



A Legal Tune-Up

Why Plan Your Estate?

The knowledge that we will eventually die is one of the things that seems to distinguish humans from other living beings. At the same time, no one likes to dwell on the prospect of his or her own death. But if you postpone planning for your demise until it is too late, you run the risk that your intended beneficiaries -- those you love the most -- may not receive what you would want them to receive whether due to extra administration costs, unnecessary taxes or squabbling among your heirs.

This is why estate planning is so important, no matter how small your estate may be. It allows you, while you are still living, to ensure that your property will go to the people you want, in the way you want, and when you want. It permits you to save as much as possible on taxes, court costs and attorneys' fees; and it affords the comfort that your loved ones can mourn your loss without being simultaneously burdened with unnecessary red tape and financial confusion.

All estate plans should include, at minimum, two important estate planning instruments: a durable power of attorney and a will. The first is for managing your property during your life, in case you are ever unable to do so yourself. The second is for the management and distribution of your property after death.

Power of Attorney: Every citizen over age 50 should strongly consider giving someone else written authorization to act for them, either now or when he or she becomes incompetent. A properly executed power of attorney empowers another to act for you as to the management and disposition of your property. In light of today's medical advances, you are statistically likely to face a period of incapacity prior to death. This power of attorney should be durable—meaning it can be used to manage your affairs should you become incompetent.

Will: A will is a legally-binding statement directing who will receive your property at your death. If you do not have a will, the state will determine how your property is distributed. A will also appoints a legal representative (called an executor or a personal representative) to carry out your wishes. A will is especially important if you have minor children because it allows you to name a guardian for the children. However, a will covers only probate property. Many types of property or forms of ownership pass outside of probate. Jointly-owned property, property in trust, life insurance proceeds and property with a named beneficiary, such as IRAs or 401(k) plans, all pass outside of probate and are not covered under a will.

Health Care Power of Attorney: Separate from a Power of Attorney, a Health Care Power of Attorney allows you to designate another to make health care decisions for you in the event that you are unable to make those decisions yourself. This document is especially useful in second marriage situations, where one has several children, for single individuals without children, or where a parent would like to avoid potential conflict among children.

Beneficiary Designations: Although not necessarily a part of your estate plan, you should make sure your retirement plan beneficiary designations are up to date. If you don't name a beneficiary, the distribution of benefits may be controlled by state or federal law or according to your particular retirement plan. Some plans automatically distribute money to a spouse or children. Although others may leave it to the retirement plan holder's estate, this could have negative tax consequences. The only way to control where the money goes is to name a beneficiary.

Trusts: A trust is a legal arrangement through which one person (or an institution, such as a bank or law firm), called a "trustee," holds legal title to property for another person, called a "beneficiary." The rules or instructions under which the trustee operates are set out in the trust instrument. Trusts have one set of beneficiaries during their lives and another set -- often their children -- who begin to benefit only after the first group has died. The first are often called "life beneficiaries" and the second "remainder men". Certain trusts can also result in tax advantages both for the donor and the beneficiary. These are often referred to as "credit shelter" or "life insurance" trusts. Other trusts may be used to protect property from creditors or to help the donor qualify for Medicaid.

After A Loved One Passes Away: As the executor or representative of the will, you first should secure the tangible personal property, meaning anything you can touch such as silverware, dishes, furniture or artwork. When you are ready, meet with an attorney and begin the key actions which include:

- File the will and petition in probate court in order to be appointed executor.
- Collect the assets. This means that you need to find out about everything the deceased owned and file a list of inventory with the court.
- Pay the bills and taxes. If an estate tax return is due, it must be filed within nine months of the date of death.
- Distribute property to the heirs. Generally, executors do not pay out all of the estate assets until the period for creditors to make claims runs out, which can be as long as a year.
- Finally, you must file an account with the court listing any income to the estate since the date of death and all expenses and estate distributions.

While some of these steps can be avoided through trusts or joint ownership arrangements, whoever is left in charge still has to pay all debts, file tax returns and distribute the property to the rightful heirs.

Funeral Pre-Planning: Funeral pre-planning ties all your estate planning into one tidy bundle. Palmer's, a two-generation company, keeps all their permanent files in hard copy and digital form, which allows your family quick and convenient access upon your passing. Funeral pre-planning covers the balance of necessary paperwork for estate planning. All of your biographical information and wishes are written down which provides the final roadmap for the family. If a prepayment option is chosen, an irrevocable trust can be set up which protects funds from Medicaid and allows life insurance to go to survivors. Palmer's can help with this step as well as point you in the right direction for your estate planning soundness.

Will Preparation Worksheet

I. Your Estate

List the contents of your estate, including bank accounts, stock, IRAs, real estate, motor vehicles, life insurance, and anything else that you may own, whether by yourself or with another person. For this purpose, an estimate of the value is sufficient.

Bank Accounts

1. _____ \$ _____
2. _____ \$ _____

Stocks, Bonds, Treasury Notes, Other Investments

1. _____ \$ _____
2. _____ \$ _____

Life Insurance, IRAs, Pension, 401K

1. _____ \$ _____
2. _____ \$ _____

Real Estate

1. _____ \$ _____
2. _____ \$ _____

Tangible Personal Property (This category includes furniture, jewelry or artwork -- anything of significant value or that you would like to go to a particular person.)

1. _____ \$ _____
2. _____ \$ _____

II. Beneficiaries

Here, list the people you would like to receive a part of your estate, including family members, friends, and charities.

Spouse Name _____

Children

1. _____
2. _____
3. _____

Other Individuals (Include friends, grandchildren, brothers and sisters, or anyone else to whom you would like to give a part of your estate.)

1. _____

2. _____

3. _____

Charities (List any religious or other non-profit organizations to whom you would like to make a bequest. This may reduce the taxes on your estate.)

1. _____

2. _____

3. _____

III. Executor

Name the person or persons you would like to appoint to administer your estate. He or she -- in which case she is called the "executrix" -- will carry out your wishes as stated in your will. Two people may serve together in this role. Also name an alternate in case the first appointed cannot serve for any reason.

Executor / Executrix

1. _____

2. _____

Alternate

1. _____

2. _____

IV. Guardian of Children

The most important purpose of a will for younger people is the appointment of a guardian for their children under age 18. All those with children should have wills for this purpose.

Guardian _____

Alternate _____

Thank you for allowing us to guide you through the first steps in Estate Planning.

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