



Estate Planning Primer

What is estate planning?

It's pretty simple really. Someday we're all going to die. Our estate plan spells out things like how we want our property distributed, who we want to take care of our minor children, and who we want to handle our affairs. It also spells out who we want to make medical and financial decisions for us if we become incapacitated.

Who needs an estate plan?

Short answer: You. Regardless of how much or little you have, you should have a plan for both death and incapacity.

How do I go about setting up a plan?

Estate planning laws are complex, always changing, and often very rigid. As unpleasant as it can sometimes be, you need to work within that complex framework if you want to accomplish your goals. Working with your financial adviser and a competent estate planning attorney will ensure that you have a plan that not only accomplishes your wishes, but saves you time, frustration, and a lot of money.

What should a good estate plan accomplish?

A good estate plan should accomplish three things: It should pass your property to the correct people, designate the correct people to take charge, and minimizes expense, hassle and taxes.

What are the key estate planning documents?

Most estate plans have a will, living trust, durable power of attorney for finance, durable power of attorney for health care, advanced medical directives, and a letter of instruction.

What is a will?

A will is simply a legal document with formal signing requirements which spells out your intentions for the division and distribution of your property to heirs at death. If you die

without a will (also known as intestacy), the laws of your state of residence, or the laws of the states in which you own real estate, may control who inherits your property. You need a will even if your assets are owned in joint tenancy, a revocable living trust, or in a manner where you designated a beneficiary (e.g. life insurance) to guard against intestacy for property titled in your own name or in the event your joint tenant or beneficiary dies before you do.

What is a revocable living trust?

A living trust is a legal entity that owns your assets. You typically act as trustee of those assets during your life and then name someone to take over for you after you die. Your trust document gives instructions for how you want your property handled and distributed after death. A living trust is often used as a will substitute because it avoids the costly and time consuming process of probate. You will typically title your assets in the name of your trust while alive and also have a “pour over will” that will transfer any assets not properly titled into the trust after you die.

What is a durable power of attorney for finance?

A durable power of attorney for finance is a simple and inexpensive legal document that authorizes a person you have chosen to step in and manage your day-to-day financial decisions if you become incapacitated. Everyone needs this document to provide for the ongoing management of their financial affairs if they cannot make decisions for themselves.

What is a durable power of attorney for health care?

Similar to the power of attorney for finance, the health care power of attorney is a legal document that authorizes a person you have chosen to step in and make health care decisions for you if you become incapacitated and can no longer speak for yourself.

What is an advanced medical directive?

An advanced medical directive (sometimes called a living will) provides written instructions to your agent that communicate your wishes regarding the withholding or withdrawal of certain life support equipment or medical procedures. Without these instructions, medical providers are typically required to use artificial means like life support to prolong your life.

What is a letter of instruction?

A letter of instruction is a non-legal document that you can choose to include with your planning to give any personal thoughts, feelings or directions to your heirs. It can include

things like burial wishes or even final words of wisdom and encouragement. Unlike the will, the letter of instruction remains private. Keep in mind, however, that anything in the letter is not legally binding.

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