Estate Planning Guide

You can't predict the future.
But you can plan what will happen to your estate.

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Planning for Your Family's Future

Have you created an estate plan? Been thinking about it? Or have you avoided thinking about how to make sure your family is taken care of if something dire happens to you?

As uncomfortable as it might feel at first, it is never too early to think about estate planning. And the truth is that once you've got a plan in place, you will be relieved knowing that the people you love most will be looked after if you are no longer around.

The process of planning for your permanent absence is not very complex, though, depending on the size and nature of your estate, some of the elements may require legal assistance to get right.

Here are nine steps to follow in order to ensure that you have taken care of all aspects of estate planning:

1. **Make a will.**
This is the very first thing to take care of in your estate plan. The will names who inherits all or parts of your property. It will also indicate who you want to serve as guardian to your minor children should something happen to both parents.

2. **Make a living will.**
A big #2 on the estate planning checklist is making your wishes known with regard to your health care should you be unable to make the decisions yourself. Your living will, also known as a health care declaration, should be accompanied by a power of attorney that gives the person of your choice the legal right to make decisions on your behalf if you can't do so..

3. **Execute a power of attorney for financial matters.**
A durable power of attorney for finances give the person of your choice the authority to make property- and money-related decisions if you aren't able to take care of things yourself.

4. **Provide for your minor children.**
Name a trusted adult to manage property that your minor children will inherit from you. This person can be the same person as the children's guardian that you named in your will, or can be someone else.

5. **Consider and set up a trust if advisable.**
A trust will allow your survivors to avoid going through probate court. There are different types of trust, each of which applies to different circumstances.

6. **Take care of beneficiary forms.**
Keep updated beneficiary forms on file at banking, investment, and insurance institutions for any accounts you have in your name. This will help your heirs avoid probate.

7. **Protect your business if you have one.**
If you own a business make sure you have a succession plan or buyout agreement in place. If you own a business with others, you should have a buyout agreement..

8. **Opt for life insurance if it makes sense.**
If your children are young, have a mortgage on your house(s), or anticipate owing major debts or estate taxes when you die, consider buying enough life insurance to cover anticipated needs.

9. **Prepare for final arrangements.**
Consider setting up and paying into a payable-on-death bank account at your bank.

Are some of these items mysterious or confusing? No problem. We will discuss the topics covered in this list in the rest of this guide.

Creating Your Will

A will is a document with a long tradition that is used to name the beneficiaries for a person's property. Almost all wills have to go through the probate process, which is invariably time-consuming and expensive.

Avoiding probate is a common goal for an estate planning effort, which is why we will be cover other elements of an estate plan that should accompany a will.

Generally speaking, if you don't own much property and don't anticipate any death tax liability, you can make a basic will that covers these items. As you acquire more property, however, you may want to expand your will and your estate planning to cover other elements we talk about in this guide.

Any person of adult age (18 or 21, depending on the state) can draft a will for themselves. In the case of married couples, each spouse needs to make a separate will, and each can leave only their share of assets that are jointly owned.

At a minimum, a legally binding will should:

- Leave your property to the person(s) and/or organizations of your choice.
- Name a guardian to care for your minor children, if any.
- Name an agent to manage the property inherited in your will by minor children.
- Name your executor, the person designated to ensure that the terms of your will are met.

"When drawing up your own will, it is important to keep in mind that the testator will not be available to explain or correct any errors in language or legalities at the time the document takes effect, so accuracy is paramount."

Legal Requirements

A will in any electronic format is not legal in any states, nor is one in audio or video format. To be valid, the document has to be in print. There can't be any erasures or strikethroughs. A will can certainly be prepared on a computer, but until it's printed out, signed, and witnessed it won't be consider valid by a court.

Different states may have additional requirements to make a will legal in their jurisdiction. For example, some states recognize a holographic will, written entirely by hand (or computer) by the testator. In community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin), a will cannot disinherit the surviving spouse.

A word here about holographic wills: Though legal in around 25 states, these handwritten, unwitnessed documents are best avoided if possible. In order to be valid, this type of will must be written and signed in the handwriting of the person making the will. A probate court may be stricter than usual when considering a holographic will because it must make sure that it is legitimate.

While holographic will is better than nothing (if legal in your state), a witnessed document is better. A service like FindLegalForms.com will supply you with all the forms and templates you need to easily make a legal, witnessed will.

There is no legal requirement in any state that says that a lawyer must be the one to draw up a will, though when a testator's affairs are highly complex, this might be the best way to take care of the task. When drawing up your own will, it is important to keep in mind that the testator will not be available to explain or correct any errors in language or legalities at the time the document takes effect, so accuracy is paramount. Again, FindLegalForms.com is an excellent resource for the legal forms you need for a fraction of the cost of an attorney's services.

As universal requirements to make sure a will is legal, the author of the will (called the testator) must:

- Clearly state that they are the maker of the will, and that a will is being made.
- State that they revoke all previously-made wills and codicils.
- Declare that they have the capacity to dispose of their property, and does so freely and willingly.
- And date the will, usually in the presence of at least two witnesses who are not beneficiaries of the will.
- Sign their name at the end of the will.

Providing for Minor Children

Minor children (under the age of 18 or 21, depending on the state) must have a guardian named (either by your will or by the state) who will be responsible for raising them until they reach majority.

In addition, minors are not legally allowed to own a significant amount of property or money. You can provide for one or more children in your will by setting up a gift in the document under the Uniform Transfers to Minors Act and naming a custodian (an adult) to manage the property until the child turns a particular age (depending on the state).

The guardian you name in your will does not automatically become the custodian of your children's inherited property. Though is it a good idea to have the same person handle both duties if possible, you must specifically designate them for each role.

To avoid complications, be sure that you and your spouse (or the other parent if you are no longer married) both name the same guardian and custodian in your respective wills.

Another option for providing for your minor children is to use your will to set up one or more trusts. You create a trust for each child that includes any property he or she inherits and that name as trustee to manage the property until the child reaches an age that you specify (which can be older than the age of majority if you choose). Alternatively, you can set up one trust that includes all of your children—normally called a "pot trust." In this case, the trustee you name will decide what each child needs over the life of the trust and will allocate trust resources accordingly.

To avoid complications, be sure that you and your spouse both name the same guardian and custodian in your respective wills.

Will Creation Checklist

- ☐ **List assets and decide which to include in the will.**
  List all your significant assets, then review what you have written. Decide which assets should be included in your will and which need to be addressed by other methods (e.g., property that's been transferred to a living trust, life insurance for which you've already named a beneficiary, money in a pension or other retirement plan).

- ☐ **Decide who will inherit your property.**
  After you decide on principal beneficiaries, don't forget to choose alternate beneficiaries in case your first choices don't survive you.

- ☐ **Choose an executor to handle your estate.**
  Your will needs to include the name of the person appointed to carry out the terms of the will—that is, your executor. Regardless of what you've seen on TV and in the movies, executorship should not come as a surprise to the person you designate. Therefore, check with your choice before you make up your will

- ☐ **Select a guardian for your children.**
  If your children are minors, decide who you want to raise them in the event that you and their other parent can't. Again, check with your selection in advance of will preparation.

- ☐ **Choose someone to manage children's property.**
  If you will leave property to minor children, you need to name an adult to manage whatever they inherit until they are old enough to take control themselves. Another instance where the person you want to name custodian or property guardian needs to know in advance that they will be named.

- ☐ **Create your will.**
  FindLegalForms.com provides all the forms you need to create a will that fits your specific situation and meets your state's legal requirements. You can obtain only the forms that pertain to your will, or a combination package that includes forms covered in other sections of this guide.

- ☐ **Sign your will in front of witnesses.**
  After making your will and printing out the finished document, sign it in the presence of at least two witnesses who are not named in your will and in front of a notary public, who will notarize the document. (Note: You don't have to have your will notarized. In many states, though, if you and your witnesses sign an affidavit in front of a notary public, it will simplify probate and help prove the will's validity.).

- ☐ **Store your complete will in a safe place.**
  Store your will in a safe, safe deposit box, or other secure place. Be sure to let your executor know where it is and how to get it when the time comes.

"A will in hand means nothing without validation from the probate court, as there could have been later wills written."

About Probate

A will on its own will not avoid probate. Actually, validating a will is one of the primary reasons for probate.

After a person has died, a probate proceeding may be initiated in court to determine the validity of any will that the deceased may have created, and to appoint an executor to the estate. Often there is a deadline (30 days is usual) by which a will must be admitted to probate. Most courts will only consider an original will; not even a crystal clear photocopy is acceptable.

A will in hand means nothing without validation from the probate court, as there could have been later wills written. If the will is ruled invalid, the deceased will be considered to have no will and any inheritance will be dealt with according to the state's laws of intestacy.

If you die without a will or some other legal method for transferring property, then your state's laws direct how your property will be distributed. It will usually go to your spouse and children or, in the absence of those relations, to your next closest relatives. In the entire absence of relatives, your property will go to the state. If you are part of a same-sex, domestic-partner couple, the surviving partner will not inherit in the absence of a will unless you live in a state that treats registered domestic partners like spouses in matters of inheritance. At this writing, these states are California, Connecticut, Maine, New Jersey, and Vermont.

In addition, in the absence of a will, a court will determine who will care for your young children and their property if the other parent is unavailable or unfit to do so.

You can obtain all the forms needed for probates and wills at FindLegalForms.com. Cost effective packages that meet all your state's requirements will save you lots of time and money, and ensure that your estate planning covers all the bases.

Your Living Will

Most of us aren't really into spending time pondering what would happen if we became unable to direct our own medical care because of accident, illness, or old age. However, if we don't plan—at least writing down our wishes about the kinds of treatment we do or don't want to receive and naming someone we trust to decide about care on our behalf—these matters could wind up in the hands of family members, medical providers, sometimes even judges—in other words, people who may not know what you yourself would prefer.

Your living will is a legal document that that allows you to specify what treatment you want to receive in the event of a serious injury or illness. It spells out the care you want if you can't make decisions for yourself. Without this document, decisions end up having to be made by family or some other third party. A living will usually includes a statement about not having your life artificially prolonged if there is no hope of curing you. You can clearly define means and procedures you do or do not want used. The living will is the document that expresses your desires to the doctors, telling them when to back off and let you die.

Living will and health directive are two names for the same thing, which is different than a durable power of attorney for health care. The former controls decisions that must be made at the end of a person's life. The medical power of attorney gives authority to another person (usually a family member or close friend) to make decisions on your behalf regarding medical care. This person is empowered to make all medical decisions leading up to end of life, but has no power to make end of life decisions covered by the living will. In the absence of a living will, if the patient isn't able to make end-of-life decisions, decisions are left to family members.

State laws covering the right to die are specific, with the language that can be used in a living will set forth in state law. Many hospitals and other care facilities will provide a fill-in-the-blank living will that uses the language required by state law, and there isn't much latitude for changing or adding.

You must be an adult (18 or 21 years old, depending on the state) to make a legal health care directive or medical power of attorney, and must be of "sound mind" (i.e., able to understand what the living will means, its contents, and how it works).

A Do Not Resuscitate (DNR) Order alerts emergency personnel that you do not wish to receive cardiopulmonary resuscitation. DNR orders sometimes supplement other health care directives, usually by those who are already critically ill and feel strongly that they do not want to receive life-prolonging treatment when close to death. If you are in the hospital, you can add a DNR order to your medical record. If you are not hospitalized, you can make a "pre-hospital DNR" order to have on hand in case emergency medical personnel are called to your home.

Health care documents take effect when your medical provider determines that you lack the capacity to make your own decisions. This normally means that you don't understand the nature and consequences of the choices available to you, and/or you are not able to communicate your own wishes regarding care. Basically, if you are so ill or injured that you cannot articulate your wishes, your health care documents will take immediate effect. If there is a question about your ability to understand your choices and respond clearly, your doctor will decide if your health care documents will take effect.

In some states, it is possible to give the person named in your medical power of attorney the authority to manage your medical care immediately. If your state allows this option, you may prefer to make an immediately effective document so that your agent can step in to act for you at any time, without the need to involve a doctor in the question of whether or not your health care document should take effect. This does not give your agent the authority to override you. You dictate your own medical care if you are able to.

Unless you revoke your documents, your written wishes for health care are in effect as long as you are alive. A divorce has no effect on the validity of your health care declaration, but if your spouse is named as your health care agent, their authority is automatically revoked in some states. If this happens the alternate agent that you name in your documents will take over.

Generally, your health care documents are no longer necessary when you die. In some states, however, your health care directives remain effective after your death for limited purposes. For example, your agent may be authorized to supervise disposition of your body, including autopsy or organ donation.

You can obtain all the forms needed for a living will and/or health directive at FindLegalForms.com. Cost effective packages that meet all your state's requirements will save you lots of time and money, and ensure that your estate planning covers all the bases.

Estate Tax Basics

In 2008, each person has a $2 million exemption from federal estate taxes when they die, up to $3.5 million in 2009 (with a one-year repeal of the tax slated for 2010). Therefore, if your net estate is worth less than two million dollars, your estate will not be subject to estate taxes.

Additional exemptions from federal tax include any property, no matter worth how much, that is left to a spouse, and any property left for legitimate charitable purposes.

As noted above, in 2010, the estate tax will be repealed for only one year. As strange as it sounds, in 2011 the estate tax is due to return, with the exemption lowered to one million dollars.

The current federal estate tax rate is 45% and is scheduled to stay at that rate until 2009. States levy estate taxes, usually called death taxes, but they are much less significant. If you have homes in two states and one has estate taxes, you might want to make your official residence the state that doesn't have the taxes.

One way to avoid or reduce estate taxes is to give away property during your life. This does more than save on taxes. At this time, you can make an unlimited number of $12,000 gifts of cash or other property each year, completely tax-free, as long as no individual recipient receives more than $12,000 from you in a calendar year. If you left the same amount at your death and it was subject to estate tax, your recipients would see their gifts shrink by at least 39%. All gifts you make to your spouse are tax-free, as long as he or she is a U.S. citizen.

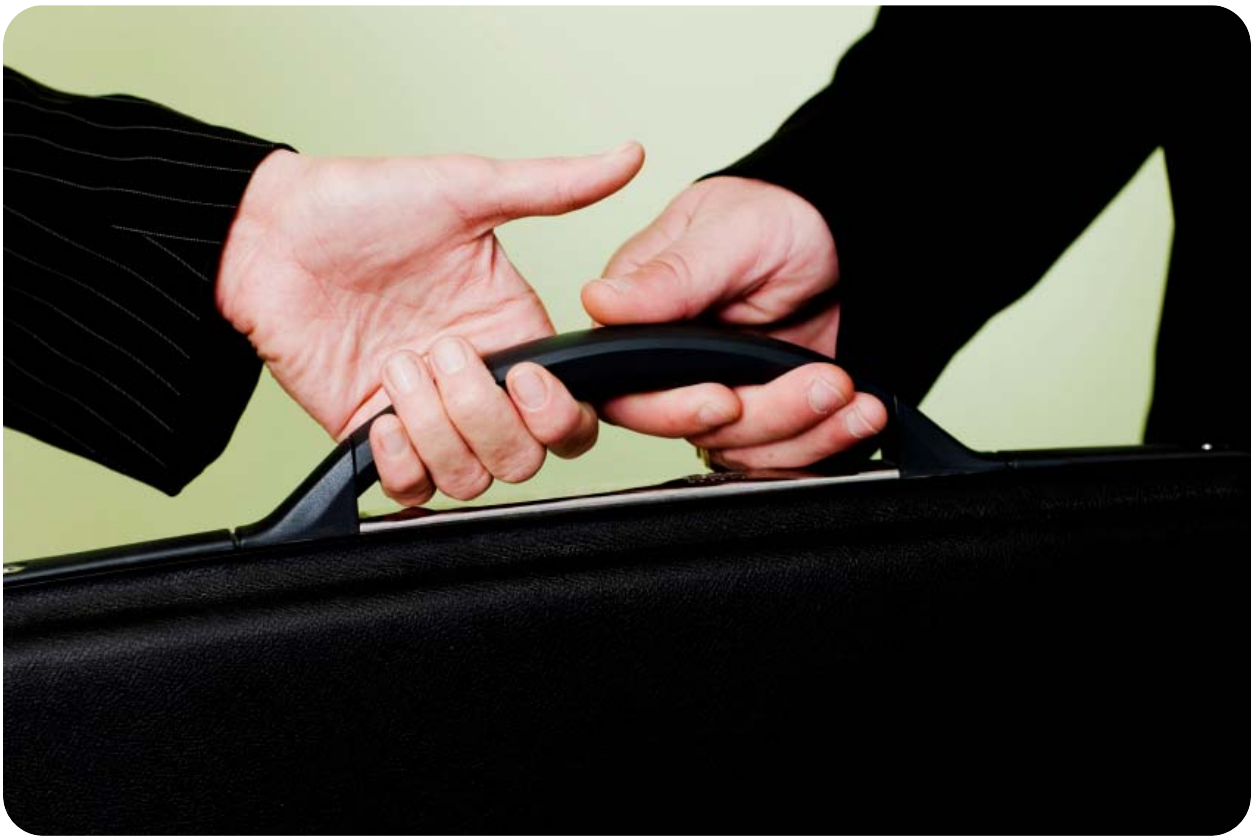
Couples can combine their annual exclusions, meaning that they can give away $24,000 worth of property tax-free per year per recipient. In fact, even if only one spouse makes a gift, it's considered to have been made by both spouses if they both consent.

To make the most of the annual exemption, keep in mind that it is based on a calendar year. For example, if you want to give your son $20,000 and you give him $10,000 in December and $10,000 in January, both gifts are tax free. But giving him the entire amount in one month or the other would only exempt $12,000, leaving the remaining $8,000 taxable as a gift.

Other ways to avoid or minimize estate or death taxes include:

- And AB trust. A married couple leaves their property in trust for their children, with the surviving spouse having the right to use it for life. This makes the taxable estate Spouse #2 half the size that it would be if the entire property were left to the surviving spouse.
- A QTIP trust, allowing couples to postpone estate taxes until the second spouse dies.
- Charitable trusts, which give a sizable gift to a tax-exempt charity.
- Life insurance trusts, allowing you to eliminate life insurance proceeds from your estate.

Your IRA is subject to estate tax when you die. Your beneficiaries will pay income tax as the assets are distributed from the IRA. There is no way to get an IRA out of your estate before you die except by taking the assets out of the IRA, paying income tax, and giving the money away.



The Ins and Outs of Trusts

A trust is a property transfer method that does not require probate upon your death. With a trust you can transfer most or all of your property to the beneficiaries of your choice time and expenses attached to court system. The probate process can take and eat up a significant percentage of the estate in lawyer and court fees.

A *living trust* is a trust you create while you're alive (as opposed to one created at your death). One person (the trustee) holds legal title to property for another person or persons (the beneficiary). You can be the trustee of your own living trust, keeping full control over all property held in trust while you are alive.

A trust is not a substitute for a will. Your will is the document that distributes property that you don't transfer to yourself as trustee. If you don't have a will, any property that isn't transferred to your trust or other probate-avoiding instrument (like joint tenancy) will go to your closest relatives in an order determined by the court. The court may not distribute property as you would prefer. To cover all bases, you can include a clause in the will to specify an heir to all of the property that you haven't left to a specific beneficiary.

A living trust can address some of your health care concerns—specifically those dealing with management of assets if you become unable to do so. With a revocable living trust naming yourself as trustee, you retain complete control over trust assets in the trust as long as you are mentally and

physically able. If you become permanently disabled or incapacitated, the trust becomes irrevocable and the named successor trustee will take over management of assets according to trust provisions.

Making a living trust does require paperwork. For example, in order to include you your house in the trust, you must execute a new deed showing ownership by the trust and your management of the asset as trustee. This paperwork can be tedious, but living trusts have become so common that lending and other financial institutions are prepared to help you through the process.

There are different kinds of trusts for different purposes (e.g., avoid probate, reduce estate taxes, or set up long-term property management), including:

- **Irrevocable Trust** - can provide credit protection for beneficiaries as well as tax savings. The content of an irrevocable trust cannot be altered.
- **Testamentary Trust** - goes into effect at the time of death and helps control asset management and distribution. Provisions are incorporated into the will, and it accompanies the will through probate.
- **Bypass Trust or Credit Shelter Trust** - allows you to bypass your spouse's estate while allowing your spouse to receive income from the trust. Can reduce or eliminate federal taxes by maximizing federal deductions and credits.
- **Generation** - Skipping Trust - transfers property to second-generation beneficiaries without the trust proceeds becoming part of the direct offspring's' estates.
- **Charitable Annuity Trust or Unitrust** - allows you to donate to an irrevocable trust and retain income during your lifetime. Upon death, assets are transferred to the designated charity (avoiding estate taxes).

Other Aspects of Trusts

A simple living trust may avoid probate, but it has no effect on taxes. If estate taxes are an issue, there are more complicated living trusts that can greatly reduce the estate tax burden. In an AB trust (also called a credit shelter trust, exemption trust, marital life estate trust, and marital bypass trust), each spouse leaves property in trust to the other spouse for life and then to the children. This type of trust can save hundreds of thousands of dollars in estate taxes.

A will is legally added to the public record when probate starts, along with all other documents related to probate (e.g., asset inventory, list of debts. On the other hand, there is no legal requirement calling for making the terms of a living trust public.

A living trust doesn't protect you from creditors. Any creditor who wins a lawsuit against you can go after trust property the same as if you owned it in your own name. After your death, all your property, including that held in a living trust, is subject to your lawful debts, and creditors can go after your heirs—theoretically. While ownership of real estate is in the public record and creditors can find out who inherited real estate, it can be harder for them to find out who inherited other property in the trust (because the trust document is not made public), and they may not bother pursuing the matter.

Life Insurance

Life insurance is not necessarily a part of every person's estate plan, but it can be useful, particularly for parents of young children and or for caregivers who support a disabled adult or child. Life insurance can also supply immediate cash at death that can defray debts and funeral expenses.

To help figure out whether life insurance makes sense for you, give some thought to these questions in the context of your passing away:

- How many people depend on you financially? (If none, you could probably stop here and not worry about adding life insurance to your estate plan.)
- How much money would be needed for dependents' living expenses?
- How much time do your dependents need to become self-sufficient?
- Is your estate likely to owe significant debts and/or taxes?
- How much will be immediately available from your estate to take care of dependents' immediate needs?
- How long will it take for your property to be available to your inheritors?

The answers to these questions can give you a ballpark idea of how much money would be needed to replace the income you currently provide to dependents and to defray expenses related to your death. From there, you can decide if life insurance is a good option for you and, if so, what kind of insurance to go for.

If estate tax is a concern for you, it is important

Life insurance is available in many forms. For estate planning purposes, consider permanent life insurance such as:

- **Whole life insurance**, which provides a set amount of coverage that can never be canceled for fixed, uniform payments. The payments are the same throughout your life, so the premiums are higher compared to your statistical risk of death in the early years of the policy. Over time, you build up a cash reserve that you can borrow against if desired.
- **Universal life insurance**, which combines some of the features of term and whole life insurance, and offers other advantages. You build up a cash reserve, as with whole life, but you can vary the premium payments, amount of coverage, or both, from year to year. Also, the net cost is lower than whole life insurance.
- **Variable life insurance**, in which cash reserves are invested in securities, stocks, and bonds. This means your investment return is tied to the financial market performance.
- **Variable universal life insurance**, which combines features of universal life insurance with the investment opportunity (and risk) of variable life insurance.

to understand that life insurance proceeds are part of the taxable estate only if the deceased is the owner of the policy. If someone else owns the policy, the proceeds are not included. Therefore, if you want to avoid federal estate tax, consider transferring ownership of your life insurance policy to another person or entity. You can transfer ownership to any adult, including the policy beneficiary, or you can create an irrevocable life insurance trust, and transfer policy ownership to it. (Keep in mind that property that you leave to your spouse, including insurance proceeds, is not subject to estate taxes. Your life insurance proceeds would be taxed only if the beneficiaries of the policy are other than your spouse.)

Be careful with your transfers, though. The IRS rules state that gifts of life insurance policies made within three years of death are disallowed for federal estate tax purposes. Also, the IRS considers a deceased person who kept certain controls over a transferred life insurance policy to still be the owner. Specifically, IRS would still consider you the policy owner if you can legally:

- change or name beneficiaries of the policy
- borrow against the policy or cash it in.
- cancel the policy.
- decide how payments will be made to the beneficiary.

It's pretty easy to transfer policy ownership to someone else. So why bother with a trust? You may not have someone you want to transfer to, or you want to continue to have legal control over the policy. It may be too risky to have the policy owned by someone else—they may not pay the premiums, or they may cash the policy in before you die. A trust can mitigate these risks.

"Your life insurance proceeds would be taxed only if the beneficiaries of the policy are other than your spouse."

Using a Power of Attorney

As we've discussed above, a power of attorney is a legal document that gives someone you choose the power to act in your place. There are basically two areas for its use: medical care and finances. The person you name in your power of attorney will be legally permitted to take care of important matters for you - paying bills, managing investments, directing your medical care - if you are unable to do so yourself.

Taking the time to make these documents is well worth the effort. If you do not have durable powers of attorney and something happens to you, your family may have to go to court to get the authority to handle your affairs. (A durable power of attorney means that the document remains in effect if you become incapacitated and unable to handle matters on your own.)

To cover all of the issues that matter to you, you should make two separate documents: one for finances and another one addresses health care issues.

A financial power of attorney gives your agent the authority to handle financial transactions on your behalf. Some documents are very simple and limited to single transactions or a specified time frame (e.g., closing a real estate deal). For estate planning purposes, the financial power of attorney is designed to let someone else manage all of your financial affairs for an unspecified length of time in the event that you are unable to manage on your own. Your agent can handle simple tasks such as sorting through your mail, paying your bills, and depositing checks into your bank accounts, as well as more complex things like managing your retirement accounts and other investments or filing your tax returns.

Your agent doesn't have to be a financial expert; just someone you trust completely who has a good dose of common sense. If necessary, your agent can hire professionals (paying them out of your assets) to help out.

A medical power of attorney, called a "durable power of attorney for health care," names a trusted person to oversee your medical care and make health care decisions for you if you are unable to do so. Your health care agent works with medical providers to ensure that you get the care you wish to receive, and is legally bound to follow your stated treatment preferences.

Technically, you could combine both types of care into one power of attorney, but it isn't a good idea. Making separate documents will keep life simpler for your agent and others, even if you name the same agent for both types of care.

Selecting Your Agent

When you make a durable power of attorney for health care or finances, the most important decision you will face is deciding on your agent. Most people name a spouse, partner, relative, or close friend as their agent. The most important criterion is your absolute trust in whoever you name, and that you are comfortable and confident discussing your finances or medical care wishes with them. Your health care agent doesn't have to concur with all of your wishes, but they must respect your right to get the kind of medical treatment you want and committed to following through on what you want, not what they think you should have. And your financial agent must have a similar commitment to manage your estate well.

In the case of your medical power of attorney, your agent should not be your doctor or an employee of a hospital or nursing home where you receive treatment. On the other hand, it might be wise to name your lawyer or accountant as agent for your finances.

You can name one or more alternate agents in your documents if your first choice is unable to take the job for some reason. Name at least one alternate agent, and be as thoughtful about naming your this agent as you are about your first choice.

Here are some considerations to think about when deciding on your agents:

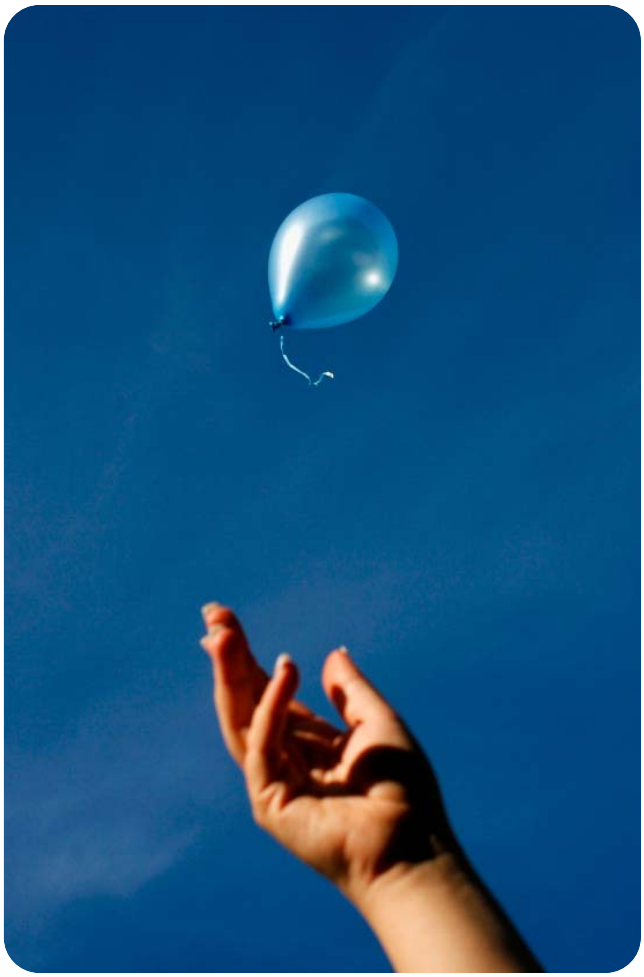
- **Is the person assertive?**
  Your agent may have to fight to assert your wishes in the face of a stubborn medical establishment or stand firm against the financial wishes of family members who may be driven by their own interests.
- **Does the person live close?**
  You don't have to name someone who lives in the same city or state as you do, but proximity can be important.
- **Can the person serve as agent for both documents?**
  If at all possible, name the same person as both your agent for health care and for finances.

You can obtain all the forms needed for durable or general powers of attorney at FindLegalForms.com. Cost effective packages that meet all your state's requirements will save you lots of time and money, and ensure that your estate planning covers all the bases.

A Word about Final Arrangements

Though not technically considered part of an estate planning activity, it is natural for most of us to see to final arrangements when we are dealing with wills, trusts, insurance and other estate planning elements. Stipulating your final arrangements will spare family and loved ones a lot of unnecessary, additional stress at the time of your death.

What kind of funeral do you want? Funerals can be simple or lavish, and are influenced by religious/cultural traditions, costs, and personal preferences. You can help your loved ones avoid a potentially overwhelming number of decisions and high costs by recording your wishes for final arrangements as part of your will.



"You can help your loved ones avoid a potentially overwhelming number of decisions and high costs by recording your wishes for final arrangements as part of your will."

Here is a summary of funeral service choices that will help you think about what you want. You will likely need to conduct further research before including your wishes in your will.

- **Full-Service Funeral** - This is the "traditional" funeral and generally includes the services of a funeral home. It is also usually the most expensive type of funeral, as high as $15,000 if it includes all the bells and whistles. Elements include:
  - Visitation with the family at the funeral home with casket present
  - Private family viewing time
  - A service in a church or at the funeral home
  - A graveside ceremony for burial of the body or interment of cremated remains
- **Direct Disposition** - This type of funeral involves taking the body from the place of death directly to the place of burial. A graveside or memorial service may be conducted immediately or at a later time. This is less expensive than a traditional funeral.
- **Cremation** - With cremation, the body is placed in a container and taken to a, crematory where it is reduced to ashes. Theses ashes, called "cremains," may be stored in some kind of receptacle or be otherwise dealt with by loved one. Cremation usually costs less than a full-service funeral. A memorial service may accompany a scattering of ashes, or occur separately, which will add to costs.
- **Memorial Service** - A memorial service is usually held soon after a cremation or burial, and can be held anywhere. This option is usually less expensive than a full-service funeral if a funeral home is not included in the proceedings. The service may follow the lines of a traditional funeral service or may reflect different traditions.
- **Do-It-Yourself** - Many families are take more responsibility for their loved ones at the time of death, and home funerals, which prevailed for many years in our culture, are coming back into practice. Costs are usually minimal, and those who have been involved with such funerals have found them therapeutic and meaningful. State laws may impact your wishes for this kind of arrangement, so it is good to conduct thorough research before stipulating this as your preferred method of burial.

Bequeathal of your body to a medical school is an alternative to cremation or burial. Many medical schools value this kind of bequest for teaching or research purposes. It is important to have a written agreement with a medical school that covers the bequest. Also, the circumstances of your death may render your body unacceptable for teaching purposes, so be sure to stipulate a preferred alternative arrangement in your will.

Another option is organ donation, another valued "last service" to society. In this instance, the receiving organization may return the body to the survivors for disposition following removal of the donated organ(s).

Conclusion

In conclusion, here are a few general notes about estate planning:

- There is a misperception that only rich people need an estate plan, but the truth is that we all need a plan, regardless of the size of our estate. An estate plan sees to the care of minor children, distributes personal property and financial assets, and makes your financial and health care wishes known if you become incapacitated.

- Estate planning mediation can be used as preventive measure against future litigation. In a mediation session, you can include family members and beneficiary organization representatives in discussion about plans for transferring assets in the future. Mediation is especially effective in the case of blended families, step siblings, and multiple marriages, because the session allows people to deal with issues together, design a plan that will minimize the chance of future family conflict, and meet financial goals.

- You can make a will or living trust on your own, but consider hiring a lawyer if you have questions about your situation or you have a challenging estate planning issue that a basic will or living trust just won't address. You may want to talk to a lawyer if:
  - You have questions about your will or other options for leaving your property.
  - You expect to leave a very large amount of assets and they may be subject to estate tax unless you do some tax planning and set things up properly.
  - You want to make complex plans (like leaving your house in trust to your spouse until they dies and then passing it to children from a previous marriage).
  - You are a small business owner and have questions about rights of surviving owners.
  - You must make arrangements for long-term care of an incapacitated or disadvantaged adult or child.
  - You fear someone will contest your will (e.g., fraud, claiming that you were unduly influenced, or stating you weren't of sound mind when you signed).

The ABCs of Estate Planning

Here is a partial glossary that includes some lesser known terms related to estate planning.

A/B Trust - A Revocable Living Trust for married couples. Two trusts (A and B) are set up when spouse #1 dies that divide the couple's estate. This helps maximum avoidance of federal estate taxes.

Accumulation Trust - A trust that accumulates income instead of paying income out to the beneficiaries every year. Also known as a complex trust.

Administrator - The person named by the court to manage a probate estate in the absence of a will.

Affidavit of Survivorship - A sworn statement in writing that verifies the identity of the survivor in a property ownership relationship.

Charitable Remainder Trust - A trust that donates large amounts of property or money to a charity to gain a tax advantage. The donor reserves the right to use the trust property during their life or other time period, after which the property is awarded to the named charity.

Codicil – An amendment to a will.

Conservator - A person who is legally responsible for management of property and/or money owned by a minor or incompetent person.

Death taxes - Taxes levied on the property of a deceased person. Same as estate taxes when at Federal level.

Disposition - The parting with or giving away of property.

Durable Power of Attorney - A legal document used by an individual to grant another person the authority to handle their financial and other affairs.

Durable Power of Attorney for Health Care - A legal document used by an individual to grant another person the authority to handle matters related to their health care.

Escheat - A legal word describing the transfer of property ownership to the state government when there are no legal heirs.

Estate Taxes - Taxes that apply to transfer of property in the case of death. Usually used in reference to the Federal tax rather than that levied by state government.

Executor - The person named to manage a decedent's estate.

Family Trust – same as living trust.

General Power of Attorney - A legal document that gives one person full legal authority to act on behalf of another. The scope of the document can be broadly or narrowly defined, and expires when the principal dies or becomes incompetent.

Grantor - The person who establishes a trust.

Guardian - A person given the responsibility by the court for managing the affairs of a minor child or a person that is legally incompetent.

Holographic Will - A handwritten will.

Incidents of Ownership - Management control over a trust.

Independent Trustee - A trustee who is unrelated to the grantor and the trust's beneficiaries (e.g., attorneys, banks, corporations).

Inheritance Tax - A tax imposed upon the transfer of property from a deceased person's estate. Usually refers to state-levied taxes.

Intestate Succession - The order of persons to inherit property distributed by a state court in the absence of a will.

Irrevocable Trust - A trust that cannot be changed or canceled once it is set up.

Joint Ownership - The situation where more than one person owns the same piece of property.

Joint Tenancy – The situation where more than one person takes title to the same property, each simultaneously owning 100%. At the death of one joint tenant their share immediately transfers to the survivor(s).

Living Trust - A type of revocable trust used to avoid probate and allow management of assets after the death of the grantor.

Living Will - A legal document defining a person's "right to die."

Minor - A child who is not old enough to legally govern their own affairs. Depending upon the state, a minor is either under 18 or 21 years of age.

Net Taxable Estate - The value of an estate upon which the Federal estate tax is levied.

Pay on Death (POD) Account - A bank account designed to avoid probate where the bank agrees to pay the balance of the account (upon to death of the account holder) to the person(s) named to receive the account.

Personal Property - Property besides real estate, for example, vehicles, bank accounts, animals, equipment, furniture, securities.

Personal Representative – A more modern label for an estate's executor.

Pot Trust – A trust created in a will that includes all minor children (rather than one set up for each child).

Power of Attorney - A legal document set up by an individual granting another person authority to handle all or some of their financial affairs.

Primary Beneficiary - The person(s) for whose benefit a trust is established.

Probate - The legal process that allows transfer of a deceased person's property, whether they leave a will or not.

Probate Court - The part of the judicial system overseeing probate (settlement of intestate and testate estates, adoptions, appointment of guardians, name changes, etc.).

Probate Fees – Fees paid to the professionals who handle probate for an estate.

Quitclaim Deed - A document that transfers a person's interest in a piece of real estate without the guarantees that are part of a warranty deed.

Revocable Trust - A trust that can be amended or revoked by the grantor.

Self Proving Will - A will that has been legally witnessed and that states that all of the proper formalities of the will's execution have been complied with.

Simple Trust – A trust with terms that require the trust to pay all of its income out.

Taxable Estate - The portion of an estate that is subject to federal estate taxes or state death taxes.

Testamentary Trust - A trust created by a will.

Trust - A legal document in which property is held for the benefit of another.

Trustee - The person or institution that manages the trust property under the terms of the trust.

Will - A legal document stating the intentions of a deceased person concerning the distribution of their property and management of their affairs upon death.

You can obtain all the forms needed for a will, living will and/or health directive, and powers of attorney at FindLegalForms.com. Cost effective packages that meet all your state's requirements will save you lots of time and money, and ensure that your estate planning covers all the bases.