

Estate Planning: Wills, Trusts, And More!

A simplified guide to preserving
family wealth, maintaining family
harmony and ensuring peace of mind

Isn't Estate Planning just for Wealthy People?

NO!! Every person has an Estate!



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Estate Planning Preserves Family Wealth

Maintains Family Harmony

Ensures Peace of Mind

What is Estate Planning?



Estate planning is the process of arranging and organizing one's personal, financial, and legal affairs to ensure that their assets are managed, preserved, and distributed according to their wishes upon their death or in the event of incapacitation.



It involves creating legal documents such as wills, trusts, powers of attorney, and advance healthcare directives to outline how a person's estate should be managed and distributed, and to ensure their desires are respected even when they are unable to make decisions themselves.

What is the Difference between a Will and a Trust?

A **will** is a legal document that outlines how a person's assets and possessions will be distributed AFTER DEATH.

A **trust** is a legal arrangement that allows a third party, called a trustee, to hold assets on behalf of beneficiaries. Trustee and the Trustmaker are typically the same person until incapacity or death.



What is Probate and why would I want to avoid it?

- ▶ When a person dies, their will typically goes through a legal process known as probate. During this time, the court validates the will and ensures the deceased person's debts and taxes are paid. The court supervises the distribution according to the instructions in the will. This process can take a year or more depending on the size of the estate. There can also be a statutory fee of 10% of the value of the estate.
- ▶ Assets held in trust usually do not go through probate. These assets can be distributed to beneficiaries more quickly and there is no fee.

Other Differences Between a Will and a Trust



Privacy concerns. A will is a matter of public record while a trust is a private document.



Timing. The trust can be created to take effect during the life of the trustmaker while a will is only valid upon the death of the trustmaker.



Complexity. Wills are more flexible and easier to create or manage as circumstances change. Trusts are more complex and expensive to set up.

What about
Taxes?



Estate Tax

- ▶ Is a tax imposed on the value of a person's estate after they pass away?
 - ▶ It is based on the total value of the assets owned by the deceased at the time of death.





- ▶ Under current law, when a person has created a trust, the beneficiary would not have to pay taxes unless the estate was valued at over 12 million dollars. For most people, the Federal estate tax would not apply.
- ▶ Trusts can also provide a structured way to ensure elderly or disabled beneficiaries are still eligible for public assistance such as Medicaid and SSI
- ▶ Passing a gift such as a family home to beneficiary would allow “Step Up” in basis.

What is a Step Up?

- ▶ A **step up** affects the basis of the home. **Basis** is the amount paid for something.
- ▶ For example: Mom and Dad buy family home for \$100,000. Mom and Dad pass away and leave the family home, now worth \$500,000 to Son. If son decides to sell the home right away for \$500,000 son does not pay capital gains taxes. Without the step-up, taxes on \$400,000 are due. Capital gain is basically the profit on a gift.



Advance Health
Care Directives

Powers of
Attorney

Guardianships
and
Conservatorships



Advance Health Care Directive

DESIGNATES A
HEALTH CARE
AGENT

OUTLINES
MEDICAL
TREATMENT
PREFERENCES

END OF LIFE
CARE

MENTAL HEALTH
CARE

RELIGIOUS OR
SPIRITUAL
BELIEFS

ORGAN
DONATION

REVOCABLE



Powers of Attorney (POA)

- ▶ A POA is a legal document that grants one person the authority to act on your behalf in legal and financial matters. This person is known as the Agent. There are different types including:
- ▶ Limited
- ▶ Durable
- ▶ Springing
- ▶ Medical
- ▶ Financial
- ▶ Revocable

Guardianship

- ▶ A Guardianship is a legal relationship in which a person is appointed by the court to make decision on behalf of another person, typically a minor child.
- ▶ Ends when child turns 18.
- ▶ Authority to make decisions about education, health care and general well being.



Conservatorships

- ▶ A legal arrangement in which one person is appointed to make financial decisions for another who is unable to manage their own affairs due to physical or mental incapacity.
- ▶ Used more often for adults.
- ▶ Two types : Conservatorship of PERSON or ESTATE.
- ▶ Can be temporary or permanent.

Where do I go next?

- ▶ Many estate planning attorneys offer free consultations.
- ▶ There are plenty of online resources that do offer templates. However, we do always advise you consult with an attorney.
- ▶ Kiwan Law, P.C.
- ▶ Law Offices of Leslie Devlin
- ▶ The law library can also offer referrals.
- ▶ Los Angeles County Bar Association





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Any
Questions?