

Living Trust or living bust?

Go to any search engine on the Internet, type in: **Living Trust Scams**
You will find over 15,000 entries addressing this issue.

For the last 20 years Senior Citizens have been constantly hounded with the necessity of having a Living Trust. They have been told a Living Trust will avoid the **dreaded probate process**, *which will eat up an enormous amount of fees and leave virtually nothing to your family*. This “expert” goes on to invoke the example of some high profile family with a few hundred million dollars in which all the relatives were fighting over who got what. Well, 99.9% of us have nowhere near that kind of money. Unfortunately most people being sold Living Trusts can just about afford **to buy the trust**.

And buy them they do...in record numbers! One California “firm” sold more than 25,000 of these trusts in a single year with the cost ranging from \$1,200 – \$7,000. The two people who headed the “firm” had much in common. One was a convicted swindler, the other a convinced drug dealer. Their salespeople received 60% commissions on whatever they sold. This meant that if they could only get \$1,200 from a client they made just \$720 but; if they hit a home run with a client and got them to go for \$7,000 they were getting a whopping \$4,200. When you realize you can buy the exact same forms for \$5 to \$49 on the Internet (or Xerox them for free at your public library) you may not be too happy.

Let us state unequivocally for the record, there are only two types of people selling Living Trusts:

1. The unethical, like our friends mentioned above, who know Living Trusts are valueless yet sell them anyway.
2. The naïve, who sells them because they were told they are good but really doesn't know how Living Trusts work and has never bothered to find out.

Here is what people are being told about Living Trusts as well as the real facts of how Living Trusts actually work.

Claim:	Probate must be avoided at all costs therefore create a Living Trust.
Fact:	Probate is an uncomplicated, inexpensive process. As a matter of fact, probate fees for estates between \$500,000 - \$750,000 are approximately \$750.

- Claim: Only a Living Trust can be used to manage affairs and avoid guardianship.
- Fact: A Durable Power of Attorney can be used even more effectively than a Living Trust to manage the affairs of an ~~incompetent~~ person. If this is your dilemma this form is **FREE** on the Internet or at your local library.
- Claim: Living Trusts save time and money.
- Fact: The real truth is this is a “pay now or pay later” situation. Either you pay now for the Living Trust of questionable value or your estate pays a small probate fee later.
Let’s analyze the cost:
f_ At age 55 you set up a Living Trust. You dealt with a “professional”, maybe even the “head of the firm” and for doing so, you spent \$5,000 for a “trust done the right way.”
f_ You live another 25 years. At 6%, the \$5,000 spent on a living trust would total \$21,356.
f_ If probate costs approximately \$750, why would you want to take a measure that costs almost 30 times more to do the same thing?
- Claim: Living Trusts avoid creditors.
- Fact: During the lifetime of the trust owner, **ALL** assets are treated as owned by the trust-holder and therefore, subject to claims of creditors. As a matter of fact, when a person dies with a **Simple Will, creditors have SIX MONTHS** to make a claim against the estate. The statute of limitations for making a claim against a **Living Trust is THREE YEARS!**
- Claim: Living Trusts ensure privacy.
- Fact: Not at all. When you open up an account at a bank or brokerage firm a copy of the living trust agreement is required. Then, all Living Trust assets must be filed with the Register of Wills. So much for the privacy issue.
- Claim: Living Trusts reduce taxes.
- Fact: During the lifetime of the grantor the person who creates the trust is treated as the owner of the assets. Therefore, all the income earned by the trust is included in the grantor’s income. **When the grantor dies, the assets of the Living Trust are included in the grantor’s estate for the purposes of taxation.** Thus, despite all of the claims* of those selling Living Trusts **there is absolutely no income or estate tax advantage to Living Trusts.**

*Of course, these claims are verbal and will never be found in the document itself. As a matter of fact, many times the client receives an imitation leather folder

and is instructed in a hushed tone. “This is a very valuable document and should be kept in your safe deposit box.”

Naturally, this ruse is so neither you nor anyone else can actually read it. In essence, they are asking **YOU** to hide the evidence.

Ironically, the inheritance tax due on assets from a ~~Living Trust must be paid within 3 months~~, whereas; the tax due from a ~~probated matter needs to be paid within 9 months~~. So when the “expert” from the “firm” states, “There is a big difference between the way taxes must be paid from a Living Trust and a matter that is probated, which is what most people put their families through. He is absolutely correct. **Using a Living Trust will require inheritance taxes to be paid 3 times faster.**

All that being said, do not rely on this single pamphlet as the gospel about Living Trusts. *CBS News, Better Business Bureau, AARP, Federal Trade Commission, Senate Committee on Aging and the Attorney Generals Offices of: Arizona, California, Maryland, Montana, Nebraska, New York and Texas* (naming just a few) corroborate the facts above and advise people to steer clear of Living Trusts.

Now can **all these consumer protection groups**, who have no vested interest in the Living Trust business, be wrong? But the person trying to sell you a Living Trust, be right?

Be advised, there is not a trust in existence, other than Irrevocable Life Insurance Trust, that will ever raise a penny to pay estate taxes.