Right Plan: You Win
Wrong Plan: You Lose

Uncle Sam wins, which could cost you $40,000 or more, when you are in the wrong plan!

We want you in the Right Plan.

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AGENTS

Charrondia Dobson, Senior Agency Manager
James I. Moore, Jr., Agency Manager
Shannon Brooks
James Enoch
Chandra Carter
Donevan Cherry
Reginald Dobson

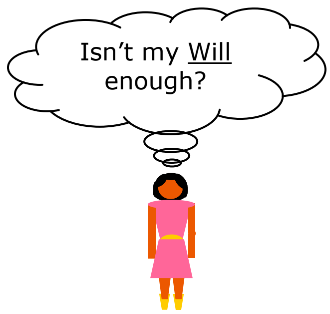
Life's Last Tax!

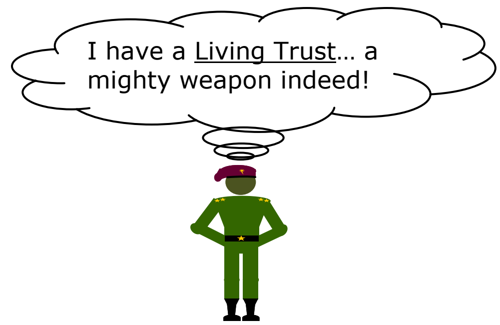
Why you may need a Living Trust

By Reginald Dobson

WARNING: Is your estate in jeopardy of **losing $40,000 or more** of its value? This type of monetary loss is nearly 100% avoidable if the right plan is put in place before it's too late. How tragic the story of a family who works a lifetime to build up and maintain an estate only to have it end in the **forced** sell of assets to pay probate fees and possibly federal estate taxes because they were in the wrong plan. What, if anything, can be done to eliminate or minimize *life's last tax*.

In this article, General Green will share his thought process and action taken to reduce expenses against his estate. General Green, a resident of a city we will call Rainbow, USA, is known for saying "Soldiers never die, they just fade away". The General knows that one day he will fade away, so he has decided to work on what will be his last Operations Order (Military talk for establishing a Living Trust).





Mr. & Mrs. Chestnut
(Married)

Age: 37

Home(s): $375,000

Timeshare: $15,000

Life Insurance:
His:$400,000 Hers: $250,000

Bank Accounts: $20,000

IRA / 401(k): $100,000

Business (sole proprietorship): $75,000

Personal Property: $50,000

Gross Estate Value:
$1,285,000

Ms. Persimmon
(Divorced)

Age: 55

Home(s): $200,000

Heir Property: $150,000

Life Insurance: $300,000

Bank Accounts: $25,000

IRA / 401(k): $60,000

Business : $0.00

Personal Property: $45,000

Tax Deductible: Will - **NO**

Gross Estate Value:
$780,000

General Green
(Widowed)

Age: 68

Home(s): 1st $350,000
2nd $150,000

Land: $300,000

Life Insurance: $1,000,000

Bank Accounts: $250,000

IRA / 401(k): $1,000,000

Business (LLC): $400,000

Personal Property: $125,000

Tax Deductible: Trust - **YES**
(Ref.: IRS Section 212)

Gross Estate Value:
$3,575,000

What would happen to each estate if the characters suddenly passed away? (See Page 4)

Please note: The purpose of this article is purely to provide pertinent background and information, and it in no way offers legal or financial advice. Certain actions should be undertaken only with the advice and judgment of a competent professional.

Insight
WEALTH SERIES

Life's Last Tax!

Why you may need a Living Trust

The law of conservation of energy states that energy can neither be created nor destroyed, it can only be transformed from one state to another. This basic law of physics seems to hold true regarding the transference of wealth as it applies to estate planning. However, if you are the beneficiary of a valuable estate that has a valid will (testate) or lacks a valid will (intestate), then you are more likely to feel that wealth was unnecessarily destroyed once you've completed probate proceedings. The various fees levied against an estate required to be probated are estimated to run 2% to 10% of the *gross value* of the estate. In this case, the law of conservation of wealth still holds true, wealth was not destroyed, it was simply transferred from one estate to another. One last debt owed by your estate, life's last tax.

> **Probate**
>
> Also known as estate administration, is the court process for determining how the assets of the deceased will be distributed.

The Situation

On page 1, 'General Green' decided to transfer his assets into a *Living Trust*. Given the size of his estate, this was a financially sound move. Why is this a sound financial move? What was the general's decision making process? How can others employ the same thought process to determine if they should consider a Living Trust?

> **Will**
>
> A document containing your instructions and wishes as to how your property and assets are to be distributed after your death.

General Green knows that the mission of preserving wealth is somewhat similar to other missions he's lead. He knows that in this battle, he must adopt a defensive doctrine to preserve as many soldiers (i.e.: monies and assets) as possible. For this to be a successful mission, he must prepare and issue an operation order (OPORD). In military terms, an OPORD gives subordinates the essential information needed to carry out an operation. The Living Trust acts in a similar fashion by providing essential information to the estate's successor trustee in the event of the trustee's death. A will does the same thing, right? That depends on the mission! A critical component of preparing an OPORD or preparing a will or Living Trust is the prevailing situation. General Green's mission is to preserve assets and money for his heirs and in his case that is best accomplished with a Living Trust. Like General Green, when it comes to management, planning and transference of wealth, we are all 'Generals' in command of an 'Army of Assets'.

> **Living Trust**
>
> An alternative way to own property during your life and transfer property at your death

> **70 Percent**
>
> The number of households without a will or trust.

The Art of War: Principle #1

The 'Art of War' is a Chinese military thesis written by Sun-Tzu in the 6th century B.C. General Green is familiar with all 13 principles pertaining to this body of work. He also knows that principle #1 is just as meaningful in planning one's personal life as it is in planning a military mission. Principle #1 involves laying plans and calculating victory. There are four components in the cost-benefit analysis used to evaluate his situation and confirm the need for a living trust: 1) Mortality 2) Estate Value 3) Financial Impact 4) Cost of the Living Trust. The first three components are used to calculate **Cost #1**.

> **Cost #1 (C1)**
>
> C1 = Mortality x [Gross Estate Value x Financial Impact]

Mortality is the condition of being human and the susceptibility of death. The mortality rate or probability of death for an individual can be estimated from different on-line sources: US social security actuarial life table or life expectancy calculators. If a person were immortal the probability of their dying would be zero. Since all humans are mortal, our mortality certainty value is 1. For the purpose of simple calculation, the General chose to use the mortality value of 1.

> **Quote: John Maynard Keynes**
>
> "In the long run, we are all dead."
>
> Probability (death) = 1

The next component, **Gross Estate Value (GEV)**, is a relatively straight forward calculation. It is the sum total of all valuable assets a person owns. The personal estates of the characters on page one list several assets used in determining gross value of an estate. *Did you know that if you own the insurance policy on your life, then 100% of the proceeds are included towards the value of your estate?* Although life insurance is not probated, the death benefit could push the value of an estate over the allowable estate limit and cause **federal estate taxes** to be owed (due in cash 9 months after death). If congress allows 2011 estate tax exemptions to revert to pre-2001 levels, estate taxes will be imposed on inheritances more than $1 million at a 41% to 55% rate (2009 level: $3.5

Reginald Dobson *is a founding Partner of EnVision Capital Group, LLC (rdobson@envisioncapitalgrp.com), an independent agency specializing in insurance, financial services and small business consulting. He is a certified Project Management Professional with over 15 years experience in the areas of continuous improvement, industrial engineering, and operations management. He specializes in small business consulting and fixed indexed annuities.*

million at 45%, 2010 level: unlimited at 0%). Even if an estate manages to avoid federal and state death taxes by not exceeding the limit, there is still the matter of probate if the estate is not structured properly.

The third component, **financial impact**, is a percentage range derived from the estimated cost to take an estate through probate. Calculating financial impact is a little more difficult because of how each asset class is treated from an estate tax and/or probate perspective. For that reason, the national average of 2% - 10% for probate fees is used for this component.

After being armed with the necessary data, General Green inputs the values into the Cost #1 (C1) formula to evaluate the potential monetary exposure of his estate. He then compares C1 against C2. C2 is the cost of establishing a living trust plus the cost of settling a Living Trust. 2% of the gross estate value (GEV) is the average cost of settling a trust outside of Probate.

General Green's: Cost-Benefit Analysis

Decision: Invest in Living Trust if C2 is less than C1

C1 = 1 x [$3,575,000 x (2% - 10%)]
C1 = ($71,500 - $357,500)

C2 (Cost of Living Trust + 2% GEV) **= $1,795 + $71,500**
C2 = $73,295

C2 < C1
$73,295 < ($71,000 - **$357,500**)

Result: "Hope for the best, plan for the worst"…
Establish a Living Trust to drastically reduce exposure to both probate cost & *potential Estate Taxes (page 4).*

Why A Living Trust?

Depending on education level, the average American worker will earn between $1.2 to $4.4 million over their working lives. This earned capital will be allocated to obtain consumable, durable, and investment items. Durable and investment items are the primary components that increase the value of an estate over one's lifetime. These are also the assets which past and present generations will bequeath to future generations. The critical issue is how much of the estate will actually be left to pass on to heirs. Will 95 - 100% of the estate be effectively transferred or will 70% - 90% be transferred due to good intentions but the wrong plan. A *Living Trust* is one tool available to assist in optimizing the transference of wealth. According to "Heritage Trust", the reason a Trust should be created is based upon 5 important decisions:

1) The cost and delays of Probate
2) The reduction of federal Estate Taxes
3) The impact of Capital Gains to the heirs
4) Gift Tax violations of the $13,000 limit
5) The problems of disability and conservatorship

Depending on the complexity, value, and geographic location(s) of your estate, the Probate process may be quiet expensive (court cost and attorney fees) and pose a significant burden on your heirs (court imposed deadlines and time off work). This point bears repeating, the decedent's estate, with or without a Will goes through Probate and Probate fees are paid before the heirs collect their inheritance! *Probate is virtually avoided with a Living Trust*. 'Why' you may need a trust starts with doing the math and comparing the cost. We found the Fidelity estate tax calculator to be a useful tool in estimating federal estate taxes. The results from the calculator will help assess your current estate status and potential tax saving strategies.

Estate Tax Calculator

Go to following web address:
https://web.fidelity.com/estateplanning

Select > Estate Planner

Select > Estate Tax Calculator

There is a secondary 'why' a Living Trust is becoming more important. As the population ages, who will handle the affairs of their estate if they become incapacitated. More Americans are facing the need for some type of long-term care assistance: skilled nursing home, home health, or assisted living care. A Living Trust can help plan for such events.

Heritage Living Trust Advantage

EnVision Capital Group is excited to be an independent agent of Heritage Living Trust. Our partnership has already benefited several of our existing clients.

CASE IN POINT: While visiting a client from the western part of North Carolina, our agent discovered a potential ***$30,000 probate liability****. A liability that was not addressed by his tax preparer, CPA, or lawyer. Our client was unaware that his estate faced such a liability. It was assumed that his "$600 Will" would handle the issue of distributing his property at a minimal cost. Surprisingly, the Will not only left the estate exposed to a potential $30,000 liability, but also positioned his final wishes to be overturned if the Will was contested.*

In the end, greater preservation of estate value and conservatorship influenced the client to investigate the need for a Living Trust. It was the following **advantages** that caused him to decide on a "Heritage Living Trust".

- **Preparing Living Trusts Nationally Since 1990**
- **Comprehensive Living Trusts (A, AA, ABC, etc.)**
- **A+ Rating by Online BBB**
- **Free Lifetime Changes & Support**

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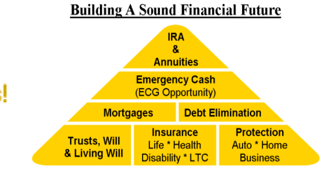

Insight

WEALTH SERIES

BONUS!!!
See Page 5 & 6
"Quarterly Newsletter"
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In her book "*You've Earned It, Don't Lose It*", Suze Orman candidly states "*No one in their right mind would ever consider making the IRS one of the main beneficiaries of their money*". As you will see below, the IRS is not the only beneficiary if you have the wrong estate plan.

For the purpose of simple calculation, it was assumed that all assets listed for each character were owned free and clear. Real life scenarios are rarely this simple and requires more detailed planning. We recommend a little self study: 1) Web resource: Google Books - Topic "Estate Planning" 2) NOLO Book: "Plan Your Estate" 3) **Video Presentation: www.heritagelivingtrust.com**

No Will / No Trust	Will	Living Trust
Mr. & Mrs. Chestnut (Married) **Cause of Death:** Auto accident Passed away simultaneously	**Ms. Persimmon** (Divorced) **Cause of Death:** Cancer	**General Green** (Widowed) **Cause of Death:** Natural
Gross Estate Value: $1,285,000	**Gross Estate Value:** $780,000	**Gross Estate Value:** $3,575,000
Estimated Probate Cost: **$20,000 - $70,000**	**Estimated Probate Cost:** **$15,600 - $54,600**	**Estimated Settlement Cost:** **$73,295** *(See General Green's Cost-Benefit Analysis, pg. 3)*
Estimated Federal Estate Tax: 2009: $0.00 2010: $0.00 2011: **$128,250**	**Estimated Federal Estate Tax:** 2009: $0.00 2010: $0.00 2011: $0.00	**Estimated Federal Estate Tax:** 2009: **$33,750** 2010: $0.00 2011: **$1,158,750**

Art Of War
Principle #4
Tactical Positioning
"GST & ILIT Trust"

Revised Estate Tax owed **$0.00**

ATTENTION: Did you notice the change in Estimated Federal Taxes owed by General Green's Estate, assuming he died in one of the listed years. This change is due to the *IRS Applicable Exclusion* amount for the year of death. The exclusion amount was $3.5 million for 2009, estate tax repealed for 2010, and $1 million for 2011 (pending Congressional review).

Regardless of how Congress votes, General Green's estate can virtually eliminate owing Federal Estate taxes by establishing a Generation-Skipping Trust (GST) and a Irrevocable Life Insurance Trust (ILIT). This maneuver ensures a greater transference of wealth. It pays to know the rules!

Heritage Living Trust has provided additional remarks concerning each scenario, which can be found on page 5 (available on-line at **www.ecgnow.com,** Click on "*Quarterly Newsletter*").

Why you may need a Living Trust

- Increase Estate Tax Exemption
- To avoid the Probate Process
- Own real estate / have a mortgage
- Real estate in multiple states
- You have minor children
- You have a Special needs child
- Leave a loving legacy

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North Carolina Probate Procedure

1) Locate Will and Qualify Executor
2) Conduct Estate Inventory
3) Notify Creditors
4) Pay Creditors
5) File Tax Returns
6) Prepare Annual Accounts
7) Distribute to Beneficiaries
8) Prepare Final Account

Fees for Settling a Living Trust

* Successor Trustee * Attorney (negotiable) * Accounting
* Appraisal and Business Valuation * Miscellaneous
(Estate remains confidential & not a matter of public record)

Fees for Probating an Estate

* Court * Personal Representative * Attorney (state law)
* Accounting * Bond * Appraisal & Business Valuation
* Miscellaneous (Estate becomes a matter of public record)

Scenario #1

The deceased would die intestate, the deceased's estate would go into Probate, the Probate court would be charged with writing a Will for the deceased, and the assets would be frozen for the family until the Probate process is completed which could take anywhere from 6 months to 2 years. Stocks could not be sold; house could not be sold; creditors would be able to demand full payment in Probate and anyone could make claims against the estate through appeal to the Probate court; The costs of Probate would equal about **8% to 10% of the Gross value of the estate and that money would go to the attorneys processing the Probate**. A 401k has a beneficiary designation so would not be probated and would go directly to the beneficiary; life insurance would not be probated because it also has a designated beneficiary but the death benefit would be counted in the estate tax calculation. For Estate Tax purposes, the estate would go to the spouse in its entirety free from estate tax under the *unlimited marital deduction*, but on the death of the surviving spouse the estate would have only a $1,000,000 exemption and everything over one million would be taxed at about **40%+** for an estate tax of around $150,000… if the estate remained at its current level. Again, any life insurance death benefit would be counted in the estate tax calculation. The estate tax would be higher if the estate grew in size before the second spouse died. The checking account would be available to the surviving spouse if the spouse was a signatory on the bank account.

Scenario #2

This would be the same situation as dying without a Will with the exception that the deceased has put her wishes in writing and left instructions on how she wants to leave her estate. Probate would still be necessary since a **Will is nothing more than instructions to the Probate Court**, but the court would not have to make determinations on its own regarding the settlement of the estate since the deceased has done that in advance in the Will. The legal costs of Probate could be $50,000 in this case. Marital provisions not withstanding, all other situations expressed in scenario #1 would apply including the estate tax scenario except, since there is no living spouse, the estate tax would be due in cash within **9 months of death**.

Scenario #3

There would be no Probate. The Successor Trustee of the Living Trust would be able to settle the Trust within weeks. There would be no legal costs and no time delays or freezing of assets. **The family would have immediate access to financial resources or could sell or liquidate property immediately if necessary**. There can be no contest of the Trust and the details of the estate would remain completely private...unlike scenario #1 and #2. If a married couple is involved in this scenario there would be a *doubling of the estate tax exemption* at the death of the second spouse. To enjoy maximum benefit from a Living Trust, under this scenario, all assets must be funded into the Living Trust. Assets left out of the Trust who's aggregate value is over the minimum Probate limit WILL go through Probate. There would be no Conservatorship problems if a Conservator became necessary because a Conservator has already been named in the Trust eliminating any need to deal with the restrictions and supervision of the Conservatorship Court. Guardianship would be provided for minor children or provisions for *special needs children will be taken care of to preserve any public assistance benefits* beyond the death of the parents. Any scenario of bequests to heirs can be accommodated without challenge by the heirs. Creditors cannot invade the estate assets in the Trust at death. **The Trust can live and continue after death for years or decades** under the management of the Successor Trustee to accommodate any special situations that may be desired, such as perpetuating the benefits from the Trust for the benefit of the Grandchildren.

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Estate Value Work Sheet

		Owner (You)	Owner (Spouse)	Joint Ownership
Real Estate (Market Value)				
	House(s)			
	Land			
	Time Share			
Life Insurance				
	Individual Policy you own			
Bank Accounts				
	Savings			
	Checking			
	Money Market			
	CD's			
Investment Account				
	Brokerage			
	Annuities			
	Savings Bonds			
	IRA (Traditional, Roth, etc.)			
	401(K) / 403 (B)			
Monies Owed to You				
	Pension			
	Judgments			
	Personal Loans			
	Wages			
	Bonuses			
	Commission			
Personal Property				
	Vehicles (Auto, Boat, etc.)			
	Antiques / Art / Furniture			
	Clothing / Jewelry			
	Farm Equipment / Livestock			
	Tools / Guns / etc.			
	Books / Computers / etc.			
	Other Items of Value			
Business Interest				
	Sole Proprietorship			
	Partnership			
Estate Value (By Owner)				
Gross Estate Value (GEV)				
(Total the 3 Ownership types)		(2% GEV) =	(10% GEV) =	

NOTE: Your Gross Estate may not be valued over **$500,000** today… but what about 10 years from now? Various national figures estimate the cost to **Probate** an estate ranges from **2% to 10% of the Gross Estate Value**. Multiply your GEV times the 2% (low end) and 10% (high end) to calculate your Probate exposure. Do not forget about potential *'Federal Estate Tax'* liabilities, which is based on ever-changing IRS rules.