

Living Trusts and Wills



This article marks the debut of a regular feature in *Philanthropist*: a Q&A-style conversation on various methods of structuring a gift to benefit Weill Cornell. These discussions also address timely tax and financial planning topics for you to review with your advisors.

Here we focus on bequests made through a will or trust. *Philanthropist* spoke with Richard L. Kay, an attorney and a founding member of the Planned Giving Advisory Council at Weill Cornell.

P: One of the things we hear is, “I’m not extremely wealthy, so I’m not going to have a will. I may not have a lot left.” What would be your response to this?

RK: I urge everyone to have a will. There are many types of assets that do not lend themselves to having a named beneficiary. A will, or in lieu of that, a living trust, also described as a revocable trust, is really important. Assets surface that you might never have considered. At the worst, without a will, a living trust or beneficiary designation, assets would be distributed according to the laws of the state of the individual’s residence.

P: What is the difference between a living trust and a will?

RK: There are several ways to dispose of your assets. The traditional way is through a will. Another is a living trust. A living trust is a document, similar to a will, providing for the disposition of assets. To implement it, one must transfer assets to the name of the trust. Because it is revocable, the trust can be terminated, changed or modified at any time the creator desires. A person should transfer assets to the trust during his or her lifetime. As one might inadvertently forget to transfer an asset, or if an asset cannot legally be transferred, we recommend a will as a backup.

P: What are the benefits of establishing a living trust?

RK: Once you have a living trust to which assets have been transferred, the legal process of probate is usually avoided, and it affords privacy, as the trust document is not public. The trust also allows for the administration of assets while someone is alive, because the trust agreement (the document creating the trust) typically names a successor trustee who could act if the grantor-trustee cannot.

P: With the revocable trust, can you direct your assets to Weill Cornell in the same way you would if you had a traditional will?

RK: Yes, the trust would mirror the dispositive provisions of the will.

P: It sounds like there are many advantages to having a trust. Why would someone have a will?

RK: Often it is not possible to transfer all of one’s assets to the trust. Probate procedures also vary. All of these decisions require the participation of a sophisticated accountant or attorney.



Richard L. Kay is a partner at Pryor Cashman LLP and heads the firm’s Trusts and Estates Group. Mr. Kay received his undergraduate degree at Cornell University and is a member of the Cornell University Council.

NAMING A BENEFICIARY

If you are considering naming Weill Cornell as a beneficiary of your IRA, 401(k), or other retirement plan or bank account, please contact Vikki Jones, Planned Giving Officer, at (646) 317-7400 or vej2003@med.cornell.edu, to assist you with this process.

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