



Ask the Experts: Living trust solves many estate issues

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This week, estate planning attorney Lynn Dean covers a variety of readers' questions concerning wills and trusts.

Q As executor of my parents' trust, I am allowed to receive "reasonable compensation for services." What is an appropriate amount?

Lynn Dean: In order to determine what is "reasonable compensation," I look at two sources. The first is the **California Probate Code**, which sets fees for what an executor or attorney can charge. These fees are based on a sliding scale, starting at 4 percent of the first \$100,000, 2 percent of the next \$100,000, etc.

For example, the executor's fees on a \$200,000 estate would be \$7,000.

publish a fee schedule for their services as trustee of a trust. Typically a bank will charge 1 1/2 percent to 2 percent annually of the trust's total assets.

Q: I am a widow with only one daughter. I have a will, power of attorney and health care assigned to her, plus all my mutual funds are designated as TOD (Transfer on Death). All my funeral arrangements are made. The only concern is my home (valued at \$350,000). How can I transfer the home to her without probate and without having to enter into a living trust?

Lynn Dean: I do not know why you are afraid of creating a living trust. It does not take anything from you while you are alive but will allow the home to be transferred without probate to your daughter upon your death.

A living trust is revocable, and you can always make changes to it. If you are afraid that your daughter will try to have the house transferred prior to your death, you can designate a third party as your trustee.

A living trust also allows your daughter to receive your home with a stepped-up basis for tax purposes.

If you leave your estate planning as is, with only a will, probate will be needed to transfer the house to your daughter.

I would not recommend adding a child to a home's title for one good reason: If a child owns a home with you and is later sued by creditors, you risk losing your home.

Question: My wife and I are in our mid-40s. We have a 24-year-old daughter with cerebral palsy, who is physically and mentally disabled. Because she gets benefits from Social Security and the state, she cannot have more than \$750 in monies. Is a living trust best so that, if my wife and I die before our daughter, we can designate someone to assist her with certain items, such as a wheelchair-accessible van?

Lynn Dean: What you need is a "special needs trust," which can be created for children and others receiving public benefits. It allows monies to be set aside to enhance quality of life but not disqualify them from receiving benefits.

A special needs trust can be included as part of your living trust. It specifies how trust monies can be used to pay for items not covered by public benefits. You can designate the trustee(s) who will be in charge when you are gone. It will also cover what happens to the trust funds upon your daughter's death.

Even though your daughter is still young, you are wise to do this planning now.