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4 Documents You Need in Your Estate Plan...and 3 You Might Need





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Thank you for your interest in our free report on estate planning basics. If you haven't started on your estate plan yet, don't worry—nearly 60 percent of Americans have no estate plan, and 70 percent do not have an up-to-date Last Will and Testament. The fact that you're reading this report shows that you are more serious about your estate planning than most of your peers.

This report covers seven estate planning documents. The first four you will more than likely need; the other three documents may be important for you depending on your goals. A thorough and effective estate plan ensures your heirs get the money and property you want them to receive in the most efficient way possible.

The 4 Essential Estate Planning Documents

1. Last Will and Testament.

Many estate plans have this essential document as their foundation. A Last Will and Testament, usually referred to as simply a *Will*, is used for giving your property, like your house, to family, friends, and loved ones. Chances are, though, that not everything in your estate *is going to be* or *should be* passed to your loved ones through a Will. The *way* you own certain property and the nature of particular assets could affect what passes through your Will.

Some types of money or property are not typically included in a Will. These include:

- Proceeds from life insurance, retirement plans, and pensions.
- Money or property owned by a trust.

- Bank accounts with a payable-on-death designation.
- Property owned with a right of survivorship for someone else (joint tenancy or as tenancy in common).

But a Will can do more than just distribute money or property to your loved ones. Another important function of a Will is naming an executor. The executor is the person who you trust to be responsible for registering your estate in probate, inventorying your assets, paying final debts, and generally overseeing property distribution. Parents of minor children often use Wills to name a successor guardian to care for their children until they turn 18.

2. General Durable Power of Attorney.

A general durable power of attorney is a legal form that allows someone else (your agent) to act on your (the principal's)

behalf. The document is called “durable” because once you designate an agent, that person can continue to make decisions for you if you are no longer able to make decisions for yourself, for instance if you are unconscious. There are different powers that you can give your agent. Typically, your trusted agent will pay your bills, manage your bank accounts, and do other things that you could otherwise do.

3. Health Care Durable Power of Attorney.

The other type of durable power of attorney you probably need is a health care durable power of attorney. This document designates an agent the power to make certain decisions related to your medical care if you become temporarily incapacitated. In these situations, the agent can allow, stop, or refuse life-sustaining treatment. This includes the implementation of artificial nutrition (feeding tubes) and liquids. You can give

your health care agent a wide range of powers or you can limit the agent's authority to certain matters.

4. Health Care Directive.

A health care directive, sometimes called a Living Will, should be used in tandem with the health care durable power of attorney. It might seem redundant to have a health care directive and a durable power of attorney for health care, but it simply gives you an extra layer of assurance that your wishes will be followed. The durable power of attorney for health care is used if you temporarily cannot communicate your wishes while the health care directive is used for very serious medical scenarios such as permanent comas and terminal conditions.

Estate Planning Documents Everyone Should Consider Having

There are countless types of trusts available to estate planners. Whether or not you need a trust, and what type of trust is best for you, is based on your estate planning goals. A trust is an arrangement wherein the grantor (creator of the trust) funds the trust with specific property for the eventual benefit of one or more beneficiaries. Often, these beneficiaries are your family or loved ones, but charities can also benefit from your estate. A trustee is a person whose job it is to follow the rules of the trust and distribute wealth and property to beneficiaries. Sometimes, people serve as a trustee of the exact trust they created. Other times, the grantor nominates a trusted person to operate as trustee. Every type of trust includes information about when the trustee takes over the trust's property and manages it according to the trust's instructions. Sometimes this happens immediately. Sometimes it happens after an event, like death.

1. Testamentary Trust.

A testamentary trust is a type of trust used by estate planners that lets you decide how and when your assets, like money or property, are given to your loved ones.

A testamentary trust is often used when a grantor has children under the age of 18. The grantor will list their minor children as beneficiaries, and thus ensure that the child will not get their entire inheritance at once. Even the most mature 18-year-olds are liable to recklessly spend a large inheritance. Instead, for example, you, as the grantor, could create a testamentary trust that permits the trustee to give your beneficiary a portion of your property when the beneficiary graduates high school, gets married, or buys a house. You can also stagger payments by age, for instance: 25% of the trust at age 25, 25% of the trust at age 30, and so on. The choice is yours for how and when to distribute

assets to your beneficiaries. A testamentary trust is only created when the grantor passes away. Therefore, the trust is not in existence during the grantor's life and "springs" into existence upon their passing.

2. Revocable Living Trust.

A revocable living trust (RLT) becomes active as soon as it is signed. An RLT is a very flexible document and allows many different planning options for both you and your family's future. The grantor, or creator of the trust, typically selects themselves as trustee. This means that the creator of the trust maintains control over the assets in the trust. The "revocable" component means that the trust can be altered or revoked by the grantor. Once a grantor passes away, then the rest of the plan for a surviving spouse, children, or other beneficiaries such as charities is implemented. One of the major benefits

of an RLT is that any property or funds that are retitled into the trust do not need to go through the probate process. Probate is a court process after death that usually takes 6-12 months and often necessitates hiring an attorney. A revocable living trust can provide a seamless path for certain important assets and property to pass from the trustee to beneficiaries. Another major benefit of an RLT is privacy. By avoiding the probate process, information about your assets and property does not become public court record. Finally, an RLT can assist if you are ever unconscious, or mentally or physically impaired. By selecting a successor trustee now, you ensure that someone is there to assist and that trusted person will have access to funds in the trust to be used for your benefit.

3. Irrevocable Trust.

An irrevocable trust is used in specific

situations. Unlike a revocable trust, an irrevocable trust cannot be altered except in rare circumstances. Irrevocable trusts are primarily used to minimize taxes or provide asset protection.

There are dozens of types of irrevocable trusts and each one fits a specific goal, such as an Irrevocable Life Insurance Trust, which provides estate tax benefits and asset protection, or a Charitable Remainder Trust, which can provide a tax deduction and sets aside certain funds or property to be given to charity.

One type of irrevocable trust that is quite common and is often used for blended families where children are from different marriages is a Qualified Terminable Interest Property (QTIP) trust. In blended families, a common concern is ensuring that the hard-earned money of one spouse will go to that spouse's children and not be diverted away after their death. In a QTIP

trust, after the surviving spouse passes away, the assets pass to beneficiaries in accordance with the trust's instructions. Because a QTIP trust is irrevocable, the surviving spouse is not able to add or remove beneficiaries.

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