WILL OR TRUST,

Which One Is Right For You?

OakHarvest Financial Group

Will or Trust: What's Right for You?

A Practical Guide to Deciding Which One Fits Your Family

Robert had a will, and he assumed that was enough. When he passed away, his estate was not complicated and the will was perfectly valid. Settling it still took his daughter the better part of a year, several thousand dollars in court and legal fees, and a public court file that any neighbor could read, time, money, and privacy a different structure might have spared her. Robert did not have the wrong intentions. He had the wrong tool for what he actually wanted, which was a fast, private, low-friction handoff to the people he loved.

That is the question this guide is built around. Not whether a will is good or bad, but which structure, a will or a revocable living trust, fits what you are actually trying to accomplish for your family. The honest answer is that it depends, and the rest of this guide gives you a clear way to think it through. At the end, we will also look at the things that can quietly undo even the right choice, because the document is only part of the picture.

What You Are Really Deciding

A complete estate plan answers three practical questions: who can make financial and medical decisions if you cannot; who receives your assets when you pass away; and how difficult, public, expensive, or conflict-prone that transfer will be for the people you love. A will and a trust are simply two different tools for answering the second and third questions, and they differ most on that third one. The theme underneath all of it is to plan while you have capacity, because once incapacity arrives, families often lose the ability to fix missing or poorly drafted documents without going to court.

A will is also only one piece of a complete plan. Whichever way the will-or-trust decision goes, most families need several of these documents working together.

Document	What it does
Will	Directs who receives assets and names an executor, but goes through probate
Financial power of attorney	Lets someone you trust handle money matters if you cannot
Medical power of attorney	Lets someone make healthcare decisions if you cannot
Living will / directive	States your wishes on life support
Revocable living trust	Can hold assets during life and pass them privately, often avoiding probate

The core documents in a complete plan.
The will-or-trust choice sits inside this larger set.

What a Will Does, and What It Cannot Do

A will is a written set of instructions for what happens to your property after death. It names an executor to carry out your wishes, directs who receives what, and can even create trusts for children or grandchildren who should not receive money outright. For many families with straightforward circumstances, a well-drafted will is a sensible and sufficient foundation.

Its limits, though, are the whole reason trusts exist. A will does not avoid **probate**, the court process that validates the will and authorizes the transfer of assets. In a simple case probate can be manageable, but it takes time, it usually involves court and legal costs, and the file becomes part of the public record. If there is a blended family, an estranged relative, out-of-state property, or unclear instructions, probate can turn slow, expensive, and contentious, and a will can be formally contested.

A will also takes effect only at death, so it does nothing to help if you become incapacitated while you are alive.

The hidden risk of an old will.

Documents drafted ten, fifteen, or twenty-five years ago often name people who have moved, passed away, or fallen out of your life, omit backups, or no longer reflect current law and account ownership. An out-of-date will can be worse than none at all, because everyone assumes it still works.

What a Revocable Living Trust Adds

A revocable living trust is created during your life. You move assets into it, typically serve as your own trustee while you are able, and name a successor trustee to step in if you become incapacitated or pass away. Because it is revocable, you keep control and can change or undo it at any time. People choose a trust for four main reasons: it can avoid probate for the assets titled in it; it keeps the transfer private; a successor trustee can manage things smoothly if your health declines, which a will cannot do; and it can sidestep separate probates if you own property in more than one state.

A trust has one famous failure point, and it is worth stating plainly: an **unfunded trust**. A trust document only governs the assets that have actually been retitled into it. Creating the trust is like building a safe; funding it is putting your assets inside. If the safe is left empty, your family can still end up in probate for everything that was left out. A trust also does not, by itself, reduce your income or capital gains taxes during life, does not protect assets from your own creditors, and does not replace the need for powers of attorney and a will that catches anything left outside it.

Will or Trust: How to Decide

The clearest way to see the difference is side by side.

	A will	A revocable living trust
Avoids probate	No	Usually, for assets titled in it
Privacy at death	Becomes part of the public record	Generally stays private
Helps during incapacity	No; it takes effect only at death	Yes; a successor trustee can step in
Property in several states	Possible probate in each one	Can avoid multiple probates
Upfront cost	Lower	Higher
Can be challenged	Yes	Harder, though not impossible
Controls IRAs, 401(k)s, insurance	No	No

A general comparison. Your state's rules and your specific facts can change the details.

The decision rarely comes down to which document is "better." It comes down to a simple question: **what problem am I trying to prevent?** Once that is clear, the structure usually chooses itself.

A revocable living trust deserves serious consideration if

- You own real estate in more than one state, which can otherwise mean probate in each one.
- You want more privacy than a public probate process provides.
- You want a smooth transition, with no court involvement, if you become incapacitated.
- You have a blended family, estranged relatives, or a higher risk of disputes.
- You want a successor to manage many accounts for your spouse or children without waiting on a court.

A will-based plan may be all you need if

- Your assets are relatively simple and many of them already pass by beneficiary designation.
- You do not own property in multiple states and are comfortable with probate in your state.
- You prefer a lower upfront cost and your family situation is low-conflict.

There is also a middle option people often miss. A will can create a testamentary trust, a trust that springs into existence at your death, to hold money for minor grandchildren, a beneficiary with special needs, or an adult child who needs guardrails or protection from divorce or creditors.It does not avoid probate the way a living trust does, but it shows that the choice is not simply will versus trust; it is about matching the structure to the specific people and problems you are planning for. Both a will-based plan and a trust-based plan can be exactly right. The goal is the match, and that is the heart of the conversation worth having.

Not sure which structure fits your family?

Oak Harvest can help you organize the financial side of the question, your accounts, titles, and beneficiaries, so the picture is clear before you sit down with an attorney.

Even the Right Choice Can Be Undone by What Is Outside the Documents

Here is the part that surprises most people, and the reason the will-or-trust decision, while important, is only half the job. Some of the largest assets you own are not controlled by your will or your trust at all, and three quiet failures outside the documents undo more plans than the will-versus-trust choice ever does. Notice that the last row of the comparison table above already hinted at the first one.

1. The beneficiary form beats both your will and your trust

Beneficiary designations override your will and your trust. If your IRA, 401(k), annuity, life insurance, or payable-on-death account names a person, the institution pays that person, regardless of what any document says. For most households the largest assets are exactly the ones that pass this way, so the form on file is quietly in control.

Your assets leave through two doors, and only one is your will

Where each asset goes is decided before your will is ever read.

Passes THROUGH your will through probate: public, slower, court-supervised	**Passes THROUGH your will** through probate: public, slower, court-supervised
• Solely owned real estate • Personal property and vehicles • Accounts with no beneficiary named • Business interests	• Solely owned real estate • Personal property and vehicles • Accounts with no beneficiary named • Business interests

For most families, the largest assets are on the right.

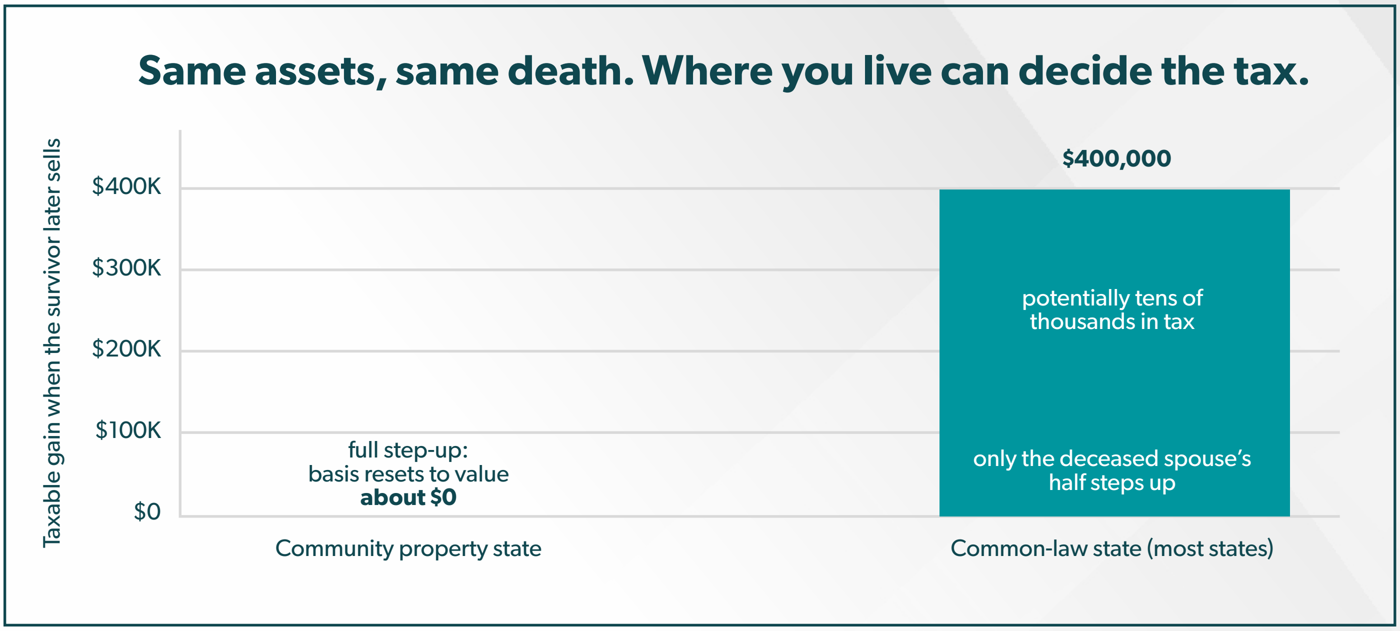
The beneficiary form on file controls them, not your will. If it names the wrong person, an ex-spouse, a deceased relative, no contingent at all, your will cannot override it.

General illustration. How a specific asset passes depends on its title, the beneficiary form on file, and your state's law.

Outdated forms are one of the easiest ways for an entire plan to fail: a prior spouse who was never removed, a deceased relative, a missing contingent beneficiary. The fix is mundane and powerful, which is to verify every beneficiary directly with each institution and align it with your will or trust. The hard part is that someone has to actually look, across every account.

2. How an asset is titled can create a needless tax bill

When you pass away, many assets receive a step-up in basis, a reset in value that can reduce or eliminate the capital gains tax your heirs would otherwise owe. But for a couple, how completely that happens can depend on your state and on how the asset is titled. In a community property state, a couple's community property may reset entirely when the first spouse dies. In a common-law state, which is most of the country, generally only the deceased spouse's half resets, which can leave the survivor with a capital gains tax bill that planning might have reduced.



Hypothetical illustration: $1,000,000 of stock with a $200,000 original cost, owned jointly; the first spouse dies and the survivor later sells. The tax shown is an estimate only and varies with the applicable rates, the state, the character of the asset, any prior moves between states, and your individual facts.

The fix here is not a legal document; it is a decision about how appreciated assets are titled and which spouse owns them, made while both spouses are alive. It is exactly the kind of thing that falls between an attorney and an accountant and gets missed when no one is coordinating the two.

3. The inherited IRA tax that a 2020 law created

If you plan to leave a traditional IRA or 401(k) to your children, the rules changed in 2020 in a way most people have not absorbed. Heirs once could stretch withdrawals over their lifetime; now most non-spouse heirs must empty the account within ten years, often during their own peak earning years, when the forced withdrawals stack on top of their salaries and are taxed at the highest rates.

	Before 2020 (the "stretch")	Now (the SECURE Act)
Withdrawal window	Spread over the heir's lifetime	Emptied within 10 years
When it usually lands	Across decades	Often the heir's peak earning years
Tax effect	Small annual amounts, lower brackets	Large withdrawals on top of a salary, higher brackets
What it means	Decades of continued deferral	A much larger share can go to taxes

How the rules for an inherited IRA changed under the SECURE Act.

A large traditional IRA may lose a larger share to taxes than many families expect, depending on each heir's own income and tax situation. This one tends to sit in the financial planning lane rather than the attorney's, because the levers are financial: who you name and how, and the lower-tax years before your own required distributions begin, when strategies such as Roth conversions may, depending on your circumstances, change the tax picture your heirs inherit. Whether any of this helps in your case is a question for your advisor and CPA, not a one-size answer.

Why These Slip Through: The Coordination Gap

None of those three is a drafting error. Each lives in the space between your legal plan and your financial plan, and that space usually has no one standing in it. Your attorney drafts excellent documents but rarely sees your account statements or beneficiary forms. Your custodian holds the beneficiary forms but has no idea what your will says. Your accountant sees the tax return after the fact. Each professional does their job well inside their own lane, and the gaps between the lanes are where estates quietly come apart.

Siloed planning is how good documents still fail.

Your will or trust, your account titling, your beneficiary forms, and your tax strategy all have to point in the same direction. Coordinating them is the difference between a plan that exists and a plan that works.

This is the work Oak Harvest does alongside your attorney and CPA. We do not draft your documents. We help you decide which structure fits, then make sure the financial side, the accounts, the titles, the beneficiary forms, and the tax picture, lines up with what those documents are trying to accomplish, so that what you intend is what actually happens.

The real risk is rarely a missing document. It is documents, accounts, titles, and beneficiaries pointing in different directions, and no one checking. A coordinated review is built to find those gaps.

A Few Questions Worth Sitting With

Most people who put off this conversation do it for one of a handful of reasons. Each of them is worth a second look.

"I already have a will. Isn't that enough?"	It might be. But a will takes effect only at death, so it does nothing if you become incapacitated, and it does not control the accounts that pass by beneficiary designation, which for most families are the largest assets. Whether your will actually covers what you think it covers depends on what you own and how it is titled, which is exactly what a review looks at.
"My situation is simple. Why would I need a review?"	The simplest-looking estates are often the ones no one has checked in years, which is how a stale beneficiary form or an asset that was never retitled goes unnoticed until it matters. Simple is good. Unexamined is the risk.
"My documents are old. Are they still valid?"	Valid and current are not the same thing. A document drafted decades ago can still be legally valid while naming people who have moved, passed away, or left your life, and while missing protections that did not exist when it was written. Whether yours still reflect your wishes is worth confirming rather than assuming.
"Won't my family just sort it out?"	Sometimes they do. But without clear, current, and coordinated instructions, sorting it out can mean probate, delay, cost, and the kind of disagreement that strains families at the worst possible time. Whether your current setup spares them that is worth knowing now rather than later.

A Practical Next Step

You do not need to diagnose your own plan. You only need to surface the questions worth a closer look before documents are drafted or changed:

- Given your state, your assets, and your family, is a will-based plan enough, or would a trust prevent a real problem?
- Have your documents and beneficiary forms been reviewed together in the last three to five years?
- Do you know who is named on every retirement account, annuity, and life insurance policy?
- Who would step in if you could not make decisions tomorrow, and do your documents say so?
- Do you plan to leave a traditional IRA or 401(k) to your children?

If any of those gave you pause, that is the signal, not to worry, but to look.

The first conversation is broad on purpose. We look at how your whole financial picture, your accounts, your income plan, your taxes, and your beneficiaries, lines up with what your estate documents are meant to do, and we help you see whether a will or a trust fits your family. You leave knowing what is already in good shape, where the gaps are, and exactly what to take to your attorney and CPA so the pieces work together when your family needs them.

Schedule a complimentary financial and estate coordination review.

No pressure and no obligation, just a clear picture of whether your plan will work when your family needs it.

Nothing to prepare in advance. If a rough list of your accounts is handy, it helps us make the most of the time, but it is not needed to start the conversation.

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