

Estate planning

Plan now to prepare for later



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Why is estate planning important?

- **Control:** With an estate plan, you can control who, what, when and where your assets go at the end of your lifetime. Having control helps ensure your intentions are fulfilled.
- **Privacy:** Through an estate plan, you have the ability to maintain privacy and help avoid the public proceedings of the probate courts.
- **Simplicity:** Creating a formal estate plan simplifies any confusion around settling your estate and can give you confidence that your intentions will be properly executed. An estate plan also allows you to designate who will carry out your wishes on your behalf.

What are the benefits of estate planning?

- **Will**
 - Decide who will receive an inheritance: Having a will ensures you determine who receives your assets.
 - Decide who will process your assets: Name an executor, or person who administers the distribution of your estate to your beneficiaries.
 - Avoid possible legal challenges and intestate challenges (occurs when you don't have a valid will): Dying without a will allows the state to decide who will receive your assets. There are different rules per state that may direct the assets to parents, to children and may cap inheritance to a spouse. The important thing to remember is that the state decides where your assets go.
 - Decide who will take care of your minor children: You can appoint a guardian to legally care for your children in case both parents are unable to do so.
- **Revocable living trust**
 - Protection in the case of incapacity: When creating a revocable living trust, you (the grantor) will name a successor trustee to manage your affairs if you are no longer able to do so. A revocable trust typically becomes irrevocable upon the death of the grantor.
 - Avoid probate and ancillary probate: Assets owned by your revocable living trust avoid probate and ancillary probate (when you own assets in multiple states), which are public court proceedings to settle your estate that may be costly and time consuming.
 - Provide asset protection for beneficiaries: Your revocable living trust contains instructions on how your beneficiaries will receive assets. If assets are left in a trust versus left outright, you can provide control on how they will be able to access the funds. If structured properly, the assets in the trust can be protected from creditors and debtors.

- **Power of Attorney**

- Maintain your financial well-being: If you are not able to act on your own behalf due to mental or physical incapacity, an agent may be called upon to make financial decisions to ensure your well-being and care. These may include paying bills, selling assets to pay for medical expenses and Medicaid planning. You can detail the scope and extent of what you wish your agent to do in the power of attorney.
- Choose who handles your financial affairs: When you become incapacitated but have an executed power of attorney in effect, you have chosen who you want to handle your financial affairs and make healthcare decisions for you. Without the power of attorney in place, this decision would be left to the courts.
- Protect your assets: Your power of attorney should include all of the powers required to do effective asset protection planning.

- **Healthcare proxy**

Give your family rights: A healthcare proxy (sometimes called a “medical power of attorney”) authorizes an agent to make healthcare decisions for you in the event that you are unconscious or otherwise unable to make such decisions yourself. Without a healthcare proxy, your family may only have limited rights to make healthcare decisions on your behalf, especially after the Health Insurance Portability and Accountability Act (HIPAA) was enacted in 1996 to safeguard your private healthcare information.

- **Living will**

Communicate your wishes: A living will allows you to give instructions on what medical decisions should be made for you in an end of life situation, such as an irreversible coma.

Who are important people to think about when creating my estate plan?

- **Executor:** An executor is responsible for making sure your assets are distributed according to your wishes. Traits to consider include honesty, organization, strong communication skills and financial responsibility.
- **Guardian:** A guardian will care for your minor children in the event that both parents pass away. If you do not name a guardian, the court will appoint one. Traits to consider include shared values, financial stability, longevity and character.
- **Successor trustee:** Your successor trustee will manage your revocable trust and distribute your assets after you pass away. Traits to consider include responsibility, diligence, financial knowledge and professionalism. A corporate trustee may make sense in certain situations.
- **Beneficiary:** Beneficiaries are the people, causes or charities who are entitled to receive the benefits of your trust assets. Think about who you want to support after you pass away and what legacy you want to leave.

What should your next steps be?

- Let’s discuss what estate planning you have done and incorporate the information in your financial plan.
- Think about the people you need to choose to fill the different roles in your estate plan. Let’s have a conversation if you would like guidance on filling each role.
- Review your beneficiary designations to ensure they still reflect your wishes.
- Communicate to your loved ones what your estate plan is and make sure they understand your wishes.
- Make sure your loved ones are aware of where your important documents and passwords are located.
- Contact an estate planning attorney to execute on next steps, if necessary.

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