

# WHISKER CITY

## CARING FOR YOUR PET IN THE EVENT OF YOUR DEATH OR HOSPITALIZATION



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### DISCLAIMER

The information provided herein does **not** constitute, and should **not** be relied upon by you as, legal advice is intended only to provide a general overview of the topics discussed. If you are considering creating a will, a pet trust, or providing for your pet after your death in any way, please consult your local estate and trust attorney, CPA or financial planner.

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## INTRODUCTION

For most people, a pet is an important and comforting part of life, and the care and well-being of the pet is a primary concern. The myriad positive physical and mental health benefits associated with pet ownership are well-documented. Your pets rely on you for their well-being. But, what happens when you are no longer there, whether because you are incapacitated, you have to be hospitalized for a shorter or longer period of time, or you are deceased?

Despite your desire to care for them, you cannot leave money or other kinds of property to your dog, cat, bird or any other type of animal. This is not because your pet can't see over the bank counter to open an account, or use its paws to withdraw money from an ATM. Rather, it is simply because the courts have historically ruled that animals are property. Just like your dining room table cannot own your coffee table, your pet cannot own money. In the eyes of the court, one piece of property simply cannot own another piece.

Because pets cannot own property, they cannot be beneficiaries (i.e., someone who receives property) in a will, or other type of financial instrument, for example an insurance policy. In cases where owners have willed property to their pets, courts have ruled for the alternate beneficiary. So, if you have bequeathed \$15,000 to Fluffy in your will, or named Oliver as the beneficiary of your life insurance policy, with your grand-son Albert as the alternate beneficiary in both case, Albert will get the money. Where there was no alternate beneficiary, the courts have given the property to the person named as the "residuary" beneficiary. That is, the person who gets everything not specifically left to other beneficiaries named in the will. If there's no residuary beneficiary, the property will be distributed to your closest relatives under the "intestate succession" laws of the state. This law controls what happens to property if there is no will or trust to dispose of it. In the end, your pets will get nothing, and the result may be not at all what you intended.

As an example, Ms. Thelma Russell left "everything I own... to Chester H. Quinn and Roxy Russell." Chester was a close friend and Roxy was a dog. Upon Ms. Russell's death, her niece challenged the will. The California Supreme Court agreed that the gift to Roxy was void. As a result, the half of the property that was intended for Roxy was awarded to the niece even though Ms. Russell had left a note urging her close friend, Chester, not to let her nieces get their hands on her property no matter what.

Although you cannot leave money directly to your pets, you can still provide for them and ensure their well-being either through a will or a trust. The following is a brief overview of provisions in a will to take care of your pets, as well as an overview of pet trusts and their potential uses. However, **the information provided herein does not constitute, and should not be relied upon by you as, legal advice and is intended to provide a general overview of the topics discussed.** If you are considering a will, a pet trust, or providing for your pet after your death in any way, please consult your local estate and trust attorney, and CPA or financial planner.

Whether you chose to provide for your pets in a will or in a trust, there are a number of essential steps which are common to both.

### **1. Choose a New Owner for your Pets**

Choosing the “right” owner for your pets may be the most important thing you can do. Remember, that animals are considered property under the law. Therefore, willing or not, your pets will be assigned to new owners upon your long-term incapacity or death. Better to entrust them to someone you know will take good care of them. Of course, you want to make sure that the person you have selected is willing and able to care for your pets. Keep in mind that your family member or best friend may love your pets but his/her children may be allergic to them, or s/he may live in an apartment which does not allow pets, etc. Furthermore, you want to make sure you select alternate owners in case the first, or primary, person you selected is no longer willing and/or able to care for your pets, or becomes unwell and/or unable after s/he becomes their new owner. For example, after becoming the new owners of your pets, your primary caretaker moves to an apartment where pets are not allowed. Your decision can be made legally binding by including it in your will or trust. A simple way to do so is with a sentence such as:

*I give my cat, Ginger, and any other animals which I may own at the time of my death, to Joan Smith, presently residing at 12345 First Avenue, City of Seattle, State of Washington, with the request that she treat them as companion animals. If she is unable or unwilling to accept my animals, I give such animals to John Doe, presently residing at 9876 Any Street, City of Anywhere, State of Washington, with the request that he treat them as companion animals. If he is unable or unwilling to accept my animals, my Executor shall select an appropriate person to accept the animals and treat them as companion animals, and I give my animals to such person.*

If you fail to name a new owner in your will or trust, one of two things will happen:

- Your pets will go to the residuary beneficiary of your will (i.e., the beneficiary who inherits everything that's not taken care of by the rest of the will); or
- If you do not have a will, your pets will go to your next of kin, as determined by state law.

Hence, it is unlikely that, absent huge luck, the person you would have preferred took care of your pets will be the one who will become the new owner. Furthermore, the person who becomes the new owner, though otherwise a nice person, may be unwilling and/or unable to take care of your pets who may, therefore, end up at the local shelter.

#### **1. Leave Enough Money for the New Owner to Take Care of Your Pets**

You know just how big a financial responsibility is to take care of your pets. It will be no different for the new owner you have named in your will or trust. So, it is a good idea to leave that person a certain sum of money that s/he can use to care for your (now his/her) pets. This is so even if you think the new owner can easily afford to pay for the pets' upkeep. A pet who arrives with a full dinner dish is likely to be more welcome than one who is on the dole.



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Again, this is simple to do in a will or in a trust. A sample sentence is:

*I give my cat, Ginger, and any other animals which I may own at the time of my death, to Joan Smith, presently residing at 12345 Any Avenue, City of Anywhere, State of Washington, with the request that she treat them as companion animals. If she is unable or unwilling to accept my animals, I give such animals to John Doe, presently residing at 9876 Any Street, City of Anywhere, State of Washington, with the request that he treat them as companion animals. If he is unable or unwilling to accept my animals, my Executor shall select an appropriate person to accept the animals and treat them as companion animals, and I give my animals to such person. I direct my Executor to give \$5,000 from my estate to the person who accepts my animals, and I request (but do not direct) that these funds be used for the care of my animals.*

There is a downside to such a clause. That is, even though the provision leaving the \$5,000 to Joe or Jane is legal and enforceable, how they use the \$5,000 is not. So, Joe and/or Jane may decide to take a trip to Vegas with the money, or bet it all on some "hot" stock tip. Of course, this should not be a big worry provided you leave your pets, and whatever money to care for them, to someone you trust.

In the example provided, if Fluffy pre-deceases you, neither Joe nor Jane are entitled to or would get the \$5,000. That money, along with any other property that the will or trust does not specifically give away, will go to the person named in the will or trust to receive the "residuary" of your estate.

## **2. Leave Your Pets to One Person, the Money to Another**

One way to prevent the undesirable circumstances described above, is to leave your pets to one person, and the money to another. This is particularly important where the person who will care for your pets receives some kind of public assistance (e.g., Social Security disability). If that person receives several thousand dollars from you in a lump sum, it might mean the grant would be cut off until the money is spent. Such a situation would benefit neither your friend nor your pets and, despite the best of intentions, the person you selected to take care of your pets may not be able to do so.

Again, it is a simple matter to provide such a clause in your will or trust. Here are some sample clauses:

*"If my cat, Fluffy, is alive at my death, I leave her to John Doe to care for her to the best of his ability."*

*"If my cat Fluffy is alive at my death, I leave \$5,000 for her care to Joan Smith. I desire that she give John Doe, as long as he has custody of Fluffy, \$100 a month to be used exclusively and solely for Fluffy's care. In addition, I desire that she use the money to pay Fluffy's veterinary bills or reimburse John Doe for veterinary bills he pays upon John Doe submitting proper receipts."*

Remember that, if Fluffy is alive when you die, the \$5,000 goes to Joan outright. As such, the instructions about how to use the money are not legally enforceable. Joan is therefore "free" to spend the money on an exotic vacation. Of course, again, this should not be a problem if you choose the right people.

Again, it bears repeating that conditional gifts are difficult to enforce because there is no trustee or overseer to ensure that the funds given to the caretaker are actually used for the benefit of the pet.

### 3. Keep Your Will or Trust Up to Date

It is important to keep your will or trust up to date as money intended to care for your pets may be awarded to the new owner even where your pets pre-decease you. For example, let's say that your will provides:

*"Should my husband predecease me, or should we die as the result of a common disaster, I hereby give \$5,000.00 to Joan Doe, should she survive me, for the proper care of my cat Fluffy."*

As it happened, Fluffy died before her owner did. However, a Colorado court ruled that Joan (fictitious name) should get the \$5,000 anyway. Other courts faced with similar situations have ruled the same way. The courts reasoned that the obligation to care for the animal did not arise until after the gift of the money was made. Since it is not the beneficiary's fault that she cannot carry out the condition (i.e., take care of the pets who have died), she is entitled to keep the money which is deemed to be a gift.

Preventing such an outcome is, again, a simple matter. When you write your will or trust, all you need to do is word the clause so that the money is given only if your pets are still alive. Here is a sample of such a clause:

*If my cat Fluffy is living at my death, I leave her to the care of John Doe. I further leave Joan Smith \$5,000 to be used for care of Fluffy. If Joe is unable and/or unwilling to care of Fluffy, I leave her and the \$5,000 to be used for her care to Joan Smith."*

### 4. Arranging for Veterinary Care

Just like veterinary care was likely the biggest expense you incurred, it is likely to be so for the new owner of your pets. One way to make sure your pets get all the care they need is for you to arrange in advance for the pets' veterinary care for life. There are several ways to do so.

One way, as we have seen, is to leave money to the new owner, with instructions to buy animal health insurance, and animal veterinary care, for your pet. You must rely on the new owner to spend the money that way since you will not be around to verify it or no one can else can enforce it either.

Another possibility is to leave money, in your will, to the veterinarian. The amount, and what is expected of the veterinarian, should of course be worked out with him/her in advance. Any money left when the last pet dies could go to a relative, a charity, or to the veterinary in appreciation of services rendered. Again, however, you will be trusting the veterinarian to follow through.

A third approach is to write out a contract with a veterinarian, and pay or leave the veterinarian a certain amount, as a credit toward expected services. You will, of course, also need to agree on what is to be done with any excess that is left when the last pet dies.



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A sample contract is shown below which you can use as a starting point for discussion should you wish to explore this option with your pets' veterinarian.

<b>Contract (Credit Toward Services)</b>	
Jacques Buckley, D.V.M., and Petra Campbell agree that:	
1. Dr. Buckley will provide veterinary care for Ms. Campbell's dog Charlemagne from the time of Ms. Campbell's death until Charlemagne's death.	
2. The veterinary care provided will include all necessary vaccinations, diagnoses and medications, reasonable treatment of diseases or injury, and euthanasia.	
3. If Dr. Buckley determines that Charlemagne has a terminal condition and that further treatment is unlikely to significantly prolong the dog's life, or that prolonging his life with treatment would mean that the dog would suffer unduly, he may decline to continue treatment.	
4. Ms. Campbell has paid Dr. Buckley \$3,000 as a credit toward Dr. Buckley's veterinary care of Charlemagne.	
5. This \$3,000 will count as a credit for veterinary services for Charlemagne's new owner. Dr. Buckley will provide the new owner with statements, specifying services provided, their cost, and the amount of credit remaining.	
6. If at Charlemagne's death, any of the original \$3,000 payment has not been used up, Dr. Buckley will donate it to the Phoenix, Arizona Society for the Prevention of Cruelty to Animals.	
7. If the \$3,000 in services is used up, Dr. Buckley may discontinue treatment of Charlemagne or charge Charlemagne's owner for any further services.	
8. If Dr. Buckley moves away from the area or ceases to practice veterinary medicine, he will either:	
a) arrange with another veterinarian, subject to the approval of Charlemagne's owner, for continued care of the dog under the terms of this agreement, so that the new veterinarian extends the same credit for services as remained when Dr. Buckley quit providing services; or	
b) refund whatever of the original \$3,000 credit remains to Charlemagne's owner.	
_____	_____
Jacques Buckley, D.V.M.	Date
_____	_____
Petra Campbell	Date

## 6. Will Provisions That Order Animals Destroyed

While you're alive, your dog is, legally, your property. Aside from the restrictions of cruelty laws, you can do almost anything you want with an animal you own: sell it, give it away, or have it humanely destroyed.

Similarly, If your will directs the executor of your estate to have your dog humanely destroyed, and the executor or a local humane society doesn't object - quickly - the dog will be destroyed soon after your death.

If someone does object, the probate court, which oversees the administration of your estate, will rule on the validity of the will provision. Almost always, these provisions are found to be invalid, and the court may forbid the executor from carrying out your instructions. Courts have always frowned on wills that order the destruction of any

kind of property, on the ground that it goes against public policy to needlessly destroy valuable property.

### 7. Providing Funds for Pet Care During Transitional Period

A provision should be included in all wills allowing the Executor to use estate funds to care for the pets for the period before the pets goes to the new home designated by you. The will should state that the costs of food, veterinary care, transportation and other expenses incurred by the Executor in caring for your pets, is to be paid from the estate as an estate administration expense, whether or not the expenses are deductible for estate tax purposes.

Short-term arrangements for care of a pet are necessary to cover the period between your death and the issuance of letters testamentary or letters of administration. These letters give the Executor or Administrator authority to act. However, depending on the jurisdiction, it may take from several weeks to several months to obtain them. Short-term arrangements are also necessary if you are hospitalized for a period of time.

A sample clause is:

*"I direct my Executor to pay, as an administration expense, all expenses associated with the feeding and care, including veterinary costs, of my cats until the animals are placed with the persons that I (or my Executor) have selected to care for the cats for the duration of their lives, whether or not these expenses are deductible for estate tax purposes."*

## PET TRUSTS

### Introduction

*One way to avoid the uncertainties of a will, is to set up a pet trust.*

A pet trust is a legal arrangement that allows owners to establish trust accounts, upon their death, for the ongoing care and maintenance of their pets. It is a document that serves the same purpose as a will, but avoids probate after your death.

If you are an average pet owner, with just one or two dogs or cats, and family members or friends willing and able to look after the pets in the event of your death, establishing a pet trust may not be necessary. You may feel comfortable that existing family members or friends will continue to care for your pet and see no benefit to jumping through the legal hoops and expenses required to establish a pet trust. However, if you have multiple pets - for example, you breed and show purebred cats - pet trusts could provide you with considerable peace of mind. In many such cases, your family or friends are unable or unwilling to care for all of your animals. A pet trust potentially allows you to avoid this burden to family and friends.



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With a pet trust, you can leave money for the benefit of your pets and put someone else, called a trustee, in charge of managing and spending it. The trustee follows a written set of instructions that you provide. These instructions are enforceable by a court of law so that the trustee can only spend the money in whatever way you instructed him/her.

Another advantage of a trust is that it can take effect before your death. Unlike a will, which can only take effect after your death, a trust can provide for your pets in case of long-term hospitalization or incapacity.

However, keep in mind that, like a will, a trust can be challenged. Especially where the amount left in trust is "extravagant" (i.e., think Leona Helmsey) in the court's opinion, the court may step in to reduce it. It is, therefore, important not to overfund the trust lest relatives challenge it. The amount used to fund the trust must be reasonably related to the actual needs of the pets, and those needs must be specifically detailed in the trust document.

It is important to note that money from the pet trust typically can be used only for the care and maintenance of the pets you owned at the time of your death, and not subsequent offspring of those animals. However, funding from the pet trust could greatly ease the burden of the new caretaker/breeders in caring for and maintaining additional pets.

#### Washington's Pet Trust Law

Washington's pet trust law can be found at RCWA.11.118.005 to 110 (www.RCWA.11.118.005). It bears mentioning that the legislature has defined the term "animal" to mean "a nonhuman animal with vertebrae." (See, RCWA.11.118.010).

#### Trust must be specific

Like any other type of trust, pet trusts must be very specific.

Trustee(s): A trustee is a person who will enforce the provision of the trust. For example, if the trust specifies that Fluffy is to be taken to the groomer once a month, the trustee will make sure that the caretaker takes Fluffy to the groomer once a month. As such, the trustee(s) should be different from the person(s) who will care for the pet(s). Otherwise, the caretaker is also the enforcer of the trust, a dangerous conflict of interest. The maker of the trust should specify a trustee and a successor trustee in case the trustee is unable and/or unwilling to act as trustee.

Caretaker(s): Most pet owners will select a friend or a relative who knows, and presumably cares for and is willing to take care of, the pet(s) as the caretaker. However, it's important to discuss your choice with the person to make s/he can, in fact, take care of your pet. Secondary and tertiary caretakers should also be named, in case the owner's first choice becomes disabled or dies, or for whatever reason, is no longer able or willing to care for the pet(s).

Pet Identity: The trust should specifically identify each pet via its breed, age, name, tattoo, microchip, or other permanent form of identification.

Pet's maintenance: The trust should provide a detailed description of the pet(s)' maintenance, including the name one or more vets authorized

to care for the pet(s). The trust should also specify how the trustee will reimburse the caretaker for the pet(s)' expenses. The trust should specify how often the trustee should physically visit the pet(s) to ensure that the trust's instructions are being followed.

Remainder beneficiary: The trust must also name a "remainder beneficiary" - an individual or organization that will receive any funds left in the trust account after the death of the last pet named in the trust.

Keep your trust up to date: We have already covered this topic up above.

### Sample Testamentary Trust for the Care of Cats

*"I give the sum of Fifty Thousand Dollars (\$50,000) and all of my cats, and any other animals of mine, living at the time of my death to the Trustee named hereunder, IN TRUST, for the following purposes and subject to the following terms and conditions:*

- This trust is created pursuant to RCWA.11.118.005, et seq., for the benefit of all of my cats, and any other animals of mine, living at the time of my death (the "Beneficiaries" herein).*
- The trust shall terminate upon the earlier to occur of the following events: the last to die of the Beneficiaries, or if required by Washington State law, twenty-one (21) years from the date of my death.*
- During the term of the trust, the Trustee shall apply for the benefit of the Beneficiaries, any or all of the net income of the trust and so much or all of the principal of the trust from time to time, as the Trustee shall, in the Trustee's discretion, determine to be advisable for the care, including veterinary care, of the Beneficiaries. Any income accrued but not distributed for the benefit of the Beneficiaries shall be added to the principal of the trust.*
- I appoint (name and address) to be The trustee of such trust. If such person has predeceased me or for any other reason is unable and/or unwilling to act as such Trustee, I appoint (name and address) to be the Trustee of such trust.*
- I designate (name and address) to be the Caretaker of the Beneficiaries. If such person has predeceased me or for any other reason is unable and/or unwilling to act as such Caretaker, I designate (name and address) to be the Caretaker of the Beneficiaries. If such person has predeceased me or for any other reason is unable and/or unwilling to act as such Caretaker, the trustee shall select another person to act as Caretaker of the Beneficiaries. The Trustee, in the trustee's discretion, may pay a stipend from the trust to the person acting as such Caretaker.*
- I am creating this trust to provide for the care of my animals and the Trustee does not need to consider the interests of the remainderman when making*



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*distributions. The Trustee, in the Trustee's discretion, may use all of the trust property for the benefit of the Beneficiaries; even if the result is that nothing will pass to the remainderman.*

- *Upon the termination of the trust, if any property remains in the trust, the Trustee shall distribute any such income and/or principal to (name of organization - charity that rescues animals recommended, or person), located at (address). If such charitable organization is not in existence at the time of termination, I give the trust remainder, if any, to (name) located at (address of organization or person).*

### **Funding the trust**

A pet trust can be funded by existing estate assets, or through other mechanisms, such as a whole or term life insurance policy. One downside to trusts is that they can be expensive to establish and maintain. A good estate and trust attorney can provide an estimate of administrative costs associated with a pet trust - as well as the amount of money that should be used to fund the trust. The latter amount will vary depending upon the number and of type of pets involved. For example, horses live far longer than most dogs or cats. A pet trust to maintain a horse would incur far greater administrative fees over time, and require far more principal (the amount necessary to maintain the animal over its estimated life span following the owner's death).

### **PET TRUSTS AND FEDERAL LAW**

Although pet trusts are enforceable under Washington state law, and others state laws as well, at this time pet trusts are still considered invalid for federal tax purposes. For this reason, the federal tax consequences of setting up a pet trust should be reviewed carefully by both an estate and trust attorney and a CPA, or financial planner, familiar with estate and trust tax issue.

## **PLANNED GIVING**

### **What is Planned Giving?**

Planned giving involves making arrangements now to have Whisker City and the animals benefit from some of your assets, either currently or in the future. Through this type of giving, you can often make a more significant gift than you ever thought possible, while maximizing the financial and tax benefits to you, your estate, and your family.

A planned gift can be as simple as transferring long-term appreciated stock to Whisker City directly (rather than selling it and donating the after-tax proceeds), or naming Whisker City as a beneficiary in your will, trust, life insurance policy, IRA, 401(k) or any other type of financial instrument.

There are many other options for planned giving. They can provide you with tax benefits while they help the animals. Through a planned gift, you may be able to increase your current income or provide additional retirement income, while reducing income tax and estate taxes. Some types of gifts virtually eliminate estate taxes, while others greatly reduce the amount of tax you are responsible for during your lifetime. It is important to explore your options so that both you and the animals receive the full benefit of any considered gift.

**Some options include:**

- Bequests through your will.
- Charitable Gift Annuities. **This option** provides numerous tax benefits to you, and you are guaranteed income for the rest of your life
- Life Insurance Gifts. Make Whisker City the owner and beneficiary of a life insurance policy. It is important **not** to make Whisker City a “secondary beneficiary” or any financial instrument.
- Retirement Plans. Donate your interest in an IRA or other qualified savings plan

**Sample Note to Carry in Wallet Regarding Emergency Care of Pets**

*"In any situation in which I am unable to return home to feed my pets, such as my hospitalization or death, please immediately call [name] at [address and phone] or [name] at [address and phone], to arrange for the feeding of my [cats] located in my home at [address]. The superintendent of my apartment building [name, address and phone], my Executor [name, address and phone], and my neighbor [name, address and phone] have a copy of this document and are also hereby authorized to grant access to [name] or [name] of the express and sole purpose of feeding and caring for my cats."*



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## DEFINITIONS

**Beneficiary:** Someone who receives property through a financial instrument such as an insurance policy, will or trust.

**Executor:** The person appointed to administer the estate of a person who has died leaving a will which nominates that person. Unless there is a valid objection, the judge will appoint the person named in the will to be executor. The executor must insure that the person's desires expressed in the will are carried out. Practical responsibilities include gathering up and protecting the assets of the estate, obtaining information in regard to all beneficiaries named in the will and any other potential heirs, collecting and arranging for payment of debts of the estate, approving or disapproving creditor's claims, making sure estate taxes are calculated, forms filed and tax payments made, and in all ways assisting the attorney for the estate (which the executor can select).

**Intestate law:** The law that controls what happens to property if there is no will or trust to dispose of it.

**Probate:** The process of proving a will is valid and thereafter administering the estate of a dead person according to the terms of the will. The first step is to file the purported will with the clerk of the appropriate court in the county where the deceased person lived, along with a petition to have the court approve the will and appoint the executor named in the will (or if none is available, an administrator) with a declaration of a person who had signed the will as a witness. If the court determines the will is valid, the court then "admits" the will to probate. The means of "avoiding" probate exist, including creating trusts in which all possessions are handled by a trustee, making lifetime gifts or putting all substantial property in joint tenancy with an automatic right of survivorship in the joint owner. Even if there is a will, probate may not be necessary if the estate is small with no real estate title to be transferred or all of the estate is either jointly owned or community property. Reasons for avoiding probate are the fees set by statute and/or the court (depending on state laws) for attorneys, executors and administrators, the need to publish notices, court hearings, paperwork, the public nature of the proceedings and delays while waiting for creditors to file claims even when the deceased owed no one.

**Residuary Beneficiary:** Someone who gets everything not specifically left to other beneficiaries named in the will or trust.

**Trust:** An entity created to hold assets for the benefit of certain persons or entities, with a trustee managing the trust (and often holding title on behalf of the trust). Most trusts are founded by the persons (called

trustors, settlors and/or donors) who execute a written declaration of trust which establishes the trust and spells out the terms and conditions upon which it will be conducted. The declaration also names the original trustee or trustees, successor trustees or means to choose future trustees. The assets of the trust are usually given to the trust by the creators, although assets may be added by others. During the life of the trust, profits and, sometimes, a portion of the principal (called "corpus") may be distributed to the beneficiaries, and at some time in the future (such as the death of the last trustor or settlor) the remaining assets will be distributed to beneficiaries. A trust may take the place of a will and avoid probate (management of an estate with court supervision) by providing for distribution of all assets originally owned by the trustors or settlors upon their death. There are numerous types of trusts, including "revocable trusts" created to handle the trustors' assets (with the trustor acting as initial trustee), often called a "living trust" or "inter vivos trust" which only becomes irrevocable on the death of the first trustor; "irrevocable trust," which cannot be changed at any time; "charitable remainder unitrust," which provides for eventual guaranteed distribution of the corpus (assets) to charity, thus gaining a substantial tax benefit. There are also court-decreed "constructive" and "resulting" trusts over property held by someone for its owner. A "testamentary trust" can be created by a will to manage assets given to beneficiaries.

**Trustee:** A person or entity who holds the assets (corpus) of a trust for the benefit of the beneficiaries and manages the trust and its assets under the terms of the trust stated in the declaration of trust which created it. In many "living trusts" the creator of the trust (trustor, settlor) names himself/herself (or themselves) as the original trustee who will manage the trust until his/her death when it is taken over by a successor trustee. In some trusts, such as a "charitable remainder unitrust," the trustee must be independent and therefore cannot be the creator of the trust. If a trustee has title to property, he/she/it holds title only for the benefit of the trust and its beneficiaries.



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