

At some point you're going to need some level of estate planning. Estate plans need to be customized to the needs of the individual. Our following estate plan checklist will detail the various types of estate planning documents, and help you assess those that will be of value to you. Even if you choose to hire an estate planning attorney, you should still understand what is involved.

1. Cover Estate Planning Basics

A thorough estate plan should determine what occurs in the event of both death and disability. It should take into consideration what you want to happen to your property when you die, the financial welfare of your family, the level of which probate can be avoided, and how to decrease or eliminate estate taxes. These goals can be achieved through different means, including appropriately setting up ownership of assets, appointing beneficiaries where possible, and initiating one or more estate planning forms. Along with the financial matters, an estate planning checklist should also take into account the guardianship of any minor children, and the planning of any medical treatments.

2. Plan Ownership of Your Assets

Any asset that comes with title documents (motor vehicles, real estate, etc.) can be arranged so that upon your death the title automatically transfers to a co-owner. Usually this will be a spouse. The title document must clearly show that ownership is maintained as joint tenants with the right to survivorship, as community property, or as tenants by the entirety.

There are two possible drawbacks when you add someone as a joint owner. One, you will need the joint owner to consent to any sale of, or loan secured by, the property. Also, if the value of the property exceeds a specific amount, it could initiate the federal gift tax.

3. Determining Beneficiaries

For some assets you can appoint someone to receive the property upon your death, without giving them any present ownership rights, called payment on death (POD). This is typically done with bank and other types of financial accounts. Appointing a beneficiary is available in most states for brokerage accounts, and in some states for motor vehicles, real estate, and other assets with title documents, called transfer on death (TOD).

3. Cover Your Debts With Insurance

One way to guarantee that all of your debts (burial expenses included) are paid for in the event of death or disability, and that your family is provided for, is through your automobile, homeowner, disability, and life insurance.

4. Get A Last Will and Testament

A last will and testament will take care of any property that has to be probated. Your last will can also address the care of any minor children or any adult children having disabilities. You designate who will receive any property that has not been handled through a joint ownership or a beneficiary designation,

assign someone you trust as the executor of your estate, and also appoint someone you trust to be the conservator or guardian of your minor or disabled children.

5. Consider A Living Trust

If you have a large estate, or a lot of beneficiaries, a living trust is commonly the best choice for handling the distribution of property, avoiding probate, and minimizing your estate taxes. To avoid probate, most people create a revocable living trust. Property title is transferred from you to the living trust, entitling you as the trustee. While you are still alive, you have control of the property. You control the property as if it was still in your name and may acquire more property to add it to the trust. Upon your death, the person you appointed as your successor trustee guarantees that your property is transferred to those you appoint as trust beneficiaries. This transfer will not require probate. The successor trustee would also handle the trust if you become mentally incapacitated. Sometimes people create an irrevocable living trust (usually for Medicaid planning), which additionally avoids probate, but requires the person creating it to give up their right to revoke it.

6. Think about a Financial Power of Attorney

A financial power of attorney permits someone you trust to act on your behalf in financial matters. The person who provides the authority is called the principal, and the person who has the authority to act for the principal is designated the agent or the attorney-in-fact. A lot of states have an official financial power of attorney document.

Usually depending upon how it is worded, a power of attorney (or POA) can either become effective immediately, or through the occurrence of a future event (like mental incapacitation). If effective immediately, your agent also can act even if you are available and not incapacitated. If a POA becomes active through the occurrence of a future event, it is called a springing power of attorney, because it “springs” into effect if or when the event occurs. The authority given by a POA will always end upon the death of the principal.

7. Think about a Health Care Power of Attorney

A health care power of attorney appoints someone you trust to make decisions in regard to your health if you are unable to make these sorts of decisions for yourself. You should speak about your wishes for medical treatment with your surrogate or health care agent.

8. Get A Living Will

A living will, typically called an advance directive, states your wishes in regard to what types of life-prolonging medical treatments you do, or don't, want if you become terminally ill or are injured and are unable to express your wishes. A living will also go along with a health care power of attorney, as it can serve as a guide for your agent or can express your wishes in the event your agent is unavailable at a critical time.

9. Leave Information for Executor and Statement of Your Wishes

This isn't a legally binding document but gives invaluable information and guidance to your executor. It should include the information they need to locate and identify all your financial accounts, insurance policies, credit cards, auto loans, mortgages, etc. It should also include contact information for relatives and close friends to be informed of your death; where assets are located; and directions regarding your wishes for burial, funeral ceremonies, cremation, organ donation, etc.

Here is a list of items every estate plan should include:

- Will/trust
- Beneficiary designations
- Healthcare power of attorney
- Letter of intent
- Durable power of attorney
- Designated Guardianships

"Estate Planning Checklist." Legalzoom.com, 7 Aug. 2017, www.legalzoom.com/articles/estate-planning-checklist.

"10 Tips to Avoid Probate." Legalzoom.com, 15 Aug. 2017, <https://www.legalzoom.com/articles/10-tips-to-avoid-probate>.