

Estate Planning 101

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We're often asked what documents clients should include in their estate plans. The decisions you make and the people you select to oversee your estate are intensely personal and can directly impact what happens during your lifetime and beyond. Fortunately, your RMB advisor, estate planning attorney, and other professionals can help you think through the best ways to prepare for the future.

For most people, these five documents can help create a basic framework for enacting your last wishes or responding to an emergency. Keep in mind that this list is a starting point, and, depending on the complexity of your estate, you may need additional planning to protect your legacy.

Last Will and Testament

First, consider what is in your estate. This can include everything from personal property and real estate to investment and retirement accounts. With a comprehensive accounting of your assets, you can begin to document how you want your property allocated.

A will goes through probate court, which is the traditional way to inventory an estate, settle debts, and have a judge approve the distribution of assets to your beneficiaries. You will need to select an executor to oversee this process. This role is usually given to someone you trust to handle the administrative burden of your estate and honor your wishes and intent.



Revocable Living Trust

Many people who have accumulated real estate and investment assets will consider setting up a revocable living trust as a supplement to a last will and testament. A revocable living trust offers several benefits, such as protecting your assets if you become incapacitated. A living trust can receive assets that would otherwise be subject to probate through a will and can potentially allow your estate—or part of it—to avoid probate. Another important consideration for many people is the privacy that a living trust offers, in contrast to the public nature of probate.



Durable General Power of Attorney

A durable general power of attorney (POA) can help protect your interests, should you become incapacitated. It identifies an agent to manage your financial affairs and to make decisions on your behalf. This might include paying bills, making deposits or withdrawals at a bank, filing a claim with your insurance policies, and other important functions. A power of attorney drafted for your state will be honored by the institutions with whom you conduct business.

Identifying an agent to act on your behalf in advance is important for several reasons. Not having a POA when you need one will require your family to go through a court process to have a guardian appointed, costing you time and money, and further complicating an already stressful situation.

Medical Power of Attorney/ Healthcare Proxy

Similar to the financial matters a general power of attorney might handle, a separate medical power of attorney can be created to name a healthcare agent to make treatment or caregiving decisions on your behalf. If you're unable to communicate your decisions, your healthcare agent can carry out your wishes according to directions that you leave in advance, or, absent that information, according to their best judgment.

A medical power of attorney can be most effective in honoring your wishes when paired with an advance healthcare directive.

Advance Healthcare Directive/Living Will

An advance healthcare directive expresses your desires regarding medical treatment and end-of-life scenarios. Sometimes called a living will, this document can help family and friends to navigate difficult moments by making your preferences known for a range of situations. As part of creating an advance directive, you will need to consider the kinds of treatments that you would want, including questions of medical interventions, physical comfort, hospital vs. home care, and more.

Common Questions

Am I all set once I create these documents?

You should review your estate plans and documents every three to five years or whenever a major life event occurs, such as marriage, divorce, birth of a child or grandchild, or the purchase or acquisition of a major asset like a new home or an inheritance. Remember, additional planning may be needed to protect your assets or for tax planning purposes.

What if one of my beneficiaries has special needs?

A Special Needs Trust (SNT) can play an important role in preserving the financial security and lifestyle of a person with special needs. A SNT can help provide for supplemental care while allowing the beneficiary to remain eligible for other forms of government or public assistance. Consider asking your estate attorney if they can help with special needs estate planning.

Are there special estate planning considerations for elderly family members and loved ones?

Estate planning for elderly clients can involve long-term planning for future medical and financial needs. Medicaid, VA benefits, and other earned benefits may have requirements that need to be met to prevent disqualification. Elder law attorneys can assist with issues of discrimination and abuse and can aid a client in protecting their rights and best interests.

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