

FIVE IMPORTANT ESTATE PLANNING DOCUMENTS

Understand the Essentials Before You Plan

1. WILL

The document everyone typically thinks of first when they think of estate planning, a will is a legal document that becomes effective at your death to transfer your assets to whomever you like. A will has to be admitted to probate, a court-supervised procedure that in many states can be lengthy and expensive. Even if you have a revocable living trust (discussed below), a will is still necessary as a “backstop” and may provide guidance regarding guardianship of your minor children.

2. REVOCABLE LIVING TRUST

A revocable living trust is another document that sets forth where your assets pass at your death, but it is designed to provide two benefits that a will does not: probate avoidance and incapacity planning.

A trust is a legal arrangement between three parties: the person creating the trust (known as the grantor, trustor, or settlor), the trustee (who takes legal title to the property), and the beneficiary or beneficiaries for whom the trust is administered. In the case of revocable living trusts (“revocable,” meaning it can be revoked, and “living,” meaning it is created during the grantor’s lifetime), the same person can play all three roles; the details of the trust specify how and when assets pass to beneficiaries. The grantor has control over the assets held in the trust, even though the grantor no longer owns those assets individually. Successor trustees can be named to oversee the trust assets in the event the grantor can no longer act as trustee.

It is important to note that a trust agreement operates only over those assets held in the name of the trust. If a grantor creates a trust but fails to transfer assets to it (known as “funding the trust”), it may not work as it was intended.

3. DURABLE POWER OF ATTORNEY

Under a durable power of attorney, you appoint another person (known as your “agent”) to handle your financial matters when you are not able to act for yourself. A durable power of attorney addresses aspects of your assets that fall outside the revocable living trust, including personal taxes, certain bank accounts, investments, business ownership interests, and types of insurance. This means, of course, that you have to select your agent carefully. Even with a revocable living trust, a power of attorney may be necessary to be able to handle financial matters that don’t involve trust assets, such as dealing with the IRS or government agencies.

4. ADVANCED HEALTH CARE DIRECTIVE

This document does two things: it appoints an agent who can make medical decisions on your behalf when you are unable to do so and gives directions for the care you want to receive in different situations. Some states use a combination of different documents to appoint an agent and state your directions, including a health care power of attorney, health care proxy, and/or a living will.

5. TRANSFER ON DEATH (TOD) DESIGNATIONS

Crucial for brokerage and bank accounts, TOD designations allow assets to pass directly to named beneficiaries without going through probate.

This helps:

- Avoid delays and legal costs tied to estate settlement
- Ensure privacy, since probate is public
- Maintain control during your lifetime – TOD only takes effect at death
- Provide clarity, reducing disputes among heirs

PROTECTING WHAT MATTERS MOST *Everyone needs an estate plan to safeguard themselves, their loved ones, and their assets—now and in the future. Understanding key documents before meeting with an attorney can help.*



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