

## Basic Estate Planning Documents

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Although many of us don't like to think about planning for a future that we won't be around to experience, a well-thought-out estate plan helps to manage and preserve assets during life and conserve and direct the distribution of assets at death.

Basic estate planning is for everyone. Through an estate plan, you have a say in the "how, when, and to whom" your assets are transferred, in addition to achieving your own specific tax and non-tax planning goals.

### Essential estate planning documents

Core estate planning documents generally include:

- Durable power of attorney (POA) for financial matters
- Health care POA (and/or a living will)
- Will
- Trust agreement (depending on your specific situation)

**Durable POA.** This document allows you to authorize someone, called an *agent*, to handle your financial matters if you were to become incapacitated. Without a durable POA, your family members would have to institute legal proceedings and request that the court appoint a guardian to carry out these responsibilities. By addressing the possibility of incapacity in advance through a durable POA, you and your family can avoid the expense and potential hassle of having a court-appointed guardian.

**Health care documents.** With a **health care POA**, you authorize an agent to handle your health care needs in a manner consistent with your intentions in the event of your incapacity. This includes permission for the agent to authorize actions regarding the continuation of life support, nutrition, and hydration, as well as to deal with general health care decisions that may arise.

Some states authorize a secondary health care document, typically called a **living will**. It works in conjunction with a health care POA, authorizing your health care providers to take specific action in the event that there is no reasonable hope of your recovery. It also serves an important function when the agent or other individuals you named in your health care POA are unable to make a decision on your behalf relative to continuing life-sustaining treatment.

**Will.** A will allows you to direct who will receive your property upon your death and under what circumstances. It also enables you to direct the payment of estate administration expenses and taxes and nominate an executor to handle these matters. Even more important, it allows you to designate a guardian for your minor children.

**Trust.** With a trust, you can plan for the management of assets during your life, if you become incapacitated, and upon your death. A trust can also help minimize potential federal or state estate taxes. Trusts come in two general forms: **testamentary trusts**, which are funded at death, and **living trusts**, which are funded during your lifetime. Generally revocable, a living trust is

the centerpiece of a well-rounded estate plan. When a living trust is established, the process of distributing assets at the time of death will not be subject to the jurisdiction and oversight of the probate court.

### **Estate planning benefits**

Your well-thought-out estate plan can help:

- Provide financial security for your family
- Ensure that your property will be preserved and passed on to beneficiaries
- Mitigate or avoid disputes among family members
- Minimize estate taxes and other administrative costs
- Ensure competent management of your property in the case of incapacity
- Enable you to provide for a favorite charity

### **Other considerations**

A will governs only probate property; a trust governs only assets owned by the trust. In addition, some assets pass outside of probate by virtue of a beneficiary designation or the manner in which title is held. Therefore, it is important for you and your financial advisor to review the ownership and/or beneficiary designation of these assets to be sure that they will be distributed according to your wishes upon death. These assets include:

- Jointly held property
- Life insurance proceeds
- Retirement benefits
- Employee death benefits
- Retirement plan proceeds

Your financial advisor can coordinate efforts with your attorney and tax preparer in creating an estate plan that suits your needs and purposes and helps achieve your financial and personal goals.

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