



A Guide to Estate Planning



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-  Indicates a Question with an Answer
-   Indicates Helpful Information
-  Indicates Notes Section

The Fundamentals of Estate Planning

What is an estate plan?

To understand an estate plan, let's first cover what an estate is. An estate — in this case, your estate — is the collection of all your personal belongings. This can include your home, car, cash, bank accounts, investments, dividends, real estate and other personal property such as antiques, collectibles and family possessions. In essence, absolutely everything you own. Not all assets will pass through your estate. Certain assets that have beneficiary designations or are held in joint ownership will not pass through your estate.

The main purpose of estate planning is to ensure that your assets are passed on in the way you intend while minimizing taxes and other costs. Simply put, to ensure your wishes are carried out. Estate planning also helps avoid conflicts and legal disputes among your living family or heirs. Three general goals of estate planning include managing your affairs during your lifetime, distributing your assets after your death and minimizing cost, taxes and problems for your loved ones.

In addition, an estate plan specifies your healthcare wishes if you cannot make your own decisions. It tells your loved ones and caretakers what to do regarding health care, long-term care, managing your finances and taking care of your children, among other situations.

Basically, an estate plan is a set of legal documents specifying in writing what happens to your estate when you pass away.



Who needs an estate plan?

Everyone can benefit from an estate plan regardless of wealth or age. If you think you don't have many assets to pass on, you should know that estate planning is essential for individuals and families of all income levels.

Estate planning is not just about distributing your assets after death, it also includes fundamental arrangements for guardianship of minor children, healthcare decisions and management of affairs in the event of incapacity.

The following are some common situations where estate planning is particularly important:

- If you have children and/or grandchildren.
- If you have an elderly parent or family member with special needs.
- If you own property, such as a house, a car, or land.
- If you have assets in bank accounts, investments, or retirement plans.
- If you own a business.
- If you have a blended family.
- If you have family heirlooms —possessions passed down a family for generations.
- If you have a pet(s).

What happens when you don't create an estate plan?

In the unfortunate event that you die without an estate plan, you will be considered to have died intestate and your estate will pass according to state intestacy laws.

Understanding Probate

Probate is the legal process by which a court oversees the distribution of your estate after you pass away. Probate aims to ensure that your debts are paid, and your assets are distributed to the appropriate beneficiaries. If decedent had a Will, part of the probate process is proving of the Will.

If you don't have a Will, you're considered to have died intestate, in which case the court uses state intestacy laws to decide who inherits your assets. The laws of intestacy vary from state to state, but typically assets are distributed to surviving family members. If you are unsure of the laws in your state, you should contact your provider law firm.

The Probate Process:

1. The court appoints an administrator/executor — to manage the distribution of the deceased person's estate through probate.
2. Identify and inventory the deceased person's assets.
3. Pay off any outstanding debts or taxes owed by the estate.
4. Distribute the remaining assets to the proper beneficiaries.



Probate can be lengthy and costly, as it involves court fees and legal fees. Having an estate plan can reduce the time and expense of probate administration discuss estate planning options with your provider law firm if your goal is to avoid probate.

Not to mention that intestate death can cause mourning family members a lot of anguish and stress. Without clear instructions on distributing assets, family members may disagree and your assets may go to unintended beneficiaries. An estate plan can ease your family members' burden and ensure your wealth stays with them.

Not creating an estate plan can lead to additional stress, costs and complications for family members during an already difficult time. It's important to take the time to create an estate plan to ensure that your assets are distributed according to your wishes and to minimize potential conflicts among family members.



Types of Estate Planning Documents

What documents are included in an estate plan?

There are different types of documents that you can create for estate planning. However, the specific documents that you need will vary depending on your unique circumstances and goals. In this guide, we will focus on five of the most common estate planning documents. Discuss your estate planning options and membership benefits with your provider law firm.

1. Last Will and Testament

The Last Will and Testament, is a legal document that outlines how your estate will be distributed after your death. It also names a guardian for minor children and an executor or personal representative to manage your estate.

A Will only goes into effect upon an individual's death, and it must go through the probate process to distribute the estate to its beneficiaries.

What is the difference between a Will and Living Trust?

Mainly, a Will only takes effect after your death, while a living trust can take effect during your lifetime. In addition, a living trust offers more flexibility and control over how assets are distributed, while a Will must follow the probate process and is subject to court oversight.



2. Financial Power of Attorney

A financial power of attorney (POA) is a legal document that grants someone else (called the agent or attorney-in-fact) the legal right to make financial decisions on your behalf. You get to choose what kind of authority the agent has and for how long. You can also change or cancel the power of attorney if you're still able to make decisions for yourself. ***A durable power of attorney remains in effect*** when you're unable to make decisions.

Can you revoke a Power of Attorney?

Yes, you can revoke a power of attorney at any time as long as you can still make decisions for yourself. The simplest way to do it is to create a new power of attorney document, name a new person; and revoke all previous POAs.



Types of Estate Planning Documents

3. Healthcare Power of Attorney

A healthcare power of attorney is a legal document that lets you choose someone to make medical decisions on your behalf if you cannot make them for yourself.

It's important to pick someone you trust and who understands your wishes for medical treatment. It's hard to think you may become incapacitated at some point in your life, but it's a possibility.

4. Living Will/Advance Directive

A Living Will, also known as an advance directive, is a legal document that allows you to express your wishes about end-of-life medical treatment if you become unable to communicate them yourself. It typically deals with end-of-life issues, such as what medical treatments you prefer if you're in a terminal condition or a persistent vegetative state. It also includes other provisions. A Living Will helps ensure your wishes are known and respected by your healthcare providers and family members.

5. Revocable Living Trust

A revocable living trust is a legal arrangement in which a trustee manages assets on behalf of the beneficiaries named in the trust. Usually, the person writing the trust (grantor) is the trustee, keeping control of the property of the trust until death. Then, the successor trustee takes charge—the person named by the grantor—and distributes the trust's assets according to the grantor's wishes.

A revocable living trust can be amended or revoked at any time during your lifetime, providing flexibility. This is the most common type of trust seen in estate planning. A revocable living trust allows you to transfer ownership of your assets into a trust while still maintaining control over them during your lifetime.

What are some of the main benefits of creating a living trust?

- **Avoiding probate:** Assets held in a trust are not subject to probate (as they are already owned by the trust and managed by the trustee appointed by the grantor), which can help avoid delays, costs and potential disputes associated with the probate process.
- **Privacy:** Trusts provide privacy for you and your beneficiaries, as they don't need to be made public through probate.
- **Estate tax:** Can help if estate tax is an issue.
- **Family circumstances:** Can be helpful in certain family circumstances.



Contact your provider law firm for consultation, to discuss your estate planning options and membership benefits, and to start the process.



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