

ADVANTAGES AND DISADVANTAGES TO WILL-BASED AND TRUST-BASED ESTATE PLANNING*

FEATURE	LIVING REVOCABLE TRUST-BASED PLAN	WILL-BASED PLAN
Names someone to handle your affairs when you die	✓	✓
Names who you want to receive your assets	✓	✓
Asset protection for beneficiaries possible	✓	✓
Avoids probate	✓	✗
Names guardians to care for your children upon death	✓	✓
Out of state property can avoid probate	✓	✗
Will work if you move out of state	✓ Assets would remain in the trust and in some states a trust-based plan is preferred. Attorney review for updates or necessary changes is advised.	✗ Depending on where you move, a will-based plan may not work. Each state's probate system is different, so attorney review for updates or changes is advised.
Creditors avoided	✗ While there is no creditor claims period opened during trust administration, a separate cause of action could be filed against the trust. There is no protection of the claims period ending or an expedited way for the court to settle disputes.	✗ Creditors are given an opportunity to bring claims against the estate, in the public eye with possible exposure of private information. But, the process and procedure with court oversight may be helpful in contested situations.
Names someone to handle your affairs during incapacity	✓	✗ (But can be handled with other documents)
Private process for changes, updates and administration	✓	✗
Cost	More costly up front than will-based plan, but the costs are known. Avoids the cost of probate court and potential surprise hassles at death.	Less expensive to prepare than a trust-based plan, but probate costs incurred by the estate at death and those costs won't be known until then.
Effort	More effort for you to set up and fund the trust, but the payoff is that everything is left in an orderly fashion for loved ones.	Less effort to prepare a will but more effort by the personal representative/executor to administer at death.
Privacy	✓ There's no public record or filing of the trust itself.	✗ The will becomes a public record and your assets would be filed on an inventory with the court during probate.
Retitling/Transfer of Assets	Properly funding your trust means transferring your assets into the name of your trust. Extending insurance on those assets and completing the transfers requires additional effort from you with the help of your attorney.	You will not have to transfer assets to a trust during your lifetime. At death, your personal representative would sell the assets or transfer title of the assets to the beneficiary.

*This chart is a brief summary for reference only. The decision whether to have a trust-based plan or a will-based plan is individual and comes down to legal necessity, personal circumstances, and personal philosophies. Danneil Law, P.C. crafts customized plans that address your needs and goals at the intersection of your budget.