

Frequently Asked Questions about Pet Trusts



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What is a pet trust?	A pet trust is a legal instrument designed to provide financial resources for the benefit of one or more pets. Pet trusts can be traditional pet trusts where there is a human beneficiary charged with the responsibility of providing care for a pet. A traditional pet trust is valid in all 50 states and the District of Columbia. Statutory pet trusts are authorized by state statute where the beneficiary of the trust is a pet, rather than a person. Generally a pet caregiver, trustee and trust protector would be appointed to provide care for the pets, manage the trust assets and enforce the trust provisions. Statutory pet trusts are now valid in 49 states and the District of Columbia. Minnesota currently has a pet trust bill pending. Statutory pet trusts “fill in the gaps” if pet trust drafting is insufficient.
Does every pet need a pet trust?	Not every pet needs a trust, but every owner needs a plan to protect their pets. That plan may include a trust if the pet parent has the desire to ensure the pet has a lifetime caregiver, a trustee to manage the trust assets and sufficient resources to provide for the pet’s lifetime needs. Alternate plans include informal and formal agreements with pet caregivers for the lifetime care of a pet.
Should I leave specific instructions for the care of my pet?	Absolutely. Pets are members of our family and each has individual needs and requirements. Pet care instructions are essential so future pet caregivers can provide a pet with the proper nutrition, medical care, exercise and lifestyle. A Pet Profile and comprehensive pet care notebook for the care of your pet(s) is recommended.
Who should be the pet caregiver?	The pet caregiver should be a trusted individual to provide a level of love and care consistent with the care provided by the pet parent. It is important to have one or more alternate pet caregivers in the event the first choice is unavailable or unwilling at the time care is needed. If an individual pet caregiver is not available, select a willing rescue organization, perpetual care organization or veterinary school with a pet care program.
Who should be the trustee?	The pet trust trustee should be a trusted individual or organization with the investment, management and distribution skills necessary to ensure the terms of the trust are carried out for the benefit of the pets.
What is a trust protector and do I need one?	A trust protector is an individual appointed in the trust instrument or by a court for the purpose of enforcing the terms of the pet trust on behalf of the pets. Trust protectors can also be empowered with the ability to remove and replace trustees and pet caregivers, amend trust provisions or take other actions to ensure the intent of the trustmaker are followed. Trust protectors are recommended for all trusts that will become irrevocable upon their creation or upon the death of the trustmaker.

How do I make sure my pet has enough money?	Making sure your pet has sufficient resources to provide for its lifetime care is essential. Determine what you spend on your pet now and then multiply that annual figure by an extraordinarily long lifetime. Then add some funds in the event of an emergency or catastrophic illness. Creative ways to fund a pet trust include leaving retirement plan assets and life insurance proceeds. Some pet parents will want to leave their home and resources to maintain the home so pets can remain in the own environment for the balance of their lives.
When does a pet trust end?	Most state statutes require the pet trust end when the last living pet covered by the trust has died. Some statutes include pets that may be in gestation at the time the pet trust became effective.
Who gets the money left in a pet trust?	The remaining pet trust assets are distributed to the individual or organization named in the pet trust and if none, then pursuant to the relevant state pet trust statute. Typically, it would be returned to the trustmaker, if living and if not, to the trustmaker's estate or to his or her heirs.
When did Florida adopt its pet trust statute?	Florida adopted its pet trust statute in 2007.
How are pet trusts taxed?	<p>Pet Trusts can essentially be taxed in three (3) ways:</p> <ol style="list-style-type: none"> 1. Taxed to the Trustmaker. During the lifetime of the Trustmaker, trust earnings are taxed to the Trustmaker as a Grantor Trust. 2. Taxed to the Beneficiary. For a traditional pet trust where there is a human beneficiary charged with the responsibility of providing care to the pet, all trust distributions of income will be taxed at the pet caregiver's personal income tax rate. As a result, it is important to consider the possible tax ramifications for traditional pet trusts. For statutory pet trusts where the pet is the beneficiary, the IRS has determined that a pet trust is not valid for tax purposes, but notwithstanding, they reserve the right to tax the trust income at trust tax rates. 3. Taxed at trust tax rates. Trust tax rates are the same as individual tax rates but get to the highest rate at lower levels of income. A trust earning income in excess of \$12,300 in 2016 will have a tax rate of 39.6%.

These Frequently Asked Questions about Pet Trusts are provided by the Animal Law Section of The Florida Bar as a public service, and do not constitute legal nor tax advice. Please consult an animal law or tax expert if you have questions.

The Animal Law Section thanks its member, Peggy R. Hoyt, J.D., M.B.A., B.C.S., Board Certified Specialist in Wills, Trusts and Estates and Elder Law, for her help in producing this document.