



Estate Planning

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Phases of Estate Planning



Incapacity

What happens when I cannot handle my own affairs?



Death

How do I plan for the transfer of my property to my beneficiaries?



Asset Distribution

In what manner will my beneficiaries receive my property?

Incapacity

How will someone be able to use my assets for me and make decisions on my behalf?



Financial & Misc.



Healthcare



Incapacity



Financial & Misc. Matters

General Power of Attorney

Authorizes someone else to manage these for your benefit:

- Bank accounts
- Retirement plans
- Insurance policies
- Other non-medical issues

What happens without a General Power of Attorney?

Court may have to get involved for your family to be able to manage your affairs

- Expensive and time consuming!

Incapacity



Healthcare Matters

HIPAA Waiver

People that you authorize to access your medical information and speak to healthcare professionals about your condition

Healthcare Power of Attorney

Empowers people to handle medical and end of life decisions

Living Will

Your instructions to the doctor about end of life decisions

Final Notes on Incapacity

“The power dies with you”

- These documents are only effective while you are **alive**

Planning for incapacity is very important but only half the battle

Death

How will my assets be transferred to my beneficiaries?



Will

- in Probate Court



Revocable Trust (“Living Trust”)

- avoids Probate Court



Death



Planning with a Will

**A will is your instructions to Probate Court
for who is to receive your property**

Exceptions:

- Retirement plans and life insurance policies generally bypass probate court

Why do some wish to bypass Probate Court?

- Time consuming
 - 12-15 months on average
- Court fees
- Lack of privacy

You are on the court's schedule! Your family is dealing with the government.

Death



Planning with a Revocable Trust

What is a revocable trust?

- A trust that you create for yourself
- You put your property in the trust
- You, as the trustee, manage the property for yourself while you are alive

How does it bypass Probate Court?

- Once your assets are in trust, although you still have full control, you now own those as a trustee
 - The trust document names a successor trustee to take title to your assets after you pass, and then distribute those based on what the trust terms say
- In other words:
 - You die owning property individually – your stuff has to be transferred from you
 - Instead, you die and your assets are in trust – the trust never really dies

Death

Will or Revocable Trust?

Which is the right way to plan?

It depends on your wants and needs . . .

Will

- When your affairs are pretty straightforward
- When most of your assets are already going to avoid probate

Revocable Trust

- Many assets could be going through probate
- Avoiding probate in different counties and states if real estate is located there
- Desire more privacy
- Want the government out of your affairs
- Speed up the process

Death

What happens if I have no plan?

- Probate Court very likely
- State law will dictate who inherits from you, and you may not like that
- No control over where assets go or how they are received by your beneficiaries

Asset Distribution

In what manner will your beneficiaries receive your assets?



Outright

or



Testamentary trust



Asset Distribution



Outright

Outright

- Property goes directly into your beneficiary's own name
- More exposed to potential creditors of the beneficiary
- More susceptible to being taken from beneficiaries

Asset Distribution



Testamentary Trust

**Created by your will or a revocable trust
upon death**

Trustee

- Manages the trust for your beneficiary
- They are named by you in the will or revocable trust
- The beneficiary can also be the trustee if you are okay with them having full control

Beneficiary

- Your child or whomever you want to receive your property upon death
- They benefit from your property

Asset Distribution

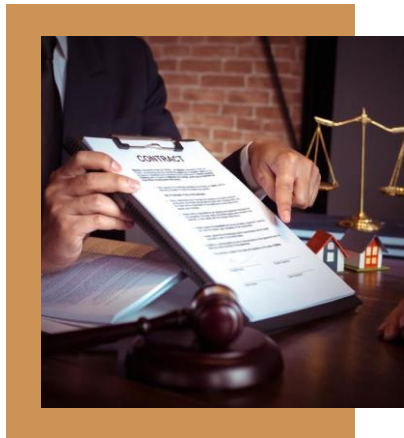


Testamentary Trust

Benefits

- Better protection for beneficiaries from creditors or potential creditors
- Beneficiary can still have full control, as though you left it to them outright
- Or YOU can control how assets are used for the beneficiary if they are a minor/ young adult, financially immature, have substance abuse problems, etc.

Other Issues



Funding Issues

Forms not aligned with estate planning - Almost never designate a minor on a beneficiary form



Vehicle Titling

Jointly owned? If so, and or or



Umbrella Policy?

Better protects your assets from lawsuits, car wrecks, etc.



Property Tax Benefits

4% tax rate - Are your clients receiving on their primary residence?

Homestead Exemption - Are your clients at least age 65? This knocks \$50,000 off the home value for property tax

To find out:

<https://www.greenvillecounty.org/appsas400/RealProperty/>

Final Thoughts

Do something!

Make sure you have a plan in place

**Review your plan every few years to
make sure it still fits your needs**

Moving to a different state?

Always have your plan reviewed





Thank you for your attention

Questions?

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