

Why estate planning is
important for many families

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Executor of your estate

INVESTOR GUIDE

estate planning process and checklist

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ESSENTIAL PLANNING

Estate planning really isn't as scary or difficult as it seems.

The truth is that proper estate planning can be a very simple task if you understand the process and you pick a competent team to help you with the details. This guide is intended to help you become savvier about the estate planning process so that you can feel more confident.

Why do any estate planning at all?

When you die, the government requires that your estate (your assets minus your debts) be disposed of in an orderly fashion through a legal process called probate. If you leave detailed instructions to distribute your assets correctly and in accordance with your wishes, you will make the process easier on your loved ones and whoever is handling your estate. However, if you do not make a detailed plan prior to your death, not only will the result be very stressful and costly for your heirs and beneficiaries, but your assets may not be distributed in accordance with your wishes.

Without having a good estate plan, certain heirs and other individuals or entities may bring a claim against your estate, which is costly and stressful for your heirs and loved ones. However, having an estate plan and obtaining the correct legal documents in connection with the estate plan will avoid most, if not all, of these issues.

THE DOCUMENTS

What are the basic estate planning documents?

The great thing about estate planning is that the basic documents are typically the same no matter who you are, and each is incredibly important in its own way. In most instances, you don't need complex estate documents to carry out your estate plan.

Here is a list of the basic documents that should be included in any great estate plan:

Last Will and Testament

The Last Will and Testament is probably the best-known estate planning document, with good reason. It gives specific directions to the individual(s) or entity(ies) responsible for administering your estate during the probate process. For example, you can give direction on things you're your funeral arrangements, distribution of your personal property and financial assets, and guardianship of your minor children, if applicable. In your Will, you will also designate an Executor (or Co-Executors) who is responsible for administering your estate in accordance with your wishes.

A key feature of a modern type of a Last Will and Testament, called a Pour-Over Will, is to indicate to the probate court that your unlisted assets are owned by a Revocable Trust. Why is this beneficial? Because clear identification of ownership keeps those assets more private, and it also stops the court from examining those assets at your expense.

Revocable Trust

A Revocable Trust is essentially a vessel that allows you to make very specific and beneficial directions as to how your assets are disposed of after your death. It is a legal entity that can be changed or terminated by you, as Grantor, during your life, but becomes permanent (or irrevocable) upon your death. As the Trustee (i.e., the caretaker) of your Revocable Trust, you have unfettered access and control over all assets titled to your Revocable Trust. This allows you the flexibility and freedom to continue living as you would otherwise.

However, as soon as you die, your Revocable Trust springs to action so that your wishes are carried out. For spouses, each may have his or her own Revocable Trust with provisions that look after each other after death. For instance, when the first spouse dies, the surviving spouse may become the successor Trustee of the deceased spouse's Revocable Trust and may be allowed liberal amounts of income and principal for his or her own living expenses out of the assets of the deceased spouse's Revocable Trust. Upon the second death, the assets of both Revocable Trusts pass to heirs in accordance with the terms of each Trust.

General Durable Power of Attorney

A General Durable Power of Attorney grants another person the ability to make important legal, property, and financial decisions on your behalf prior to your death. The purpose of this document is to ensure that your affairs are maintained during any time you are unable to take care of them, such as during a time of incapacity or when you are outside of the United States.

This agreement (ideally) is effective as soon as it is executed, which can be advantageous over a power of attorney that is effective only upon your incapacity. This is because a court must decide that you are incapacitated before the document becomes effective, and that process can be costly and time consuming, which could pose a problem at the time when you need the power of attorney to be effective.

Health Care Power of Attorney

A Health Care Power of Attorney grants another person the ability to make important health care decisions on your behalf upon your incapacity. This person may obtain information about your medical records and may speak with your doctors. The purpose of this type of power of attorney is to ensure that your health care wishes are followed, particularly those contained in your Living Will. Notably, the person you nominate as power of attorney in this case may need to make some of the most serious decisions of your life, including when to end your course of medical treatment.

Living Will

A Living Will allows you to state what kind of treatment and life-prolonging intervention you would like in the event you are unable to speak for yourself. The person you appoint in your Health Care Power of Attorney will work to ensure your wishes are carried out by working closely with the doctors and nurses overseeing your course of care. In addition, a Living Will typically includes your organ donation instructions.

Pro Tip:

When preparing your estate planning documents, be sure to have the following documents handy:

- Personal financial statement
- List of beneficiary designations
- VIP Contacts List (advisors, agents, family, etc.)
- Life insurance information
- Copy of any prenuptial agreement
- Copies of past tax returns
- Copy of birth certificate

MISTAKES TO AVOID

1

MISTAKE: Improper execution

The biggest issue that arises with estate planning is improper execution of documents, particularly when documents are left unsigned.

2

MISTAKE: Improper storage

Storing documents in a secure location is crucial. Make sure your attorney has a place to keep the originals, preferably in a fire-proof safe. Make sure your family knows where your estate planning documents are and who they should contact to settle your affairs.

3

MISTAKE: Not discussing with your family

Communicating your estate plan to your family may be difficult, but doing so can help to avoid surprises and problems after your death. By hearing your wishes directly from you, your family may react better than if they learn your wishes after your death. As a bonus, write down a bit about your family history, and map out your family tree. This may be a great way for your family to take pride in their legacy.

4

MISTAKE: Choosing the wrong attorney

Make sure you end up with an attorney who specializes in estate planning. Choosing a generic attorney may lead to a generic estate plan.

5

MISTAKE: Not collecting all your documents

Imagine that someone contests your Will by saying you aren't a citizen, or you aren't legally married to your spouse. Collect all the documents that prove your identity, your relationships, and your wishes and keep them with your estate planning documents.

6

MISTAKE: Choosing the wrong Executor

Your Executor should be competent enough to handle the administration of your estate and should also have the emotional awareness to help your family through this process.

7

MISTAKE: Doing this alone

Hiring an estate planning professional costs money, but doing so greatly increases the chances of successful estate planning and also greatly decreases the stress of trying to do this planning this on your own.

EXECUTOR'S DUTIES

What does an Executor do?

An Executor is responsible for coordinating the successful administration of your estate. Before you finalize your estate plan, make sure your Executor is aware of his or her responsibilities before accepting the job. Your financial advisor and your attorney should help your Executor through the estate administration process.

Executor's Duties Prior to Your Death

1. Know, and make sure your Executor knows, the location of any estate planning documents and how to retrieve them.
2. Become aware of any special instructions.
3. Get to know the attorney who will represent the estate.
4. Meet with family and your team of advisors to discuss the provisions of the estate planning documents.

Executor's Duties After Your Death

1. Organize all necessary documents: estate planning, bills, leases, mortgage, subscriptions, utilities, life insurance policies, VIP contact list, bank statements, safe deposit box information, asset list, etc.
2. Meet with your family members and other interested parties to discuss the Will and the overall estate plan.
3. Notify the post office for mail forwarding.

4. Notify creditors, banks, investment advisors, etc. and collect required documentation.
5. Arrange for a bond if necessary.
6. Open bank accounts for the estate.
7. Cancel subscriptions, utility services, etc.
8. Organize list of assets, including safe deposit box contents.
9. Take inventory of assets and secure them if necessary.
10. File claim for benefits due such as social security or veterans benefits.
11. File life insurance claim.
12. Get appraisals for assets or supporting data to establish value of assets including inspection of real estate.
13. Collect all receivables due to the decedent or to the estate.
14. Maintain a record of all income, expenses, and estate transactions, including all receipts.
15. Review business interests of the decedent.
16. Check in with the family and advisors of the estate to show progress and review special instructions.
17. Maintain records of claims against the estate.
18. With an attorney, file legal documents with the court, as necessary.
19. Analyze what portions of jointly-owned property is includable in the estate to help determine the amount of tax due.
20. Review insurance policies, trusts, or property in which the decedent held any power that would be included in the estate.
21. Consider questions to make sure the estate can be finalized.
22. File final return for the decedent.
23. With the tax advisor, prepare for potential of audit.
24. File the necessary tax returns for the estate by the deadlines for each type of return.
25. Decide the date to distribute estate property to the beneficiaries, which will impact the taxes for both the estate and the beneficiaries.
26. Provide the beneficiaries with the income tax basis of assets distributed in kind.
27. Decide whether to take certain medical expenses as income or estate tax deductions.

28. Obtain a federal estate tax release, if necessary.
29. Apportion and collect death taxes from the beneficiaries where required by law.
30. Prepare all accounting data showing assets, income, and disbursements.
31. Distribute the decedent's smaller personal belongings to the intended beneficiaries.
32. Distribute estate assets in accordance with the wishes of the decedent as written in his or her Will, Trust, and other estate planning documents.
33. Receive releases from the beneficiaries or be discharged by the court depending on your State.

Great Questions to Ask:

1. Does any generation-skipping transfer (GST) tax apply to the estate from Trusts of which the decedent was beneficiary?
2. Are there any beneficiaries outside of those named in your Will and should they pay a share of the death taxes?
3. What accounting period will the estate utilize? Calendar or fiscal year?
4. If there are U.S. Savings Bonds, should you include the accrued interest?
5. Are the beneficiaries aware of the tax implications of the distributions they will receive?
6. Will the estate be valued as of the date of death or six months after death?

READY TO LEARN MORE?

BOOK YOUR COMPLIMENTARY CALL WITH RYAN KAYSEN, CFP®



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