What Is Estate Planning? Wills, Trusts, POAs, and More

Disclaimer---This is not to be taken as legal advice. Contact your estate planning attorney, first.

Key takeaways

- Estate planning helps ensure your wishes are carried out, and may reduce probate for loved ones.
- A basic estate plan should include a will, durable power of attorney, health care proxy, and advance health care directives.
- Without a will, your property may be distributed based on state intestacy laws, which may not align with your wishes.
- Strategies like trusts, beneficiary designations, and asset titling can help your assets pass directly to heirs, while reducing or bypassing probate.
- Beneficiary designations generally override wills and trusts, so it's important to review and update them at least annually and after major life events.
- Lifetime gifting, 529 college savings plans, and charitable giving may help reduce estate and inheritance taxes while benefiting your loved ones now.
- An experienced estate planning attorney can help assess your needs, prepare your documents, and flag issues you might have missed.

Estate planning might sound like something you don't need until you're older or have more wealth. But regardless of age, net worth, or family situation, even a simple estate plan can help ensure your wishes are carried out. Not having one can cause money, possessions, and even decisions about guardians for minor children to be tied up in court, while legal costs pile up. Learn what estate planning is, why it's important, key documents, and how to choose an estate planning attorney.

What is estate planning?

Estate planning is the process of determining how you want your assets handled when you can no longer make financial decisions, due to death or incapacity. An estate plan also allows you to put medical requests in writing, to reduce the burden on loved ones if you become ill or hospitalized. It may also help minimize taxes on the assets you leave to loved ones, so more of your legacy is preserved for them.

Estate planning can be relatively simple or complex. Depending on your needs and goals, it may involve creating wills, trusts, and advance health care directives, purchasing life insurance, naming guardians for minor children or heirs with disabilities, and titling assets or designating beneficiaries to ensure property passes to the people you choose.

Why is estate planning important?

Estate planning allows you to legally declare how you want your estate managed and who you want to receive your belongings. Your estate includes everything you own, such as bank accounts, retirement accounts, investments, real estate, life insurance policies, and personal property. Potential benefits of estate planning include:

- **Getting assets to the right people:** Without a will, your property may be distributed based on state intestacy laws. In most states, this means it will generally pass to your spouse, children, parents, or nearest relative. If you have no living relatives, it can also go to the state. This may not align with your wishes, especially if you want to provide for a domestic partner, friend, pet, or charity.
- **Reducing or bypassing probate:** Probate is the court-supervised process for validating a will and getting assets to the right people or entities. It can take months or years and involves legal costs that can reduce the estate's value. It also makes private details public. Strategies, such as trusts, designating beneficiaries, and titling assets, can help assets pass directly to heirs with little or no court involvement.
- **Minimizing estate and inheritance tax:** While the current federal estate tax exemption is relatively high ($15 million per person), many states have lower thresholds for estate or inheritance taxes. Planning ahead may allow you to take advantage of strategies, such as lifetime gifting or charitable trusts, to potentially reduce the tax your estate or heirs will owe.
- **Providing for children and dependents:** One of the most important benefits of an estate plan is that it allows you to legally provide for children and dependents the way you want to, long-term. This may include naming trusted guardians to care for minor children, setting up a special needs trust, life insurance, and other strategies.

Key estate planning documents

Every estate plan should include a will, durable power of attorney, health care proxy, and advance health care directives. You should also consider whether a revocable trust makes sense. Without these legal documents, your wishes lack legal force and may be superseded by state law. Here's closer look at each one.

1. Will

A will is a legal way to declare your wishes in writing and to name an executor for your estate (generally, a trusted person who will ensure your wishes are carried out). In most states, it's the only way to appoint a legal guardian for minor children. It also allows you to direct how debts, taxes, and probate costs are paid, cover living expenses for your family during probate, and manage how assets are distributed to heirs or put into a trust.

2. Revocable living trust

A trust is a legal entity that holds ownership of your assets. Assets owned by a trust do not require probate. You can be the trustee during your life and name a successor to manage assets, if you become incapacitated or pass away.

The most common type of trust is a revocable trust, meaning you can terminate (revoke), change, add, or remove assets in the trust at any time. To include assets, you transfer their

ownership to the trust by changing the title or account ownership, depending on the asset type. Since you have complete control over assets in a revocable living trust, they are not protected from creditors and are generally subject to income tax.

Revocable living trusts are generally used in combination with a pour-over will. This allows estate assets that are not owned by the trust at the date of death to be put into the trust after probate, where they can be held or distributed based on the trust's instructions.

3. Durable power of attorney

A durable power of attorney (DPOA), also called a financial power of attorney, allows a person you choose to manage your financial affairs, if you can't. They can pay expenses, manage investments, file taxes, make gifts, and collect any benefits, such as Social Security or disability.

The person you choose (your agent) should be someone you trust, who is familiar with your finances and perspectives. They should also know how and when to contact your financial advisors.

The power you give them can be as limited or as expansive as you want. Your DPOA ends upon your death—or generally, upon divorce (if your agent is your spouse). After your death, the executor of your estate is usually responsible for managing and settling your finances. If you have a revocable trust, your successor trustee will manage and (if applicable) distribute any assets of the trust.

4. Advance health care directives

Advance health care directives allow you to state your wishes for your own medical care. Since state laws can vary, be sure you know which advance directives are required for the states you spend significant time in, as well as any other rules or limitations that apply. Here are three of the most common advance directives:

Health care proxy

A health care proxy, also known as a medical power of attorney, health care power of attorney, or durable power of attorney for health care, lets you appoint an agent to make medical decisions on your behalf. As with a DPOA, you can limit or expand your agent's powers. Because these decisions can mean life or death, your agent should be someone you trust to follow your instructions.

Living will

A living will lets you declare the type and level of medical intervention you want—or don't want—to keep you alive, such as ventilators, artificial feeding, and dialysis. Most states only allow a living will to take effect if you're terminally ill or seriously injured, so it's wise to discuss with loved ones the procedures and treatments you're willing to receive if you're incapacitated.

Do-not-resuscitate (DNR) order

A DNR is legal document that tells medical personnel *not* to perform CPR or other lifesaving treatments, if your heart or breathing stops. Depending on your situation, you may choose to

display your DNR order at home to alert emergency medical professionals. Typically, when you're admitted to a hospital, you'll have the option to complete a DNR, if you want one.

Beneficiary designations

Naming beneficiaries on your financial accounts is another important step of estate planning. You can name a person, trust, estate, or charitable organization (such as a foundation, church, donor-advised fund, or school) as the beneficiary of your assets or benefits. To help assets pass more easily to heirs, designate beneficiaries on your life insurance policies, annuities, retirement accounts, health savings accounts, Social Security, and other accounts.

Since beneficiary designations generally override wills and trusts, review and update your beneficiaries at least annually and anytime you have life changes, such as marriage, divorce, or a new child.

Titling assets: TOD vs. POD

Asset titling is a legal way to pass property to the people you intend with little or no waiting time. In almost all cases, it will even override your will. Here are two of the most common ways to title assets:

Transfer on death (TOD)

Transfer on death, or TOD, titling is often used for brokerage accounts or vehicle titles. It allows your assets to transfer automatically when you die to the people you name, generally, without the probate process.

Payable on death (POD)

Payable on death, or POD, titling is used for bank accounts or bank products, such as certificates of deposit (CDs). The account remains yours during your life. Your beneficiary becomes the account owner only after you pass away.

Consider lifetime gifting now

While estate planning can make probate and transferring assets easier for loved ones later, it can also involve giving assets while you're living. Here are some of the most common ways to do this:

Annual gift tax exemption

For 2026, you can gift up to $19,000 annually to anyone without incurring a gift tax. If you and your spouse team up, the limit is $38,000.

529 college savings plan

You can also contribute to a 529 college savings plan for a child, grandchild, or other loved one (including non-family members). If you open the account yourself, you may get a tax break. Each person can be the beneficiary of multiple accounts. So, it's not generally an issue

if someone else has already opened one for them. In 2026, you can contribute up to the annual gift tax exemption or front-load up to five years of contributions ($95,000 per beneficiary, per single filer or $190,000 for couples filing jointly) without hitting IRS gift-tax rules. Please check your 529 plan rules for more details.

Charitable giving or a donor-advised fund

When you give to a charity now, instead of waiting until you pass, you can claim a tax deduction. You can donate directly, give stock, or set up a donor-advised fund. This allows you to benefit now, along with your beneficiaries.

How to choose an estate planning attorney

Estate laws vary by state, so it's best to have an experienced estate planning attorney prepare or review your plan and documents. They can assess your needs and explain how to use wills, trusts, powers of attorney, and other legal documents to your advantage. An estate attorney can also bring up issues you might have missed.

If you don't have an estate planning attorney, ask friends, family, or your financial advisor or tax professional for recommendations. Some questions to ask attorneys you're considering include:

- Have you practiced estate planning law for at least five years?
- Is at least 75% of your practice devoted to estate planning?
- Are you in good standing with your state bar?
- Do you carry professional liability insurance?
- Do you offer a free initial consultation to discuss my needs?
- Do you charge a flat fee for each service (fee-for-service) or bill by the hour?

Estate Planning FAQ

How much does estate planning cost?

The costs vary widely. But a basic plan that includes drafting a will and advance directives might cost $500 to $1,500, while a more complex plan that includes a trust can range from $2,500 to $6,000 or more, depending on the attorney and your needs.

Can I write my own will?

There's no legal requirement that a will must be drafted by an attorney. So, it is possible to use estate planning software or online resources to create your own will. Some states allow handwritten wills (called holographic wills). But these wills are often challenged in court, because they lack proper witnessing or clear instructions. In general, a professionally drafted will is recommended.

How do I get started with estate planning?

Setting up an estate plan doesn't have to be complicated. Here's a short estate planning checklist to get you started.

- **Take an inventory of your assets and debts:** List the value of your real estate, cars, and other physical assets. Gather recent statements from your bank, brokerage, and retirement plan accounts. Make a list of insurance policies, their cash value, and death benefit. Then list any debts you owe, including mortgages, loans, and credit cards.
- **Put your wishes in writing:** How do you want your assets distributed? List the people and what you want them to receive, including percentages if applicable. Who should be the guardian of your children? Who should make financial and healthcare decisions on your behalf? What are your wishes related to life-saving medical care?
- **Meet with an estate planning attorney:** Take the inventory of your assets and debts and your written wishes with you. It can also help to think about your goals ahead of time, such as a special needs trust, reducing estate taxes, or helping loved ones avoid probate.

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