

# The family guide to estate planning.

Learn about what makes up a good estate plan, beginning with the questions to ask before you even get started.

Plus, you'll understand:

- › Why executors, guardians and powers of attorney are three people you can't do without
- › How to make taxes work in your family's favor
- › Why trusts and trustees matter
- › What could happen without a will
- › How a living will helps both you and your family



# **Your intent.**

# **The right people.**

# **Direct communication.**

That's what a good estate plan is all about—carrying out your intent for your family and community. Of course, it's not always simple—and many even find it scary. Some people delay planning for fear they can't come up with the “perfect” plan, or because they're uncertain about the future of the federal estate tax. So it's important to understand as much as possible before you begin. And the best place to start is to define your goals.

## **Before you begin your estate plan, ask these questions:**

- › Who will inherit my assets and when?
- › Do I want to provide for other family members or friends and for specific purposes?
- › How will I provide for my surviving spouse?
- › Should my children share equally in my inheritance?
- › Should assets be placed in trust?
- › Do I want to give to charity?
- › Whom do I want to make decisions about carrying out my wishes?

# 4 Key Components of a Good Estate Plan

## 1. The Will

### Everybody should have one

You've worked hard your entire life to provide for those you care about: your spouse, children, grandchildren, siblings, stepchildren, parents and others. Your will gives you the ability to control the destiny of your property and ensure that you've taken good care of the people who matter most to you. Without a will, your state's laws step in, which generally makes the process more difficult and costly.

Note that more complex issues, such as family business, special needs, asset protection and multi-state property, for example, require more complex planning beyond the will alone.

### What's in a will?

Your will is a legal document that provides directions about how you want your assets (including personal effects) to be distributed at your death. You are the only person who can change your will, either by revoking it

and issuing a new one, or amending it with a document called a codicil. Some circumstances may change your will automatically, such as a marriage or divorce, though the laws vary by state.

Despite the all-encompassing nature of a will, not all of your property is distributed by the will. For instance, property held jointly, such as real estate, or financial assets held in a joint account, generally pass to the other joint owner.

Likewise, if you've named someone as the beneficiary of a life insurance policy, IRA or other deferred retirement savings account, proceeds will go directly to them even if they are not named as a beneficiary in your will. At times, however, you may be better off having the will distribute some of these assets for greater tax benefits, as well as asset protection.

### A word about beneficiary designations

Aside from joint assets that pass with right of survivorship, the most common assets are retirement benefits and life insurance. These assets are generally payable in accordance with a beneficiary designation and are not governed by your will. It is important that you review these designations annually to ensure they fit into your overall estate plan. Further, it's a good idea to include secondary beneficiary designations in case your primary beneficiary predeceases you.

If you have favorite charities, you can help fund them by declaring them as primary or secondary beneficiaries of retirement assets and life insurance.

## A will also allows you to:

- › Appoint the executor and successors
- › Appoint guardians, trustees and successors
- › Designate custodians for assets
- › Continue or enhance charitable support

### **The Executor— The key member of your team**

Your executor, the person you name to carry out your wishes, will be both honored and ultimately challenged by the complexities of settling your estate. Because the executor plays a crucial role, it's important to choose this person carefully—and it's a good idea to name a backup in case your primary executor is unable or unwilling to serve.

Some skills to consider might be business or administrative experience, the time to serve, geographic proximity to beneficiaries and estate property, sensitivity, lack of conflicts, an understanding of your beneficiaries' needs and familiarity with your assets and estate.

You may select an individual, corporate executor, such as a bank or trust company, or co-executors to act jointly.

Some of the executor's responsibilities include:

- › Gathering evidence of all debts, assets and expenses, including an inventory of the safe deposit box
- › Paying any of your debts, funeral expenses and administrative expenses
- › Claiming any life insurance and retirement benefits payable to the estate

- › Opening and maintaining checking and savings accounts
- › Securing appraisals or valuations for financial assets as well as for real and personal property
- › Managing the filing of income and personal property tax returns, and state and federal estate tax returns
- › Probating the estate and overseeing its distribution according to the terms of your will
- › Claiming any pension or profit sharing bonus plans payable to the estate
- › Notifying government agencies (i.e., Social Security Administration and the Department of Veterans Affairs) and claiming related benefits

### **The Guardian— a must for every parent**

The guardian provides protection and ensures comfort and continuity in your children's lives if you or your spouse dies. It's important to choose someone who understands your wishes, goals, objectives, values and philosophy.



### Choosing a guardian

Generally, your children's guardian is named in your will. Of course, it's wise to gain agreement from this person in advance. When considering the right person or couple, ask yourself these questions:

- › Who shares the same values and child-rearing philosophy as I do?
- › Whom do I trust with my children's lives?
- › Is he or she capable of carrying out the duties of guardianship for as many years as may be required?
- › Although my estate may provide financial assistance to the guardian, will he or she be able to bear any additional financial imposition resulting from serving as guardian?
- › Will my children have to move away to be cared for by this guardian? If so, how far?
- › Does this candidate have any parenting experience?
- › Does the guardian share my religious and philosophical beliefs? If not, will he or she respect mine when raising my children?

It's difficult to ensure that the guardian you nominate will raise your children exactly in the manner that you want. For this reason, if there are issues you feel strongly about with respect to the care of your children, it's important that you talk with your designated guardian and leave written instructions to serve as a guideline.

### A guardian cares for more than just your child

Though **guardianship** is often thought of in terms of the care of minor children, its focus can be much broader. In addition to caring for another, a guardian also assumes responsibility for ensuring the safety and suitability of the environment the child lives in. The guardian will not have responsibility for your children's assets by default but will control those assets distributed to the guardian (via will or trust) for the children's benefits.



## 2. Trusts and Trustees

### Another powerful way to help you achieve your goals

Ensuring that you, your family and others you care about receive the best that life can offer may be difficult to achieve. Complex state and federal inheritance laws, potentially onerous tax liabilities and the unique circumstances of individual family members means that one solution may not fit all.

It is not unusual for your will to “pour over” assets to a trust (e.g., credit shelter, marital or revocable living trust). Trusts are often powerful, key components to an estate plan that can accomplish many goals for your family:

- › Gifting in support of groups, individuals and institutions
- › Maintaining control over the assets you gift
- › Avoiding probate
- › Keeping your wealth within your family
- › Reduction of tax liabilities
- › Protecting assets from creditors and bad marriages

It's best to consult with your wealth management advisor to determine whether and what kind of trust may suit your needs.

#### **Trustees— choose wisely for greater success**

Trusts derive part of their power from their status as a legal entity. It's important to understand, however, that much of a trust's power and usefulness comes from the skills and experience of the person who carries out the trust's goals and objectives—the trustee. No matter how artfully designed, a trust may be destined for trouble if the trustees are not up to the task—which often includes investment management, reasonable judgment, the protection of trust assets and adherence to your intentions.

# Qualities to consider in an individual or corporate trustee

## › Familiarity with trust assets and beneficiaries

A well-qualified trustee is sensitive and empathetic to your motivations and genuinely interested in the well-being of your beneficiaries. Think: *Who understands my goals and values, and knows the people in my life whom I want to influence?*

## › Availability and willingness to serve the term of the trust

Good choices for trustees are people and organizations that are geographically near the trust property or beneficiaries, and who can serve for the duration of the trust.

## › Investment, accounting and tax planning expertise

Investment and reinvestment of trust funds, as well as the tax consequences arising from trust activities, are at the core of trust administration. Accordingly, it's vital for a trustee to have experience in all three disciplines. Trustees do not need to be experts in these areas, but should know when and how to ask for help. Think: *Whom do I know who is responsible, has good judgment, and good head on his or her shoulders, and knows when to seek help?*

## When a single trustee isn't enough

Given the wide range of financial and relationship skills that a qualified trustee will need, it's hardly surprising that, at times, a single candidate just doesn't fit the bill. For trusts that are broad in scope of goals, assets or beneficiaries, one solution is to capture the strengths of professional and nonprofessional trustees by appointing each as a co-trustee.

While a co-trustee arrangement introduces its own set of challenges, careful planning can overcome them.

### Day-to-day trustee responsibilities

- › Managing investments
- › Recordkeeping
- › Tax planning and filing
- › Making distributions to beneficiaries
- › Paying the expenses of the trust
- › Serving as custodian of trust assets

### 3. Power of Attorney

#### An essential tool for managing your affairs when you're unable to

It's hard to imagine a scenario where you're temporarily or permanently unable to make your own decisions. But just as everyone should have a will, almost everyone should also have a power of attorney.

A power of attorney (POA) is a document in which you designate another person or persons as your **attorney-in-fact** to act on your behalf during times when you cannot (perhaps due to illness or infirmity), or when you are unable to represent yourself (such as a real estate transaction where you're absent, but need a representative to act in your place). A POA can be drafted with broadly or narrowly defined terms of your choosing.

A **durable power of attorney** is one that takes effect immediately upon execution and remains valid even when you become incapacitated. It's important to have a POA that's durable, because it may avoid the expensive and time-consuming process of waiting for a representative of your estate or person appointed by a court. A durable POA can be revoked or amended at any time as long as you are competent. Alternatively, a **"springing" power of attorney** can take effect upon a determination of your capacity by one or more physicians.

Duties of your financial POA can include:

- › Managing property
- › Writing checks and making deposits
- › Managing legal claims
- › Gaining entry to/inventory of safe deposit boxes
- › Buying and selling investments
- › Filing tax returns

- › Distributing insurance and other benefits
- › Making gifts to individuals or institutions
- › Exercising shareholder or grantor rights

#### Durable power of attorney for healthcare

Sometimes known as a healthcare proxy, this document gives the attorney-in-fact the power to make healthcare decisions when you cannot because you are temporarily or permanently unable to do so, or you are legally incompetent as a result of illness, incapacity, injury, old age or accident.

Duties of your healthcare POA can include:

- › Consenting to medical care
- › Consenting to surgery
- › Terminating medical care

#### Who should be your attorney-in-fact?

For financial purposes, think of people you trust who are financially responsible. For healthcare purposes, the person should be someone who understands your wishes and can make decisions during times that may be extremely emotional and distressing.

Even though your physician most likely will not serve as your agent, this doesn't mean you shouldn't include him or her in discussions with your agent about your care. Some topics for discussion include life support, aggressive interventions, hospice or long-term care, pain management or what you may want during your final days.



## 4. Living Will/Advance Medical Directive

### The best way to communicate your healthcare preferences

Your living will/medical directive is the best and most effective way to make sure your preferences for life-sustaining treatment are known in the event you are unable to communicate them.

A medical directive is sometimes called an **advance directive, healthcare proxy, healthcare directive** or **living will**. Though often used synonymously, some states view a medical directive more broadly, and a living will as a narrower set of healthcare directives related to the use or nonuse of life-sustaining treatment.

Ultimately, a living will/medical directive, along with a healthcare power of attorney, will provide you the maximum flexibility to state your desires. The living will permits you to state your intentions about the use or withdrawal of medical procedures to sustain your life if your death is imminent or if you are in a permanent state of unconsciousness. This is distinguished from a healthcare power of attorney, which appoints someone as your agent to make medical decisions on your behalf when you are unable to do so (perhaps due to a temporary condition).

## At the heart of communication

From an emotional standpoint, a living will makes a decision on behalf of your family and loved ones, reducing their stress over big decisions during a difficult time. The most important thing you can do is talk to your family—tell them you've completed a living will/medical directive, and share what it says. It will ease their burden if they are aware of your decisions in advance.

# Ready to put it **all together?**

Your intent. The right people. Direct communication. That's what it takes to develop the estate plan that carries out your intentions for your family and community the way you want. We're here to help you as soon as you're ready to get started.

## Learn more

Visit **[seic.com/privatewealth](https://seic.com/privatewealth)**  
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