

Estate Planning Tools

What Key Estate Planning Tools Should I Know About?

By taking steps in advance, you have a greater say in how these questions are answered. And isn't that how it should be?

Wills and trusts are two of the most popular estate planning tools. Both allow you to spell out how you would like your property to be distributed, but they also go far beyond that.

Just about everyone needs a will. Besides enabling you to determine the distribution of your property, a will gives you the opportunity to nominate your executor and guardians for your minor children. If you fail to make such designations through your will, the decisions will probably be left to the courts. Bear in mind that property distributed through your will is subject to probate, which can be a time-consuming and costly process.

Trusts differ from wills in that they are actual legal entities. Like a will, trusts spell out how you want your property distributed. Trusts let you customize the distribution of your estate with the added advantages of property management and probate avoidance. While trusts offer numerous advantages, they incur upfront costs and ongoing administrative fees. The use of trusts involves a complex web of tax rules and regulations. You should consider the counsel of an experienced estate planning professional and your legal and tax advisers before implementing such strategies.

Wills and trusts are not mutually exclusive. While not everyone with a will needs a trust, all those with trusts should have a will as well.

Incapacity poses almost as much of a threat to your financial well-being as death does. Fortunately, there are tools that can help you cope with this threat.

A durable power of attorney is a legal agreement that avoids the need for a conservatorship and enables you to designate who will make your legal and financial decisions if you become incapacitated. Unlike the standard power of attorney, durable powers remain valid if you become incapacitated.

Similar to the durable power of attorney, a health care proxy is a document in which you designate someone to make your health care decisions for you if you are incapacitated. The person you designate can generally make decisions regarding medical facilities, medical treatments, surgery, and a variety of other health care issues. Much like the durable power of attorney, the health care proxy involves some important decisions. Take the utmost care when choosing who will make them.

A related document, the living will, also known as a directive to physicians or a health care directive, spells out the kinds of life-sustaining treatment you will permit in the event of your incapacity. The directive creates an agreement between you and the attending physician. The decision for or against life support is one that only you can make. That makes the living will a valuable estate planning tool. And you may use a living will in conjunction with a durable health care power of attorney. Bear in mind that laws governing the recognition and treatment of living wills may vary from state to state.

Estate Planning Tip

Keep all your important financial and legal information in a central file for your executor. Be sure to include:

- letters of last instructions
- medical records
- bank/brokerage statements
- income and gift tax returns
- insurance policies
- titles and deeds
- will and trust documents

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