

ESTATE PLANNING STRATEGIES

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ESTATE PLANNING

People have estate plans for several important reasons:

1. **Asset Distribution:** Estate planning allows individuals to specify how their assets, including property, money, and personal belongings, should be distributed after their death. This ensures that their assets go to the people or organizations they choose.
2. **Minimize Taxes:** Estate planning can help reduce the tax burden on your estate and beneficiaries. Strategies can be implemented to minimize estate, gift, and income taxes, potentially saving a significant amount of money.
3. **Avoid Probate:** Probate can be time-consuming, expensive, and public, and many people prefer to keep their affairs private and save their heirs from dealing with it.
4. **Guardianship for Minor Children:** Parents can use estate planning to appoint guardians for their minor children in case both parents pass away prematurely. This ensures that the children's well-being and upbringing are in the hands of trusted individuals.
5. **Healthcare Decisions:** Estate plans often include healthcare directives and powers of attorney, which allow individuals to specify their wishes regarding medical treatment and appoint someone to make medical decisions for them if they become unable to do so.
6. **Protecting Beneficiaries:** Estate plans can be used to protect beneficiaries, particularly those who may be vulnerable, from mismanaging their inheritance, or from potential creditors or lawsuits.
7. **Charitable Giving:** Many individuals use estate planning to leave a legacy by supporting charitable causes and organizations through bequests or charitable trusts.



8. **Family Harmony:** A well-thought-out estate plan can help avoid conflicts and disputes among family members over inheritances by providing clear instructions and reducing ambiguity.

9. **Business Succession:** Business owners can use estate planning to ensure a smooth transition of their business to heirs or partners, preventing disruption and ensuring the company's ongoing success.

10. **Special Circumstances:** Estate planning can address unique situations, such as providing for disabled family members, managing complex assets, or dealing with blended families.

11. **Funeral and Burial Preferences:** People can use estate plans to specify their preferences for funeral arrangements, burial, or cremation.

12. **Financial Management:** Estate planning can involve setting up trusts that allow for the ongoing management and distribution of assets, such as for the care of a minor or incapacitated family member.

In summary, estate planning is about ensuring that your assets are managed and distributed according to your wishes, protecting your loved ones, and minimizing financial and legal complications. It's an important process that provides peace of mind for both you and your family.



Proper estate planning can help avoid or minimize the probate process.



The 6 Estate Planning Documents Most People Need in Florida

Document #1: Health Care Surrogate

A **healthcare surrogate**, often referred to as a healthcare proxy or medical power of attorney, is **a person designated to make medical decisions** on behalf of another individual if that person becomes unable to make their own decisions due to illness, injury, or incapacity. This legal designation is typically established through a legal document, which varies in name and specific requirements depending on the jurisdiction, but it serves a similar purpose across different States.

The healthcare surrogate is usually chosen by the individual (referred to as the "principal") and is entrusted to make decisions in line with the principal's wishes or best interests. These decisions may include choices about medical treatments, and procedures. In Florida, the document does not usually cover end-of-life care.

Having a healthcare surrogate can help ensure that one's medical wishes are respected and that decisions are made in their best interests if one becomes unable to communicate or make decisions about their own healthcare.

Document #2: Durable Power of Attorney

A durable power of attorney (DPOA) is a legal document that grants another person the authority to make financial and legal decisions on your behalf, even if you become incapacitated or unable to make these decisions for yourself. The term "durable" in this context means that the power of attorney remains in effect or becomes effective if you become mentally or physically unable to handle your own affairs.



Individuals need to discuss their healthcare preferences with their chosen surrogates and provide clear instructions regarding their medical care in advance



Here are some key points to understand about durable powers of attorney:

1. **Agent or Attorney-in-Fact:** The **person you appoint to make decisions** on your behalf is known as your agent or attorney-in-fact. You have the flexibility to choose someone you trust, such as a family member, friend, or attorney.
2. **Scope of Authority:** The document can specify the exact powers and responsibilities your agent has. This can range from managing your financial affairs, handling real estate transactions, managing investments, and more.
3. **Revocability:** You can typically revoke or change a durable power of attorney at any time while you are mentally competent. This flexibility ensures you have control over who is making decisions for you.
4. **Effective Upon Execution:** The DPOA is effective immediately upon signing.
5. **Responsibilities and Fiduciary Duty:** Your **agent** must act in your best interests and with a high standard of care. They **have a fiduciary duty** to manage your affairs prudently and honestly.
6. **Recording and Authentication:** DPOA documents may need to be recorded with the relevant agencies or institutions, and they may require notarization or other authentication methods to ensure they are accepted by third parties

Durable powers of attorney can be an essential part of your estate planning, helping to ensure that your financial and legal matters are managed by your wishes, even if you are unable to do so yourself due to incapacity. It's important to consult with an attorney when creating a durable power of attorney to ensure that it complies with your state's laws and meets your specific needs and circumstances.



Document #3: Living Will

A living will, also known as an advance healthcare directive or healthcare declaration, is a legal document that allows an individual to specify their preferences for medical treatment and healthcare decisions in case they become unable to communicate or make decisions for themselves due to illness, injury, or incapacitation.

In a living will, a person can outline their wishes regarding various medical procedures and treatments, including:

1. **Life-sustaining treatments**: Specify whether you want or don't want procedures like CPR (cardiopulmonary resuscitation), mechanical ventilation, or artificial nutrition and hydration.
2. **Organ donation**: Indicate whether you wish to be an organ donor.
3. **Pain management**: Provide guidance on pain relief and other comfort measure

The purpose of a living will is to ensure that your healthcare decisions are respected and followed even when you cannot express your wishes directly. It offers guidance to medical professionals and your loved ones, reducing potential conflicts and uncertainty during critical medical situations.

It's essential to create a living will while you are of sound mind and not under duress, and it's often recommended to consult with an attorney or a healthcare professional to ensure that the document complies with relevant laws and regulations in your jurisdiction. Additionally, periodically reviewing and updating your living will to reflect any changes in your healthcare preferences is advisable.

You may appoint relatives or friends to enforce your living will.

Document #4: Designation of Pre-Need Guardianship

This declaration is a Florida-specific form that creates a rebuttable assumption on your pre-appointment of a Guardian.



Document #5: Last Will and Testament (Pour-over Will)

A pour-over Will is a legal document used in estate planning. It is typically used in conjunction with a revocable living trust.

Here's how it works:

1. **Pour-Over Will:** The pour-over Will is a companion document to the revocable living trust. It is a traditional will that serves as a safety net. It states that any assets owned by the deceased person at the time of their death should be transferred into their living trust (hence, "poured over" into the trust).
2. **Asset Distribution:** Upon the person's death, any assets that were not specifically transferred into the trust during their lifetime or designated to go directly by a listed beneficiary (such as life insurance policies or retirement accounts) will be transferred into the trust according to the instructions in the pour-over will.

The primary purpose of a pour-over will is to ensure that any assets left outside of the living trust are ultimately distributed according to the person's wishes and the trust's terms. This is done to avoid probate, a lengthy and costly legal process because assets in a living trust typically bypass probate.

In summary, a pour-over will is a legal document that complements a revocable living trust by directing any remaining assets not held in the trust into the trust upon the person's death, simplifying the estate distribution process and potentially avoiding probate.



The pour-over will also appoint your Personal Representative (person in charge of implementing your wishes) and waives bond (a cost for administering an estate in Florida).



Document #6. Revocable Trust (also known as a Living Trust)

A revocable living trust, often simply referred to as a living trust, is a legal arrangement in which an individual, known as the grantor or settlor, places their assets and property into a trust for the benefit of themselves or others during their lifetime and for the distribution of those assets after their death. The key features of a revocable living trust are as follows:

1. **Revocable:** The grantor retains the ability to make changes to or even dissolve the trust during their lifetime. This flexibility allows them to add or remove assets, change beneficiaries, amend the terms of the trust, or revoke it entirely.
2. **Living:** It is established and becomes effective while the grantor is alive, as opposed to testamentary trusts, which are created through a Will and only become effective upon the grantor's death.
3. **Trustee:** The grantor typically serves as the initial trustee, managing and controlling the trust assets. In the event of incapacity or death, a successor trustee, often named in the trust document, takes over the administration of the trust.
4. **Avoidance of Probate:** One of the primary reasons people create revocable living trusts is to avoid the probate process. When the grantor passes away, the assets held in the trust do not go through probate, which can be time-consuming, costly, and a matter of public record. Instead, the trust assets pass directly to the beneficiaries named in the trust, typically with more privacy and less expense.
5. **Privacy:** Unlike Wills, which become public record when probated, the terms of a revocable living trust and the distribution of its assets remain private.
6. **Management and Continuity:** A living trust can provide for the management of assets if the grantor becomes incapacitated, ensuring that someone they trust can handle their financial affairs.
7. **Flexible Distribution:** The trust document can specify how assets are to be distributed upon the grantor's death, including any conditions or restrictions, such as staggered distributions for beneficiaries who are minors or lack financial responsibility.



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