



LONE OAK
Trust Company



I'm Dead. Now What?

BY KATHERINE LUMMIS

Our series “I am in my [insert age bracket], why do I need a Trust?”, has reached its logical conclusion. While Trusts can exist for up to 300 years, human beings cannot. At least not yet. The planning you chose to do, or not do, during your lifetime will affect your heirs in three very significant ways:

1. The amount of time it takes to settle your estate.
2. The amount of work it takes to settle your estate.
3. The amount of money your estate pays the government.

In this final installment of our series, we will explore (at a very high level) the consequences of not planning for your death. Please keep in mind that estate planning can be very complex or very simple, depending on the decedent's wishes, and we have covered only a small portion of the topic over the course of 2024. We welcome the opportunity to meet with you to ensure the legacy you leave behind is the one you want to leave behind.

I planned! What happens now?

After final arrangements have been made, the first task most families face after a death is maintaining the continuity of your affairs. Government agencies must be notified, claims for life insurance filed, accounts and assets identified and gathered, and even arrangements for the feeding and housing of pets must be made. If a plan is not put in place that clearly defines what you want and who is in charge, accounts could be frozen, community property divided, and existing trusts terminated.

As we have noted in our previous chapters, the simplest way to ensure the availability of funds during estate administration is to fund a Living Trust combined with a Pour Over Will. A Pour Over Will is a specific type of Will that directs all property to automatically flow into an existing Living Trust once it goes into effect, usually upon death or incapacity.

Living Trusts allow for individuals to determine how their property and assets will be distributed to their heirs after death, and allows the grantor(s) to use and control them during life.

The language of a Pour Over Will must be precise to ensure the smooth transfer of assets. In many cases, the wording used explicitly states that any assets not already included in the Living Trust should be moved into it upon the grantor's death. The advantages of having a Pour Over Will include security, privacy, clarity, and most importantly, continuity. Pour Over Wills and Living Trusts provide family with peace of mind, knowing that no assets or property fall through the cracks or are untraceable. Living Trusts are private entities and allow you to avoid probate. An estate plan utilizing these two vehicles provides invaluable clarity in how you want your assets managed and distributed. And finally, the Trustee named in the Living Trust can take control of your assets the moment after death, ensuring funds are not frozen or left unmanaged during the estate process.


I failed to plan ... what happens now?

Careful planning solves many transitional challenges, but people often fail to fully implement such plans, thereby limiting their value. Even in cases where Trusts and Wills are present and properly implemented, the Executor must still find the decedent's original Will – assuming there is one. The Executor must then locate and secure all estate property, collect, validate, and pay immediate bills, and manage the expectations of anxious beneficiaries.

A major responsibility of the executor is to determine what is included in an estate. Certain property, such as retirement accounts, pay-on-death accounts, survivorship property, and life insurance proceeds may pass directly to your beneficiaries, and are not subject to probate. If the decedent was married, the executor must determine what property is community or separate. This process may require division and segregation of community owned interests via deeds, assignments, and even partitions. When working with

**“...the Trustee
named in the Living
Trust can take
control of your
assets the moment
after death,
ensuring funds are
not frozen or left
unmanaged during
the estate process.”**





second spouses or blended families, this process can be quite complicated and/or contentious.

One of the final steps in estate administration is filing Form 706, a tax document required by the Internal Revenue Service to calculate estate taxes and to determine the amount of generation skipping taxes allowed under the Internal Revenue Code. Until this form is filed, the Executor should be careful not to make excessive distributions to any beneficiaries that could cause the estate to become illiquid in the event of an audit or court proceeding. Depending on how the estate plan was designed and enacted prior to death, the estate tax burden may be apportioned among the beneficiaries' respective shares, or it may be borne solely by the residuary estate. For those with significant wealth, planning becomes increasingly important if one of your goals is to avoid estate taxes.

Over the course of the year, we have explored how estate planning can be effective no matter what stage of life you are in. For those building families and building wealth, having a Trust in place grants you control over specific assets and protects your loved ones and/or minors should the unexpected happen. For those entering the middle of life, Trusts can address specific needs, and for those towards the end of life, an estate plan can mitigate the burden of estate administration and a hefty estate tax bill.

While planning is important, if you do not prepare your loved ones and/or heirs to receive large or small amounts of wealth, you have not completed the circle. It is just as important to educate your heirs as it is to have a plan in place. In 2025, we will explore how financial literacy is a critical component in maintaining generational wealth so that your next generation is equipped to build upon the foundation laid for them.

We wish you a peaceful end to 2024 and look forward to connecting in the New Year!

www.loneoaktrust.com
info@loneoaktrust.com
817.992.1312

“While planning is important, if you do not prepare your loved ones and/or heirs to receive large or small amounts of wealth, you have not completed the circle.”