# SYNDICATE LEGAL ADVISORY SERVICES

## TRUSTS

## STANDARD & SPECIAL NEEDS TRUST

# Syndicate Legal Advisory Services – *Trusts*

**SYNDICATE LEGAL ADVISORY SERVICES**

*Team of:*
*Attorneys / Lawyers*
*Law Clerks*
*Paralegals*
*Industry Specialists*

## 1. STANDARD TRUST

**WHOM IS IT FOR?** Generally appropriate for a single person or a married couple or other couple with an interest in real property (home or land) OR over $150,000 in other assets but whose assets total less than the Estate Tax Exemption amount. The Standard Trust is the most common type of Living Trust we prepare.

With a Standard Trust, assuming it is properly prepared, and your assets are properly titled (i.e., "*vested*") in the trust, the dreaded probate court process is avoided. This is the number one reason people with a home or over $150,000 in assets come to see us to have a trust prepared.

**This type of trust goes by many different names including: Living Trust, Revocable Living Trust, and Inter Vivos Trust, among others.**

This is generally the type of trust other people you have heard from will have for the same reasons you are looking into having one prepared for yourself.

With a Standard Trust, you still own your property. You can buy, sell, invest, borrow or do anything else with your property that you could do prior to creating the trust. Or, like most people, just go on living where you are but with the assurance that your house and other assets will go to whomever you want with a minimum amount of time and expense when you pass away.

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## 2. SPECIAL NEEDS TRUST

A Special Needs Trust ("SNT") provides supplemental financial benefits to a person who is receiving some kind of government benefit for a disability where qualification for the benefit is based on financial need. Asset ownership must typically be extremely low to qualify for the benefit.

*Supplemental Security Income (SSI)* is one needs-based benefit available to people 65 years old and older, and people of all ages who are disabled or blind. The benefit includes both a Federal portion and a State portion. For example, in California the asset ownership is limited to approximate $2,000 for an individual and $3,000 for a couple. But certain property, such as your home, car and other personal effects are not included when determining your total assets.

Any property over the amount allowed to qualify for benefits can be placed in a special needs trust where the beneficiary still gets the financial benefit of ownership in exchange for relinquishing control of the assets.

Three Types of Special Needs Trusts:

1. **First-Party Special Needs Trust:** This trust is set up with money and assets owned by the person with the disability. The person must be under 65 years old, and the trust must specify that any assets left in the trust at the death of the beneficiary go first to repay any government benefits received.
2. **Third-Party Special Needs Trust:** This type of SNT is usually set up by family members for the disabled beneficiary with property other than the beneficiary's. There is no requirement to pay back any benefits received, and anything left in the trust when the beneficiary dies can be left to other designated beneficiaries.
3. **Pooled Special Needs Trust:** A pooled special needs trust is either a first or third-party SNT that is part of a 'pool' of SNTs that is managed by a nonprofit organization. The nonprofit organization is willing to offer professional management and investment services in exchange for some portion of the remaining trust proceeds upon the beneficiary's death. For example, California has at least 10 pooled SNT options.

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