Are You Sure Your Estate Plan Is In Order?

FIVE MUSTS FOR EVERY ESTATE PLAN

Will/Trust, POA, HCD, Beneficiary Deeds, & Letter of Instruction

Brought to you by
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A Tale of Two Brothers

To help you understand the importance of estate planning, here is a tale of two brothers, John and Greg. Both came from the same loving family, both grew up to become small-business owners, and both were happily married with four grown children. They also both passed away in the same year.

When John passed away, his family was in shock. They had never discussed his final wishes. John always managed the family finances and his wife, Anna, had no idea what accounts existed and what bills needed to be paid. John also managed the family's printing company. While all the children had worked in the company in various capacities over the years, no one was trained and ready to take over the business. In the months following John's death, Anna was under great stress grieving the loss of her husband, figuring out the finances, keeping the business going, and resolving disputes between her children.

On the other side of town, Greg's family had a much different experience. When he unexpectedly passed away, his family retrieved his letter of instruction and confidently planned his celebration of life. Greg's wife, Maggie, had a full listing of all the financial accounts. Furthermore, Greg and Maggie had already worked with their financial planner and attorney to plan the distribution of their assets. Greg owned a sporting goods store. As part of their planning, he and his family had discussed which children were most interested in taking over the business. In their estate plan, Greg and Maggie had designated two of their children to take over the business while dividing the rest of the assets between the other two children who would not be taking over the business. While Greg's family missed him terribly, they appreciated his thoughtfulness in creating a clear and thorough estate plan.

Lessons Learned From John and Greg

Estate planning can seem overwhelming. Most people tend to procrastinate, because after all, who wants to think about dying? But as you can see from the story of John and Greg, estate planning, or the lack thereof, greatly impacts the quality of the transition for your loved ones.

If you like the idea of making things easier and less stressful for those who love you, estate planning is essential. John and Greg were both business owners, so their estate planning included an added layer of complexity. However, some degree of estate planning is essential for everyone. Even if you don't own a business or even if you don't have much in the way of assets, there are steps you can take to make your sure your loved ones' transition is as smooth as possible.

Five Estate Planning Tools to Consider:

1. Power of Attorney
2. Will and/or Living Trust
3. Health Care Directive
4. Beneficiary Deed
5. Letter of Instruction

Power of Attorney

The power of attorney is a legal document that grants someone the ability to act as your representative in legal and financial matters and to make decisions on your behalf. You control when the power of attorney takes effect and when it may be terminated.

For estate planning purposes, it's good to have a power of attorney in case an accident or illness hinders your ability to communicate preferences. You can choose and clarify your wishes in advance, and in the stated case, the power of attorney will carry out your wishes, whether it is for legal, financial, or health matters. This can help relieve much pressure and stress from loved ones during a difficult time.

Wills and Trusts

A will is a legal document that specifies how your estate should be managed and distributed after your death. A living trust is a legal document that places your assets (such as your home, investments, and bank accounts) into a trust. The assets in your trust are administered for your benefit during your lifetime and transferred to your beneficiaries upon death. Living trusts are typically used by those with assets in excess of $100,000 who want to reduce estate and gift taxes and distribute assets to their heirs without the cost and delay of probate.

Both wills and living trusts communicate how your estate will be distributed according to your wishes. But there are a few differences between the two, so let's take a look at the advantages and disadvantages of each.

Will Advantages

1. Wills are less costly than trusts and much simpler to set up.
2. You can name a guardian for minor children.
3. Property doesn't have to be moved into different entities to make it valid.
4. Creditor who want to file cliams against your estate have a deadline.

Will Disadvantages

1. At the time of death, a will goes to probate.
2. A will becomes public record upon probate.
3. The probate process is often costly, slow, and unpleasant for family.
4. It can be difficult to reassign a new will executor if they become incapable.

Living Trust Advantages

1. In most states, a living trust doesn't have to go to probate.
2. A living trust maintains privacy and confidentiality, even at time of death.
3. You can appoint someone to manage property for minor beneficiaries.
4. In some circumstances, living trusts may offer tax benefits or probate savings.

Living Trust Disadvantages

1. Trusts are more costly and involve more paperwork.
2. You cannot name a quardian for minors, creating a need for a supplemental will.
3. Ownership of properties is required in having to edit title paperwork.
4. Creditors don't have a deadline to file claims against your estate.
5. It is difficult to refinance an estate that is already placed in a living trust.

Health Care Directive

A health care directive is similar to the power of attorney in that it legally binds your wishes in the event you become unable to articulate them in the future. However, it differs in that it specifically addresses medical and health care issues. You can choose one or include both of the following options:

1. Select a health care representative – Your representative, usually a spouse, family member or close friend, will have the authority to make health care decisions.
2. Organize a health care plan – The plan, also known as a living will, specifically details your medical care wishes. For example, you can write instructions about whether you should be provided life-sustaining medical treatment if you are terminally ill or permanently unconscious.

Once again, by clarifying your choices beforehand, you can alleviate much turmoil and tension among family and friends.

Beneficiary Deeds

A beneficiary deed is the legal document that states who will receive real estate and property at the time of death of the owner. These persons are known as beneficiaries. A beneficiary deed is valuable because it allows for a smooth transition between the deceased owner and beneficiary without the hassle of going through the probate process.

To complete a beneficiary deed, the title of the estate property is renamed to the beneficiaries' name. However the owner still retains complete rights to the property, such as continuing to live in the property, refinancing the real estate, renting out the property, essentially anything the owner would like to do with the property without any type of consent from the beneficiary.

Tip: Beneficiary deeds vary from state to state. Be sure to research and consult an attorney to make sure you follow all the steps required to make the deed effective in your state.

Letter of Instruction

A letter of instruction is a personal letter you write to your family and friends that they will read after your death. It will not take the place of your will (or living trust) but will include important information that addresses more personal items to specific loved ones. For example, if you want your wedding ring to go to your first granddaughter, then let it be known here so there are no disagreements after you're gone.

What else should you include?

Funeral Wishes	*What type of service you would like, who should officiate, where you want to be buried, songs you would like to be sung, and contact information for the funeral home.*
Financial Details	*The names and numbers of your attorney, financial planner, and insurance agent; a list of your bank, retirement, and pension plan accounts; where you have stored important documents such as your Social Security card, birth and marriage certificates; and debt information including loans, credit cards, and mortgage.*
Distribution Instructions	*How you want personal items divided up, especially if an item has sentimental value for a certain friend.*
Personal Messages	*Say anything you may have not gotten the chance to earlier.*

Tip: You may edit the letter as many times as you would like. Keep several copies (one with your will and one where your family members would look), and tell your family and friends about the letter. Most importantly, always sign and date the newest version of the letter to avoid any confusion over multiple versions.

In Conclusion: Now that you understand the five essential elements of a good estate plan, it's time to get started. Don't wait until it's too late. Discuss your wishes with a professional now, while you're able and healthy. You'll feel relieved knowing your affairs are in order, and like Greg's family, your loved ones will appreciate your thoughtfulness. They'll know you cared enough to protect their futures and to make a tough time in their lives just a little bit easier. There's no better legacy than that.

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