



ATLAS LAW, PLC

# ESTATE PLANNING BASICS

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# WHAT IS ESTATE PLANNING

Estate planning is a term that has changed dramatically over the years. At one time, estate planning meant having a will that would go through probate and, if a person was married, titling property jointly with a spouse.

It conjured up visions of death and of wealthy families gathered in attorneys' wood-paneled offices listening to will being read. It suggested that the wealthy should plan so that they could avoid estate taxes.

# WHAT IS ESTATE PLANNING

Changes in the laws and changing views of finance, lifestyle, privacy, nontraditional families, and longevity of life have made estate planning far more interesting and, frankly, more compelling for a larger group of people than ever before. For these and many other reasons, estate planning is no longer will planning or tax planning only for the wealthy.



# WHAT IS ESTATE PLANNING

Estate planning is:  
Financial, retirement, business  
succession, charitable, medical,  
disability, legacy, and gift  
planning.

Love, Money, Control - Quantum Press, 2003



# WHO NEEDS AN ESTATE PLAN?

Everyone





# WHAT IS YOUR ESTATE

## All A Person's Tangible Assets:

- House
- Real Estate
- Automobiles
- Jewelry
- Household Possessions

## All A Person's Intangible Assets:

- Bank Accounts
- Annuities
- Stocks
- Bonds
- Business Interests
- Life Insurance
- Retirement Plans

# ESTATE PLANNING GOALS

A Properly Crafted Estate Plan Can:

- Maintain Control Over Estate
- Avoid Probate
- Reduce Estate & Income Taxes
- Protect Spouse & Children
- Protect Inheritance from Creditors
- Provide for Disability Planning
- Prevent Delays Related to Estate
- Reduce Disagreements Among Heirs
- Continuity For Asset Management





# BASIC ESTATE PLANNING DOCUMENTS

## Distribute Estate

Last Will and Testament

Revocable Living Trust

Lady Bird Deed

## Disability Planning

Financial Power of Attorney

Medical Power of Attorney

Living Will

## Provide for Children

Appointment of Guardian



# LAST WILL & TESTAMENT

Provides a set of Instructions for the distribution of your property that take effect upon your death

All assets disposed of via a will must go through probate



# WHAT PROPERTY DOES A WILL COVER?

## Probate Property

All Property  
In Decedent's  
Name



Passes Through  
Probate

## Non-Probate Property

Joint Property

Life Insurance\*

Retirement Accounts\*

POD Designations

Property In Trust

\* Must Have Properly Named Beneficiaries

# WHAT IS PROBATE

And Why Do We Try to Avoid It?

Probate is a court supervised process which **transfers title** of your assets to your heirs upon your death.

Probate is expensive, time consuming, cumbersome and will expose the estate to unnecessary costs and credit claims-including possible medicaid claims. **Probate is completely avoidable!**

# REVOCABLE TRUST

Provides a set of instructions to care for you and your family during your lifetime, during incapacity, and after death

All assets disposed of via a Trust will not go through probate

A Trust **Must Be Funded** With Applicable Assets



# A REVOCABLE TRUST AVOIDS PROBATE

## Last Will

Decedent's Property



Probate Court



Heirs

## Revocable Trust

Decedent's Property

No Probate



Heirs

# OTHER BENEFITS OF TRUST

- Maintain Control Over Estate
- Avoid Probate
- Reduce Estate & Income Taxes
- Protect Spouse & Children
- Protect Heirs' Inheritance from Creditors
- Provide for Disability Planning
- Prevent Delays Related to Probate Administration
- Reduce Possible Disagreements Among Heirs
- Continuity For Asset Management
- Provide for Minor Children

# SUMMARY OF DIFFERENCES

	Last Will	Revocable Trust
Desire To Avoid Probate		★
Provide For Minor Children		★
Desire For Disability Planning		★
Blended Families or Second Marriages		★
Desire To Make Things Easier For Heirs		★
Sophisticated Distribution Plan For Assets		★
Adminstraitive Expenses		★
Initial Cost	★	
Simple Estates	★	





# FINANCIAL POWER OF ATTORNEY

A legal document where an adult designates someone as their agent to make financial decisions on their behalf should they become incapacitated

Authorizes a person to handle your financial affairs when you are incapable of handling them yourself

# BENEFITS OF A FINANCIAL POWER OF ATTORNEY

- Names a decision maker
- Allows a family member to assist incapacitated person with finances
- Can prevent a conservatorship
- Provides continuity for investments
- Protects incapacitated person from themselves
- Must be executed while person has capacity



# MEDICAL POWER OF ATTORNEY & LIVING WILL

A legal document where an adult designates someone as their agent to make medical decisions on their behalf should they become incapacitated

Expresses final wishes regarding end of life care



# MEDICAL POWER OF ATTORNEY

## Health Care Surrogate

- A legal document where an adult may designate another adult or group of adults to make decisions regarding health care on their behalf or to make funeral and other arrangements in the event of their death.
- When granting a health care power of attorney, you should also include a HIPAA authorization that gives your agent the right to access your medical records. Your medical power of attorney works hand-in-hand with your advanced directives.



# LIVING WILL

## A Different Kind of Will

- Living wills are a written expression of your wishes regarding end of life care which is provided to your family and doctors. Your wishes cannot be honored if they are not known.
- A living will takes effect after you are diagnosed by a doctor as terminally ill or permanently unconscious and the doctor determines you are unable to make or communicate decisions about your care.

# START THE CONVERSATION

## Your Clients Look to You for Guidance

"Is it important to you that your assets remain under my care when they are passed to your children?"

"When was the last time you reviewed the beneficiaries for your life insurance and retirement accounts?"

"Based on your financial plan, it's possible that you'll leave substantial assets when you pass away. What would you like to see happen with this money? Do you have any concerns?"

"Is your estate plan current and up to date?"

Asking these questions provides an opportunity to engage clients in a meaningful discussion regarding their estate plan.



# HOW OFTEN SHOULD AN ESTATE PLAN BE UPDATED?

Recent Good Fortune

Change in Family Relationships

Becoming a Parent or Grandparent

Loss of a Loved One

Incapacity of a Spouse or Loved One

Change of Address

A Foreseeable Need for a Nursing Home

Your Children Have Grown Up

Regular Checkups

Desired Changes





# ? Questions

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