

**Example 3** (utilize “Trusts – Step by Step” when needed)

There are times when we see a trust established within a last will & testament. The property itself is not in a trust but the ownership provisions for the beneficiary are established within this “trust” portion.

**Article V – Disposition of Remainder of Estate:** states that the rest, residue and remainder of the estate is bequeathed to Dennis (Dennis is the applicant).

**IF** Dennis predeceases Evan or dies within 30 days, the rest, residue and remainder of the estate is distributed as set forth in Section 2.

**Section 1: Beneficiary Receiving Public Benefits** – this is where the trust is established. “Instead, my personal representative is expressly directed to place that share of my estate and specific bequest in a separate trust to be held and administered for the sole benefit of Dennis...”

**Section 1.2: Distributions** – we see the wording “net income and principal of the trust” (ie: residence).

**Section 1.3: Termination** – the trust terminates upon Dennis’ death or when the trustee determines it is in the best interest of Dennis’ to terminate the trust. If terminated, the trust estate is distributed to Dennis if he is then living.

Since the property itself is not conveyed into a trust and is probably still in the name of Evan, all the terms of our “trust requirements” would not apply. With a last will & testament, we are looking to establish ownership & who the estate is bequeathed to. As mentioned in Article V, the estate is bequeathed to Dennis, so he would retain ownership. A trust is established for his benefit if he is disabled. But we do not need to maintain if the trust itself is revocable/irrevocable or if there is a lifetime beneficial interest in the property since the property itself is not part of the trust.