

# Estate Planning Basics

This document summarizes the basic components of an estate plan (e.g., Wills, trusts, powers of attorney, advance directives) and other important planning steps (e.g., funeral instructions, personal property list, asset titling, beneficiary designations)

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Everyone, regardless of age or wealth, should have a comprehensive estate plan. In addition to providing a means of passing assets to your loved ones after your death, estate planning can address other important issues that are meaningful during your lifetime, such as incapacity planning and asset protection planning.

As part of Baird's comprehensive wealth management process, your Baird financial advisor and Baird's specialists in estate planning strategies will be happy to work with you and your attorney to help ensure that your unique estate planning needs are met. Some of the basic documents that are essential to a proper estate plan include the following:

## LAST WILL TESTAMENT

A carefully drafted Last Will and Testament directs how assets held in your name are distributed after your death. If not specifically directed through your Will, those assets will be distributed according to the laws of the state in which you live. A Will should also appoint an executor or personal representative to manage the administration of your estate. If you have minor children, a Will allows you to nominate a guardian to care for them in the event you were to die before your children reach the age of majority.

## REVOCABLE TRUST

A revocable living trust may be a better alternative to a Will by allowing assets to pass to your heirs without the need for a probate proceeding, which creates expense, delay, and public records. An important decision to make in the planning process will be naming a successor trustee to provide for a smooth transition and continuity in management of the trust assets to ensure that your investment philosophy is adhered to after your death, or even during your life if you were to become incapacitated. Naming one or more family members as successor trustee(s) may be appropriate, or you may consider using one of Baird's Trust Alliance partners to help provide the continuity of working with your Baird financial advisor.

## CREDIT SHELTER / BYPASS TRUST

Often, married couples will structure their estate plan to transfer assets equal to some or all of the federal estate tax exemption amount to a credit shelter or bypass trust. Typically, the income earned from these assets is payable to the surviving spouse, and the principal is also available for the surviving spouse's health, education, maintenance and support. At the surviving spouse's death, the assets pass to beneficiaries (usually the children) and are not included in the second spouse's estate for federal estate tax purposes. (New rules enacted into law in 2010 have made the estate

tax exemption “portable” but credit shelter planning may still be beneficial for higher net worth married couples and their heirs.)

A marital trust may also be established to take advantage of the unlimited estate tax marital deduction for the benefit of the surviving spouse. Assets in the marital trust are also available to the surviving spouse and are included in his or her estate for federal estate tax purposes.

## **DURABLE POWER OF ATTORNEY / HEALTH CARE DIRECTIVES**

A durable power of attorney (DPOA) for financial matters appoints a person to manage your financial affairs in the event you become incapacitated. Under a carefully drafted DPOA, your appointed agent is able to act on your behalf to file income tax returns, file a claim for tax refunds, and apply for Medicare, Medicaid, Social Security and other government benefits.

Advanced health care directives – including a Power of Attorney for Health Care (POAHC) and a Living Will are essential documents to have in the event you were to become incapacitated. A carefully drafted POAHC authorizes your health care agent to make important medical decisions for you after consulting with your physician. A thoughtful Living Will allows you to make declarations concerning important end-of-life decisions, including whether you wish to be kept alive by a feeding tube if you were to be deemed by a physician to be in a permanent vegetative state. Finally, your attorney should also provide you with an agreement satisfying the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, which protects the privacy of your health and medical information.

## **OTHER PLANNING CONSIDERATIONS**

When you meet with your attorney to prepare an estate plan, there are additional considerations that you might want to address that could make your estate plan even more effective:

Asset Titling Another aspect of estate planning is the way in which your assets are titled. If a revocable living trust is the centerpiece of your estate plan, assets should be re-titled in the trust during your lifetime to avoid the need for a probate proceeding.

Alternate Fiduciary Designations You should appoint one or more alternates as the executor of your estate and successor trustee of your revocable living trust. Naming alternates assures that someone responsible can take over a role that might be left vacant due to the resignation, incapacity, or death of your first appointee.

Personal Property List You can prepare a list of all of your possessions and tangible personal property. The list can address special gifts or distributions you wish to make to beneficiaries and designate how you want the remainder of your personal property to be administered upon your death.

Beneficiary Designations You should coordinate beneficiary designations on insurance policies, annuities, and qualified retirement plans with the dispositive provisions in your will and/or trust. Beneficiary designations can help fulfill your overall planning goals, or if overlooked, may frustrate some of those goals.

Funeral Instructions It is also a good idea to prepare funeral instructions, in advance, that can easily be found and followed by your family. Generally, your will is not a good document in which to leave these directions. Many people choose to plan and prepay their funeral during their life to make these decisions easier on family members during a time of grief.

**SUMMARY**

Comprehensive estate planning provides many meaningful benefits for you during your lifetime and organizes the disposition of your assets in an orderly manner after your death.

Your Baird financial advisor can help get you started by answering questions you may have about the basic components of a comprehensive estate plan.