



ESTATE PLANNING

PUT PEN TO PAPER

Build Your Estate Plan Around Four Key Documents

Four documents form the foundation of a sound estate plan: a will, a living trust and two powers of attorney. Whether you are just developing your plan with your attorney or updating it, understanding the basics of each document can help you achieve your goals.

WILLS

A will helps ensure on your death that your assets will be transferred according to your wishes. If you die without one, your assets will pass to your heirs according to state intestacy laws. When drawing up a will:

- **Understand that your estate will be subject to probate.** This is a court process to ensure payment of your debts and an orderly transfer of your assets. Some assets can pass outside of probate: annuities, insurance policies, qualified retirement plans, property held in a living trust and property held in joint tenancy.
- **Select an executor (also known as a personal representative) to administer your estate.** This may be a family member, a trusted friend or a professional executor such as a bank's trust department or a trust company. At minimum, consider naming a professional executor as a successor executor because your initial executor may become ill or die and be unable to serve.

- **Designate a guardian for minor children.**

If your family includes minor children, your will allows you to name a guardian to assume responsibility for the children until they reach majority. Also be sure to name an alternate or successor guardian in case the first named person is unable or unwilling to act.

- **Store your will in a secure location.**

Place the original, signed document in a bank's safe deposit box, in safekeeping with your professional executor or have your attorney keep it on file. In addition, keep a duplicate – there should only be one signed original – to periodically review.

LIVING TRUSTS

A living trust is revocable; you may revise or cancel it – including changing the trustees and beneficiaries during your lifetime. As its name implies, it's effective during your lifetime, meaning you may transfer assets into the trust for your own benefit during your lifetime (including while you are incapacitated), and after your death those assets are transferred to your beneficiaries. When developing a living trust:

- **Choose a trustee.** A trustee manages the trust per your instructions. You may appoint yourself as trustee or name an individual, professional or corporate trustee. Also be sure to name a successor trustee.

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- **Transfer probate-type assets into the trust.** Typically this requires only a letter of instruction. Probate-type assets include securities, certificates of deposit, and bank and mutual fund accounts. Transferring other asset types – for instance business interests, tangible personal property or real property – is complex and requires legal guidance.
- **Create a pour over will.** If your goal is to avoid probate, using a living trust will work only if all assets are in trust when you die. Use a pour over will to cover any assets you did not transfer to your living trust during your lifetime. This provides that these assets will “pour over” into your living trust when you die.

POWERS OF ATTORNEY

A power of attorney gives another person (typically called an agent) the legal authority to act on your behalf. You may rescind a power of attorney whenever you wish for whatever reason. If you do so, alert family members and third parties. With a “durable” power of attorney, the agent can act on your behalf when you are incapacitated. There are two kinds of powers of attorney:

- A healthcare power of attorney permits the agent to make medical or mental health decisions for you. This power provides an agent the ability to reject or stop any medical service, including, importantly, life-sustaining procedures.
- A financial power of attorney permits the agent to make financial, investment and tax decisions for you. This power provides an agent the ability to manage your investments, write checks, sell real estate, file tax returns and generally handle your financial affairs.

WRITE IT DOWN (WITH LEGAL GUIDANCE)

Wills, living trusts and powers of attorney are complex documents. Whether you are beginning to build your estate plan or are revising your current plan, seek competent legal advice for your personal situation.

