

What is Estate Planning?

Often times, when people think of estate planning, they think of it in terms of creating either a will or a trust that directs how their property is to be distributed when they die. And while this is certainly a major part of any estate plan, there are other things to consider as well. Perhaps more important than property disposition, a good estate plan, also addresses who can make financial and health care decisions on a person's behalf should they become incapacitated by physical or mental illness. Through the use of Financial and Health Care Powers of Attorney, a comprehensive estate plan allows a person to delegate their medical and financial decision making abilities to someone they trust while they are still alive. In short, estate planning is a process where a person makes legal arrangements to effectively manage and transfer property both during life and after death according to their wishes and goals.

What Happens if I Don't Have an Estate Plan?

Believe it or not, you already have an estate plan that has been created by state law. When a person dies without a will, they are considered "Intestate." This means their property shall be distributed according to the law, typically to their closest relatives. The problem with this is that a person's assets may not go to whom they would have liked, and instead to someone they didn't intend. This is why, if you care about how your property is handled and disposed of after your death, or during periods of incapacity, it's important to create a custom estate plan tailored to your specific wishes.

What are the Main Decisions I Need to Make?

Who will be your beneficiaries? A beneficiary is a person, organization or charity who receives some or all of your estate. Additionally, you should consider what you would like done with your estate should any primary beneficiary die before you. Would you like the share you intended for them to go to their children, or would you like it to be split between other primary beneficiaries? If not, you could leave their share to a completely different person, organization or charity.

Who will serve as your fiduciaries? A fiduciary is a person or entity that you designate to serve as an executor, trustee, agent or guardian. One person or entity can fill all these rolls, or you can choose different people to do different things. You may want one person to serve as your executor/trustee, but another to serve as your health care power of attorney in charge of your medical decision making. Additionally, you should consider who will serve as alternates and successors to these rolls, should the primary either be unable or unwilling to serve. Since these are the persons entrusted with carrying out your instructions, these choices are among the most important aspects of an estate plan and should be given ample consideration.

Do I Need an Attorney to Plan My Estate?

Our attorneys can help ensure that your estate plan is structured and implemented according to your specific wishes and needs in the most efficient and effective manner possible. More importantly, when it comes time to execute your estate plan, our attorneys will ensure that it is done properly in the presence of witnesses as required by law.

You may think that the signing and witnessing process would be straightforward, but there are strict rules that must be adhered to in order for a will to be legally valid. Thus, it is crucial that a will be signed and witnessed properly. If done incorrectly, a will may be found to be invalid. And if a will is determined invalid, it's the same as dying without a will. In which case, the estate will be distributed according to law under the intestacy provisions of the Probate Act.

While readily available do-it-yourself estate planning packages appear to be a bargain when compared to the costs of an actual attorney produced estate plan, they all too often result in costly and embittered litigation for families, unnecessary delay, ambiguity and tax inefficient property transfers. Remember... what you save on the front end could be extremely costly on the back end if it isn't done correctly.

What Information do we Need to Start Your Estate Plan?

If you'd like our attorneys to prepare your own custom estate plan, we'll need basic information and data regarding you, your family, your beneficiaries, your desired fiduciaries and your assets. We collect this information on our confidential *Estate Planning Analysis* form. Simply print and complete the form, and send it back to us. Once we review the provided information, one of our attorneys will contact you to begin the estate planning process.