

Plan Your Estate

Objective: To prepare for the disposition of your assets.

By law, your estate doesn't exist until the moment you are no longer living. Then whatever plan you have made – or failed to make – is locked in forever. People who would knowingly choose to sacrifice themselves to save a loved one will leave that loved one the burdens and nightmares of dealing with a poorly planned estate simply because it is easy to avoid planning. No one makes you do it. The true value of what you leave behind, however, may well be determined by how well you plan your estate.

In this exercise create a plan for the transfer of all your assets at death to your chosen beneficiaries in the time frame you select. You will ensure that all your assets are distributed, according to your wishes rather than those of the government.

Keep in mind that preparing your will is only the first step in estate planning, not the only step. For more information on estate planning, call your financial advisor at the Trump Advantage Club.

Time Required: Two hours.

Instructions:

1. Review the **Estate Plan Basics**.
2. Complete the **Estate Planning Worksheet**
3. Estimate how much of your estate will be needed to provide sufficient income for your spouse and children should you die. If your estate cannot provide enough income, then consider additional life insurance.

Checklist

Date Completed

1 Review the **Estate Plan Basics**

2 Complete the **Estate Planning Worksheet**

3 Review the **Sample Last Will and Testament**

4 Complete your **Estate Records Organizer** and distribute appropriately.

Estate Plan Basics

There is not a "one size fits all" type of estate plan because everyone's situation is different. Regardless of what your circumstances, there are some basic steps everyone should consider.

1 Execute a Last Will and Testament

Dying without a will - also known as dying "intestate" — can create a chaotic, frustrating and costly situation for your heirs. It also leaves you no say over who gets your assets or the custody of your children. Your State law has already made specific decisions such as who will get control of your possessions and who will look after your children. If you don't like those mandates, you must take steps to establish your own choices. Even if you have a trust, you still need a will to take care of any holdings outside of that trust when you die.

2 Name a Personal Representative/Executor

A personal representative or executor is required to identify and collect all of the estate assets, and adhere to the directions in the Will regarding the distribution of such assets. A personal representative may include one or more individuals and/or institutions, such as banks or trust companies. The personal representative's many duties include filing the decedent's Will with the local probate court and overseeing the court proceedings required to have the Will recognized by the probate court. In addition, the executor must file tax returns for the decedent's estate, satisfy the debts of the decedent and pay the expenses of administering the estate from estate assets. You will need to name an alternate in the event your first choice cannot serve.

3 Take Inventory

Write down everything you own. Examples include: Real estate, financial and investment accounts, retirement funds, cars, antiques, collectibles and sentimental items. List the asset or item and an estimate of its worth. Group the assets into categories such as real estate, stock, insurance policies, family heirlooms, etc.

Also, list how the assets were owned. Do you own them by yourself or with someone jointly? Do you owe money on the assets, such as a mortgage?

4 Decide who gets what

List who gets what and when. If you are unsure about these decisions, discuss them with applicable family and friends. It is better to settle disputes now than have you family quarrel or have bad feelings after your death.

Key points to consider:

- Name alternate beneficiary(s) - in the event both you and your beneficiary are deceased.
- If you intend to bequeath or give to minor children – name a trustee or specify how the gifts will be held and what age they may receive them. If left unspecified, the age of majority in most states is 18.

- If you do not leave a will, most state's intestacy laws give property to heirs in a ranking order. Typically this order is as follows: spouses, children, parents, siblings, other kin and then the state.

5 Guardians for minor children

If one parent dies, the surviving one usually assumes sole custody of the children. But if both parents die, the children need a guardian. Many times, parents have difficulty agreeing on the choice, but keep in mind – if you do not specify a choice – the decision will be made for you. In most states, the Probate Judge will select a suitable guardian for the children. Typically, this will be the closest relative (if suitable). However, in most instances, the highest preference is given to the person(s) that the parent(s) nominate in their will(s).

It is important to speak frankly with the person(s) you are considering as a guardian. Here are some key points to consider:

- Will the guardian(s) come to your home and allow the children to remain there or will the children move to the guardian's home?
- Is this person emotionally capable of dealing with these responsibilities?
- Are they physically capable?
- Are they financially capable?
- Are they willing to take on the responsibility?
- Do they share your moral beliefs?
- Are they an appropriate age?
- Do your children have a strong bond with the potential guardian?
- Can the guardian financially support the children?
- Will the guardian use funds earmarked for the children solely in their best interest?
- Is the potential guardian married?
- Will the spouse (or future spouse) meet all your expectations?

The person you choose to raise your son or daughter does not have to be the person who handles the child's inheritance. You can name a separate unbiased person to oversee financial or other decision for your children.

You can also set up a testamentary trust to insure your children's financial needs are met. This type of trust and is created in your will and is established in the event both parents are deceased. Life insurance is commonly used to fund the trust. The trustee would use the funds as you direct in your will and would pay funds to your nominated guardian as necessary. Final payments to the children will be made to the children at the age of majority or at the age designated. Professional advice is recommended for setting up these types of trusts.

6 Execute a Living Will or Medical Power of Attorney and a General Power of Attorney

When a person becomes too ill to manager his/her affairs, family members may be able to transact some business for the incapacitated person. However, there are many decisions that cannot be made, especially if the person cannot communicate.

Unless you want family members to guess at what you want or apply to the court for a guardian or conservator to solve these problems, you need to have your desires written down. Or at least name a person who can make these decisions for you. These documents can give broad authority to the person acting as the agent, so don't take this decision lightly. You can obtain a form to create your living will from your local hospital, or you can download a form specific to your state from websites such as www.uslivingwillregistry.com/forms.shtm and www.caringinfo.org.

6 Utilizing Trusts

Trusts are legal mechanisms that let you put conditions on how and when your assets will be distributed upon your death. They also allow you to reduce your estate and gift taxes and to distribute assets to your heirs without the cost, delay, and publicity of probate court, which administers wills. Some also offer greater protection of your assets from creditors and lawsuits

7 Don't over ride your Last Will and Testament

- Be sure your accounts and assets are titled correctly.** Your insurance policies, investment and retirement accounts will go to your named beneficiaries on each account regardless of what your Will says. Review your insurance and financial accounts to insure the correct beneficiaries are listed.
- Review all real estate holdings to insure they are titled correctly.** The way you title your real property (real estate) will also determine its allocation.

Here are some common types of titling and their uses:

Fee Simple / Individual ownership

This is the simplest form of ownership. One individual owns the entire interest in the property. The owner does not share that ownership with anyone else and is not married. With real estate, in most states, the owner of all of the interest in the real estate is said to have "fee simple title".

Joint tenancy / Joint tenants / Joint tenancy with the right of survivorship

In this form of ownership, two or more people own the property together. When one of them dies, his or her share automatically goes to the surviving owner or owners. The last surviving owner then becomes the sole owner of the property. Typically, joint tenancy is specified in the deed or instrument of conveyance.

Tenancy by the entirety

This form of ownership is much the same as a joint tenancy with the right of survivorship, but it applies only to married couples. When either the husband or wife dies, the entire interest in the property then goes the surviving spouse. Neither spouse can sell, bequeath, mortgage or otherwise make any commitment concerning the property without the other's consent. About half of the states recognize a tenancy by the entirety where real estate is concerned. In some states, if title is held by a husband and wife, a tenancy by the entirety will be automatically assumed to exist even if it is not specified in the instrument of conveyance.

Tenancy in common

With this form of ownership by two or more parties, all of the owners have rights in the entire property, however, each owner is free to sell, bequeath or otherwise encumber only his or her portion of the property interest. The interest in the property can be divided in unequal portions, but unless it is specified otherwise in the deed or written contract, the ownership shares will be assumed equal.

Community property

Community property is certain property owned by married couples in states that recognize community property laws. Each spouse is considered to own one-half of community property. The community property states are Arizona, California, Idaho, Nevada, New Mexico, Texas, Washington and Wisconsin. Community property includes

- Employment income received by either spouse
- Property acquired with employment income during marriage. Separate property that is transformed into community property under law.

Each state has its own laws concerning what qualifies as community property. However in general, only the following property is considered to be exempt or owned "separately" by a spouse:

- Property owned by the spouse prior to marriage.
- Property acquired after legal separation.
- Property that the spouse receives during the marriage by gift or inheritance, if kept separate from community property.