

Planning *Insights*

Estate Planning Essentials

A typical estate plan consists of four essential documents:

- Will
- Revocable Trust
- Durable (Financial) Power of Attorney
- Healthcare Proxy

Will

Your will governs the distribution of your property after your death. Your will also names individuals to wind up your affairs and distribute your property in accordance with your wishes.

Executor/Personal Representative:

Your executor/personal representative is the individual tasked with ensuring the distribution of your property is completed in accordance with your will. You may name a family member, friend, or a professional trustee as initial executor/personal representative. At least one alternate should be named in case your first choice has predeceased or is unable to serve. You could name a friend, family member or a professional trustee as an alternate.

Disposition of Tangible Personal Property:

Tangible personal property includes furniture, household furnishings, jewelry and other similar items. You may choose to leave this property to whomever you wish. You may also leave a memorandum separate from your will which directs that particular items of tangible personal property pass to specific individuals. The memorandum may be changed at any time and it is not legally binding, it provides guidelines to your executor/personal representative and family.

Disposition of Remaining Property:

A will typically directs that the remainder of an individual's assets, other than those that pass to designated beneficiaries (i.e. retirement accounts) or joint tenants (i.e. bank accounts), be distributed to their revocable trust.

Revocable Trust

Also known as a "living trust," a revocable trust is very flexible – you can change it at any time during your life. They become irrevocable (in most cases, unchangeable) upon your death. Your revocable trust will determine how your property is distributed to your beneficiaries after your death.

Property After Death:

After your death, the property will be held in trust for the benefit of your named beneficiaries for as long as you choose. Some individuals choose to stagger distributions to beneficiaries (such as one-half at age 30 and the remainder at age 35). Others choose to have the property remain in trust for the life of the beneficiary. This may provide creditor protection and protection from divorcing spouses. In any case, the trustees will have broad discretion to distribute income and principal for the benefit of the beneficiaries while the property remains in trust. You may also choose to have property distributed outright to the beneficiaries upon your death.

Choice of Trustee:

In most cases, clients serve as trustees of their own revocable trusts and appoint a professional co-trustee. You can remove or appoint trustees at any time, typically in a simple, signed document.

Ultimate Property Disposition:

In the unlikely event that you have no descendants to benefit from your property, the terms of your trust will determine the ultimate beneficiaries. These could be charities, friends or more remote family members.

Other Essential Documents:

Durable Power of Attorney: A durable power of attorney appoints someone to act for you in financial matters. You may appoint a family member, friend, or a professional as your attorney-in-fact.

Healthcare Proxy: The health care proxy names another person to make medical decisions for you if you are unable to make them for yourself. You may appoint a family member or close friend as your initial health care proxy and name another family member or close friend as an alternate. You may name more than one alternate.

Living Will: A living will is an expression of your wishes with respect to end-of-life treatment. You may tailor the language in any way you wish. While it is not legally binding, it provides guidance to your family members as to your wishes.