

Estate Planning – Why Plan?

Estate Plan

Your plan for how to make decisions in the event you can't.

- Medical treatments
- Care for dependents
- Who will get your possessions
- Help people to make decisions that reflect your wishes



You never know when an accident may leave you incapacitated or unable to make decisions about your own health and possessions. The primary function of an estate plan is to write out your wishes for how people should make decisions about your property and medical treatments in the event that you can't express them yourself.

The issues that your loved ones may have to address without you may be extremely difficult and uncomfortable without your guidance. For example, you might not die—you might be in a state of coma where the doctor can't ask you about what treatments to pursue or not pursue. Who can make those decisions for you the way that you would want them to? If you had children, who would take care of them if your spouse wasn't able to?

Creating an estate plan isn't the nicest thing to think about, but you might feel better knowing that the people who depend on you for financial support will be cared for and that your possessions will be distributed as you see fit in case you die. A clear estate plan can also help your loved ones make decisions that reflect your wishes.

What's in a Plan?

Estate planning involves decisions to accomplish the following:

- State how estate is distributed after death
- Appoint the executor
- Record other information, such as one's wishes regarding care of minor children



At its most basic, estate planning involves decisions to accomplish the following:

- To state how a person wants his or her estate distributed after death
- To appoint the person who should distribute the estate (the executor)
- To record other information, such as one's wishes regarding care of minor children

First you have to decide how you want to address these issues, and then you have to record your wishes in a legal document.

Wills

A will is a legal declaration (usually a document), of how you want your possessions to be disposed of after you die:

- Who receives your property
- Who will care for your dependents
- Wills go through probate process administered by court



There are commonly four types of legal documents or strategies involved in estate planning. Each of these has different objectives. Consult a lawyer before you start to implement any of these documents or strategies.

Have you ever heard anyone on TV show say, "This is your last will and testament?" A will is a legal declaration, usually in a document, of how you want your possessions to be disposed of after you die. What you state in your will gives you control over who will receive your personal property including items such as investments, furniture, jewelry, cars, etc. It also dictates key decisions such as who will provide and take care of your children if something happens to you.

If someone has a will, after they die, the will has to go through probate. This is a legal process whereby the person's property is distributed according to the will and their creditors are paid. Most wills have to be probated, although each state can have different laws regarding the probate process. Unless there are problems with the will, the probate process takes about seven months on average. Since the courts supervise the probate process, you can have some assurance this your wishes will be granted and the court can help settle any matters or disagreements that may arise with your estate.

Living Wills

Specifies how you would like doctors to implement certain decisions regarding your treatment in the event that you are incapable of making those decisions.



In a living will, you specify how you would like doctors to implement certain decisions regarding your treatment in the event that you are incapable of making those decisions. This can help guide your loved ones to make decisions that reflect your wishes about your medical treatment during an extremely stressful time.

Living Trusts and Joint Tenancy

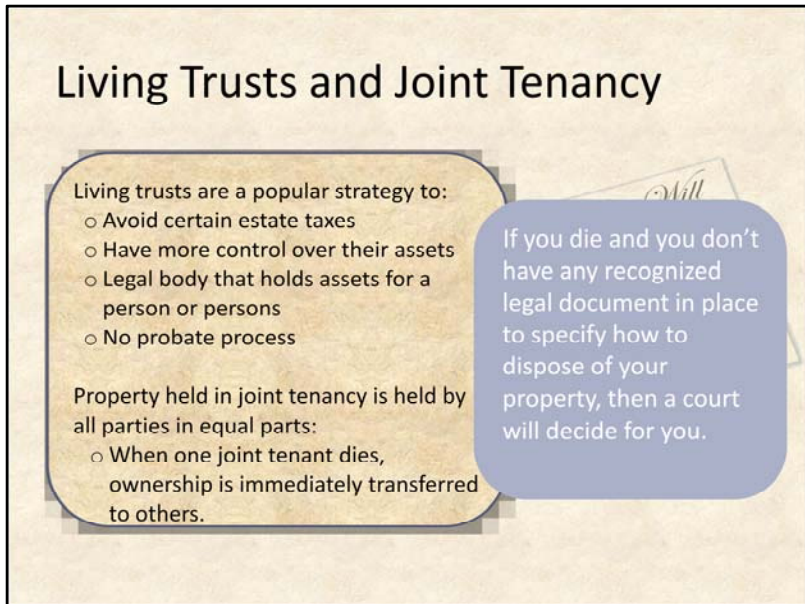
Living trusts are a popular strategy to:

- Avoid certain estate taxes
- Have more control over their assets
- Legal body that holds assets for a person or persons
- No probate process

Property held in joint tenancy is held by all parties in equal parts:

- When one joint tenant dies, ownership is immediately transferred to others.

If you die and you don't have any recognized legal document in place to specify how to dispose of your property, then a court will decide for you.



Living trusts have become popular strategies for people to try and avoid certain estate taxes. They also allow someone to have a higher degree of control over their assets after they die. Essentially, a trust is a legal body that holds assets for a person or persons. After someone dies, the terms of the trust are enacted immediately and do not go into probate. This type of arrangement is more complicated than a simple will and may have more administrative costs over the long term.

When one or more people have joint tenancy over property, it means that they own equal parts. In the event one of the joint tenants dies, their ownership is immediately transferred to the other tenant or tenants without having to go through probate as with a will.

If you die and you don't have any recognized legal document in place to specify how to dispose of your property, then a court will decide for you.

Tax Considerations

Estate Taxes

Those levied on all of the assets that you own at the time of your death.

Gift Taxes

You can only give away a certain amount to anyone during one year.

Inheritance Tax

Levied on gifts received by beneficiaries of an estate.



Understanding how your estate will be taxed is an important part of the planning process. Here are some of the taxes that may have an impact on how much money your heirs receive.

Estate taxes are those levied on all of the assets that you own at the time of your death. Estates exceeding the exempt amount (currently 5 million dollars in 2011) are taxed by the federal government. The tax applies to the decedent's gross estate, with a large portion of the estate exempted by a tax credit.

The federal government limits how much you can give away of your estate to any one individual during the course of a year. Currently, you can give any number of individuals up to \$13,000 (2011). Any amount over that limit is subject to a gift tax. This is designed to prevent people from giving away their entire estate before they die and thereby potentially avoiding estate taxes.

An inheritance tax is levied on gifts received by beneficiaries of an estate. Currently there is no federal inheritance tax, but several states have inheritance taxes. Taxes vary based on the property inherited and the relationship of the inheritor to the deceased.

Where Do You Start the Process?

Take Stock

- What investments do you have?
- Do you have insurance policies?
- Do your children need guardianship?

Who Should Inherit Your Possessions?

- Think about the individuals that you want to inherit your possessions.
- Whom do you trust to handle your business affairs?

Where do you start the whole process? Answering these questions is a start.

As your life situation changes, you'll need to revisit your estate plan to make sure that it reflects your current situation. You may not have any real need for estate planning right now, but as you get older, and especially when you get dependents, it's important to have a plan, because no one can understand your wishes better than you can.