

A photograph of an elderly couple embracing in a field. The man is on the left, seen from the back, wearing a dark sweater. The woman is on the right, wearing glasses and a patterned cardigan, with her arms around the man. In the background, a family of four is walking away. The entire image has a teal/green color overlay.

# Estate Planning *for Everyone*

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In the last chapter, we discussed the basics of estate planning. In this one, we'll delve into the different types of estate plans and the importance of trusts. What exactly are your options? Which one should you pick? We're here to help, so keep reading.

If you already have a will, congratulations. When was the last time it was reviewed? A will or a trust must be considered a working document and not some stagnant piece of paper.



# Estate Planning options

If you don't already have a will or want to complement your plan with other products, there are plenty of options available.



**Last Will and Testament:** A key tool in an estate plan, a will empowers your personal representative to carry out your wishes in distributing your property through the probate process. Probate can be time consuming and imposes costs on the estate. Probate is a public record, often likened to “airing out your laundry.” If you have minor children, a will also gives you the opportunity to designate a guardian of your choice in the event neither parent survives.



**Revocable/Living Trust:** This trust, often used as a will substitute, can be changed, revoked, or amended during the lifetime of the creator of the trust (the grantor or settlor). This may make estate settlement easier and less expensive than probate and provides privacy not available in probate.



**Irrevocable Trust:** This trust, largely unable to be changed after it is implemented, is often used in estate planning. Frequently, this trust holds life insurance, which can provide liquidity for estate taxes or other estate settlement expenses, and when properly structured, protects the life insurance benefit from counting as part of the taxable estate.

## Avoiding leaks and perils

Estate planning can also be used as a tool for protecting your beneficiaries as well as your assets while you're alive. Just as routine maintenance can prevent problems with your home, estate planning may offer you solutions to plug possible leaks – before they happen:



- Taxes
- Creditors
- Predators
- Lawsuits
- Spendthrift beneficiaries



- Self-destructive behavior (irresponsibility, drugs, alcohol, etc.)
- Divorce
- Immaturity

# Who needs a trust?

Legacy control can be an important motivator in estate planning. There are plenty of reasons to want to protect your legacy. Perhaps you're leaving money to a child who isn't reliable at managing it or a child where you're concerned about exposing assets to a possible divorce.

Trusts can help.

**Trusts** are fiduciary arrangements that are managed by trustees. Whereas a will is executed by an executor, trusts are handled by trustees. Both are done on behalf of their beneficiaries. Trusts afford some critical benefits that wills do not have. These include:

- 1 Avoiding probate.
- 2 Realizing a higher degree of privacy.
- 3 Gaining faster access to assets for beneficiaries.
- 4 Retaining control, even after you're gone, over wealth distribution.
- 5 Protecting legacy through stipulations.

## Types of Trusts



### Living/Revocable/Family Trust

- Assets titled in trust's name
- Works with a **pour-over will**
- Assets pass by trust's terms (not will)
- Enhances privacy
- Avoids/minimizes probate costs



### Irrevocable Living Trust (ILIT)

- Typically holds life insurance
- Removes life insurance proceeds from grantor's estate



### Special Needs Trust

- Provides for disabled child(ren) after parents are deceased



A **pour-over will** works in partnership with a living trust. It's designed to catch property you didn't put into your trust during your lifetime, letting the court know you want those assets transferred to your trust after you die.

# Key groups benefitting from estate planning

We'll discuss many of these in detail, but overall, these are some of the best candidates for estate planning.



Family business owners



Blended families/ special family circumstances



Charitably inclined individuals



High-net worth individuals



Heirs to larger estates

## Potential options for your plan

There are other steps you can take in order to protect your beneficiaries as well.

Discuss your needs with your financial, estate or, tax-planning advisors to learn more.



Health care proxy/ directive



Power of Attorney



Living/revocable trust

# Family business owners

Part of the American dream was to create a business and become your own boss. Ensuring that a legacy for future generations can certainly be another part of the dream.



Discuss establishing a board to make decisions among various shareholders. If there's a single family member who's going to operate the business (while others remain shareholders), this can help decision making and settle disputes. Be mindful that the person running the business may sometimes resent the silent partners, and it may be more preferable to leave other assets, or life insurance proceeds, to the uninvolved family members.

One option may be to create a trust to own the business as a whole. This keeps in the family the various interests in the business and keeps them away from outside control. A trust may also protect those same interests from being divided up in a divorce, protected from creditors, or from one child selling them and putting another child in business with an incompatible business partner.

In addition to the practical and financial benefits of estate planning, one of the most important, but often overlooked, benefits may be to prevent hard feelings between heirs. A well thought out distribution plan can remove any chance of misunderstanding between heirs and potentially eliminate a lifetime of animosity between them after you're gone.

“For the business owner, business planning *is personal planning* and personal planning *is business planning.*”

## Other important questions:

1 What happens when those disputes arise?

2 Is there a mechanism for managing disputes?

3 What level of agreement is needed for heirs to sell?

4 What happens if one child wants to sell and one doesn't?



## Blended families



The American nuclear family has grown in its complexity over time. Through divorce, remarriage, two sets of children, adoption, etc. – the family at its core can be more complicated.

A wide range of ages under one roof (or estate) is another complication to consider. For example, how do you balance wanting to leave something for your children, while caring for your new spouse, who is much younger than you?

Life insurance and trusts can make a big difference in this estate plan. If the patriarch fails to make an estate plan, much of the assets would be left to his younger wife via intestacy (though not necessarily all, depending on the state), who could then direct everything to her own children when she's gone.

### Other important factors:

- Address situations where second-marriage spouses have different financial resources.
- Consider a pre-nuptial agreement.
- Life insurance is often used to equalize these estates.
- Ensure your wishes are carried out for each side of the blended family.
- Watch for qualified plans in situations like this. The retirement account is often one of the largest assets in the estate.
- Consider leaving the retirement account to the spouse, since they have the most flexibility as a qualified plan beneficiary, but replace the wealth represented by that with additional life insurance for the adult children.

## In summary

There is no one-size-fits-all way to plan your estate. You may, or may not, have a complicated need for estate planning. Either way, the most important step to creating an effective plan is to know why you're creating it. The **who**, **what**, and **where** should always follow the **why**. And in case we haven't made it clear yet, the **when** is – the sooner, the better.

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## *What to expect in the 3rd and final chapter*

Now that you know the different types of estate planning, we'll examine how to define your goals and actually create your plan.

Contact your financial advisor for more information about estate planning.