch Manager

# RETIREMENT INVESTING

SPECIALIZING IN INVESTMENT MANAGEMENT AND ASSET PROTECTION

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## Wills and Living Trusts

Like many people, you may wonder about the differences between a will and a living trust, and whether you need one or the other, or both. To determine whether you should use either or both of these documents to pass your property to your heirs upon your death, it is important to understand the characteristics of each, as well as the probate process.

With a will, instructions are listed about how you want your probate property distributed after your death. You list the people or organizations, your beneficiaries, that you want to receive your property and what part of your property should pass to each. You also appoint someone, an executor, to carry out your instructions. Your executor distributes your property as you had intended, and pays any outstanding debts and taxes. A judge supervises your executor to make certain that your wishes are carried out according to your instructions. Not all property is probate property, or distributed through your will. How you own the property determines what property you can distribute through your will.

Like a will, a revocable living trust allows you to direct how the property that you place in the trust will be distributed after your death. You appoint someone, your trustee, to manage your trust property. Unlike a will, you can also establish in your trust how your property will be managed during your lifetime, should you become disabled. Another difference of a trust is that it allows your trust property to pass to your beneficiaries without going through the probate process described below. As a result, your trust property can pass more easily to your beneficiaries.

Probate is the legal process which oversees the transfer of probate property from a deceased person's estate to their beneficiaries. Probate takes place in the probate court located in the city or county where you had your last permanent, legal residence. Whether or not you have a will, it is likely that some of your estate will go through probate. Which property is probated depends upon how you hold title to your different types of assets, not whether or not you have a will. In addition to trust property bypassing the probate process, the assets that you own jointly or for which you have named beneficiaries, such as life insurance policies and retirement accounts, skip probate.

Generally, probate can be completed in less than one year. However, this timeframe will often depend upon the state where probate takes place and the complexity of the estate. In many states with simplified probate procedures, probate is relatively quick.

Trusts are highly promoted by some as a necessary document. For the right personal circumstances, a trust can be valuable.

But not everyone requires or should have a trust. Some trust salespeople neglect to provide full details about how trusts work.

Simply writing a trust document is not enough in establishing a living trust. The revocable living trust does not take effect until after you transfer property from your name to the trust. This is called "funding the trust." Any property left in your name passes through probate as part of your probate estate. Jointly held property with right of survivorship automatically passes to your co-owners and does not need to be in a trust to avoid probate.

Transfers to trusts may affect Medicaid eligibility. Creating a trust can significantly affect your eligibility for Medicaid in paying for nursing home care. If you create a trust naming you or your spouse as beneficiary within five years of the time that you apply for Medicaid, also called "lookback period," you may be ineligible for this benefit. Assets in trust are considered available to you to pay for your nursing home care even if you do not receive any payments from the trust. You should talk with an attorney who understands the Medicaid rules before creating a trust, or giving away any property, since these laws are complicated and do change frequently.

Living trusts may or may not save money. Generally, attorneys charge more to write living trusts than they do to write wills. However, this does not mean that one document is necessarily more expensive than the other, in the long run. The money that you pay an attorney to write your will or trust is only part of the total cost of settling your estate. If you choose a will, your estate will eventually have the costs of probating your will. If you choose a living trust, you will pay any costs in order to fund the trust and, perhaps, maintain the trust before and after your death. Pay attention to all these additional costs when comparing prices. In many instances, it is appropriate to have both a trust and a will since you may not want or need all of your property in a trust.

Beware of people selling trusts. In recent years, several groups around the country have aggressively promoted living trusts. Some use slick promotional materials which suggest that you can save thousands of dollars by purchasing their living trust. Salespeople urge consumers to act quickly, often the same day, in order to take advantage of a "special price." They will in many cases falsely inflate the cost and burden of probate.

Living trusts sold this way can present problems for consumers. The "trust" that you buy may simply be a kit of documents which do not meet your comprehensive planning needs. These kits many times are too expensive for what they do for you. They can lack proper instructions for making the trust effective. In addition, these documents may not meet your state's legal requirements

## Financial Planning for Pre-Retirees

The following are ten things that you should consider as you approach retirement:

1. **Develop an income distribution plan for how and when you take your retirement distribution.** For many pre-retirees, at retirement, all or part of their retirement assets will exist as a large sum of money, particularly if they have rolled retirement plan assets into an IRA. At some point, retirees may need to convert these assets into an income stream.
2. **Develop a comprehensive, and flexible budget forecast.** A well-managed retirement requires an understanding of your expected expenses in retirement.
3. **Name beneficiaries in line with your legacy goals.** One of the most critical decisions facing someone with assets in their retirement account is determining properly who should be named as a beneficiary of those assets. According to "Planning for a Secure Retirement", Fidelity Investments, August 2000, many who are nearing retirement are not adequately prepared when it comes to naming beneficiaries for their retirement accounts. Although 91% of pre-retirees surveyed have named a primary beneficiary on all of their accounts, 41% did not plan their beneficiary selection carefully. Another 38% did not have a contingent beneficiary, which could expose those assets to additional or immediate taxation should something happen to both the account owner and the primary beneficiary.
4. **Make sure that your beneficiary choices are sufficiently documented.** Even the best thought out beneficiary strategies can be for naught, if you do not have adequate documentation of beneficiary designation for your account. Many beneficiaries are not aware that they are beneficiaries, and may not be able to locate important account information upon the account owner's death.
5. **Maximize the tax opportunity and benefits of an IRA within an estate plan.** It is important that most or all of a retirement account is passed on to beneficiaries without unnecessary estate tax complications. Many retirement account holders have named beneficiaries on their retirement accounts, but many do not coordinate their beneficiary selection in conjunction with their estate plans. By failing to do so, they may not leave behind the assets as they were intended.
6. **Determine which Required Minimum Distribution (RMD) method is appropriate for your situation.** The choice of Required Minimum Distribution (RMD) method can mean the difference between enjoying your retirement or outliving your income, between taking care of your family after you are gone, or not. Although many retirees are aware that they must take RMDs, they are often unaware that they have choices. I have information on the New Proposed IRS Regulations Regarding RMDs, and I am happy to send it to you. Just check the enclosed coupon.
7. **Consider a Roth IRA conversion.** Many investors nearing retirement miss a significant opportunity to leave a great legacy to their beneficiaries by converting Traditional or Rollover IRA assets to a Roth IRA. Many retirees do not fully understand about the tax-free benefits of a Roth IRA conversion for their beneficiaries.
8. **Consider taking advantage of Net Unrealized Appreciation (NUA).** If you are in a position to take a distribution from your company retirement plan, you could be in for a significant tax break by taking advantage of Net Unrealized Appreciation, which could allow you to defer the tax on the increase in the company stock share value.
9. **Evaluate whether your current employer-sponsored retirement plan meets your investment, distribution and beneficiary needs.** Many employer-sponsored retirement

plans offer limited investment choices, distribution options, and beneficiary selections. We can help you make sure that you have what you need.

10. **Be sure to plan for health care and long-term care costs.** Health care and long-term care costs are the number two concern of pre-retirees and retirees. The first is outliving their income. We can help ease your concerns by addressing health care and long-term care costs in your retirement plan.

## **Financial Planning for the Minor Child**

When a parent names a guardian in their will or trust, they usually make provision for adequate financial care for their minor children. In the event that the children become orphaned, parents will usually want to make certain that all or most of their probate and non-probate property can ultimately be transferred to their children. Some of the more common sources of non-probate property include life insurance proceeds, joint tenancy survivorship arrangements, and trust property.

Usually, large amounts of property will need to be turned over to a fiduciary, who is legally responsible for their financial care. The parent can choose among a Financial Guardianship, a Trust, or a Custodianship under the Uniform Acts.

**Financial Guardianship.** Also known as an Estate Guardian, the Financial Guardian is usually appointed by the court. The Financial Guardian must file a formal accounting with the court every one or two years, and obtain written permission to perform unusual transactions, such as selling real property. In selecting a Financial Guardian, expertise in financial management is a major criteria for the role.

**Trust for the Minor Child.** Instead of a Financial Guardian, parents may choose a Trustee to manage the property for the benefit of the minor child. The trust can be created while the parents are living, or through their will. Trusts have many advantages, including the fact that it is not subject to court supervision. The trust can be flexible, and provisions can be included concerning whether to distribute property outright when the children reach the age of majority, or whether to retain it and distribute only the income. Trusts can have multiple beneficiaries, while a separate financial guardianship must be set up for each minor. Trusts can also include specific provisions relating to income distributions to different beneficiaries at different times, while financial guardianships do not have this feature.

**Custodianship under the Uniform Acts.** As an alternative, the parent may wish to leave property to a custodian for the benefit of the minor child. This is accomplished either through the Uniform Gifts to Minors Act, (UGMA), or Uniform Transfer to Minors Act (UTMA). These custodianships offer more privacy than financial guardianships, because they also are not subject to court supervision. The drawbacks to these arrangements include the fact that in most states, property held in either a UGMA or UTMA account must be turned over to the minor child once they reach age 21, and in some states age 18. There are also limitations on the types of property that can be transferred to or placed into these accounts.

**Fixed annuities, life insurance, and long-term care insurance are not offered by Great Nation Investment Corporation, but are offered through Martin Northern and Insurance Designers.**

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Martin Northern  
Great Nation Investment Corporation  
P.O. Box 1302  
Benton, AR 72018-1302  
E-mail: martin@martinnorthern.com**

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**Martin Northern  
Great Nation Investment Corp.  
P.O. Box 1302  
Benton, AR 72018-1302**