

How to Solve All Your Estate Planning Problems And Take Care of Your Family

The Consumers Guide to Taking The Confusion Out of Estate Planning Written in Plain English

How to Take the Confusion Out of Estate Planning

If you are like most people, you know you want an estate plan, but you don't know what makes a plan good or bad.

There are so many estate planning tools to consider. They are all so confusing. This causes you to procrastinate. If only you could have estate planning explained in plain English.

Going to an estate planning attorney should be like going to the eye doctor. He or she asks you to look through many lenses in order to determine the correct prescription for you.

Just as the eye doctor determines the glasses best suited to your needs, the estate planning attorney must help you identify the correct estate plan for you and your family.

Working together you can create an estate plan to insure your family's future and give yourself peace of mind.

Seek an estate planning attorney who will provide continuing state of the art, customized, complete and comprehensive planning that gives you peace of mind.

You want a friendly and caring team of professionals who simplify complex issues and explain them in plain English so that you are at ease and in control of the process.

See if the attorney offers fixed fees quoted in advance, with ongoing education for yourself and your beneficiaries, funding of your trust, free phone calls and annual reviews to keep your estate plan up-to-date.

It is our goal in this booklet to explain Estate Planning clearly in plain English.

10 Questions to Ask Your Estate Planning Attorney

1. What is the benefit to doing estate planning?
2. How many plans to you write per month?
3. What percent of your plans have matured?
4. How do you charge for Probate services?
5. How many of your living trust centered estate plans have gone through Probate?
6. Will you fund my trust and how do you charge for trust funding?
7. How do you charge for your services?
Hourly: How many hours and how much per hour?
Percent: What is the percent?
Fixed fee quoted in advance?
8. Do you offer trust settlement services?
9. How do you charge for trust settlement?
10. Will you provide me a written guarantee that your settlement fees will not exceed your quote?

Joint Tenancy

As a general rule, we do not recommend that you own your property in joint tenancy. If you place your property in joint tenancy, you may suffer one or more of the following pitfalls:

- \$ Your property may go to unintended heirs.
- \$ Your plans may be destroyed with respect to that property.
- \$ You may lose all control over your property.
- \$ It may create unnecessary gift taxes.
- \$ It may create unnecessary death taxes.
- \$ You may lose after-death income tax advantages.

As a result of the many planning pitfalls associated with joint tenancy, we strongly suggest that you consult your estate planning attorney before placing any of your property in joint tenancy.

LIVING TRUST

- § Provides one planning document full of instructions for your care and the care of your loved ones.
- § Provides continuity in the handling of your affairs by efficiently transferring your property to your loved ones.
- § Fully avoids probate on your disability or death with respect to its assets.
- § Easily moves with you from state to state.
- § Loved ones can be protected from creditors claims and divorcing spouses.
- § Creates protective trusts for your loved ones that are free from the supervision of the probate court.
- § Can be easily changed should you desire to do so.
- § Enables you to rely on your Trustees should you wish to travel or otherwise delegate the day-to-day management of your financial affairs.
- § Is difficult for disgruntled heirs to attack.
- § Ensures your family=s privacy following your disability or death.
- § Achieves your death tax objectives.
- § Has control over only that property which is actually transferred to it.

POUR-OVER WILL

Upon your death, your Pour-Over Will leaves any property to your living trust that you did not put into it before your death. It functions as a safety net to make sure property you neglected to place in your trust can ultimately be managed by your Trustees pursuant to your instructions.

If you have minor or disabled children, your pour-over will names the personal guardians whom you have chosen to care for your loved ones.

If you diligently put all of your assets into your living trust, your pour-over will=s personal representative should have little or nothing to do upon your death.

DURABLE SPECIAL POWER OF ATTORNEY FOR FUNDING

This power of attorney is Adurable@ in that the persons to whom it is given can continue to fund your living trust even if you are disabled and unable to do so. Unlike a general power of attorney, your durable special power of attorney will survive your disability.

It is Aspecial@ in that it gives its holder only the right to put your property into your living trust and the right to take required minimum distributions from your retirement account when you reach the age of 702. Failure to take the required minimum distribution results in 50% of the distribution going to the IRS. The holder cannot use this power of attorney for any other purposes.

Durable special powers of attorney are often given to several close family members and trusted advisors. This is done so that you can be assured that someone will be available on *short notice* to fund your trust in the event of a medical emergency.

AFFIDAVIT OF TRUST

As you buy and sell various assets, you will be transacting your business as a Trustee of your living trust. The people with whom you deal will want to knowCand verifyCthat your living trust is, in fact, in existence, that you really are one of its Trustees, and that you have the authority to transact the business at hand as a Trustee.

It would be cumbersome for you to provide others with your entire living trust or Estate Planning Portfolio. This would give them far more information than they want, need, or are entitled to. It would also destroy the confidentiality built into your living trust plan.

Your *affidavit of trust* is a document that enables you to avoid disclosing the particulars of your living trust plan. Along with specific pages from your living trust, it contains all the information that will be needed by people with which you do business.

The pages from your living trust that are attached to your affidavit of trust are those that set forth:

1. The identity of your trust and its Trustee(s).
2. The powers and authority which you granted to your Trustee(s) to transact business on behalf of your living trust.
3. The signature pages, which evidence that your trust is really in existence.

The affidavit of trust will be used repeatedly over the years as you buy and sell trust assets.

FUNDING INSTRUCTIONS

In order for your living trust to continue to meet your planning goals, it is critical that your assets be titled in the name of your trust. The process of transferring the title of your assets into your living trust, called *Funding@* your trust, is a team effort involving you and your advisors.

The funding instructions will help you determine the best methods for transferring different types of property into your living trust. They will also help you decide which advisors to consult regarding the transfer of various types of assets.

As you deal with the initial transfer of your assets into your living trust, you may wish for us to do this for you. It is important that your funding be accomplished in a precise and legally correct way. Therefore, we caution you to utilize our services when transferring an asset to your living trust to insure it is done correctly and timely.

In general, your advisors should review all potential transfers of real estate, limited or general partnership interests, promissory notes, oil and gas interests, and business interests. We should also be consulted with respect to any potential transfers of this type of property.

TRUST TRANSFER DOCUMENTS

You should maintain a record of all documents which show that you have transferred your property to your living trust.

These documents include:

- § Deeds, land contracts, etc., which show that your living trust is the owner of your real estate. *These copies should show the recording data and signatures.*
- § Checking account and savings account monthly statements showing the trust name and account numbers, as well as certificates of deposit or other cash deposits showing your living trust as owner.
- § Copies of the face of all stock and bond certificates, including bearer bonds and U.S. government bonds. If you have a *street name@* or nominee account with your broker, include a copy of all statements that show your living trust as the account owner.
- § Promissory notes which have been assigned to your living trust.
- § Assignments of your partnership and joint venture interests showing your living trust as owner.
- § Assignments of your oil and gas interests to your living trust.

- § Life insurance policy face sheets and change of beneficiary forms showing that your life insurance proceeds will be paid directly to your living trust.
- § Retirement plan forms showing the beneficiary of your retirement accounts
- § Assignment forms for other assets such as agricultural receipts, livestock brands, registered livestock titles, and motor vehicle titles which placed these assets into your living trust.

You should keep records of all property that has been transferred to your living trust in this section.

Your living trust records will change as you buy new assets and sell, give away, trade, or discard old ones. If you keep your records current, you will greatly assist your loved ones and successor Trustees in understanding what your living trust controls upon your disability or death.

Poorly kept or nonexistent records as to what your living trust owns will significantly hamper the ability of your living trust to fully avoid the probate process.

ASSET LOCATION LISTS

Pinpoint the location of your important documents and tell your loved ones and Trustees who should be notified on your disability or death.

These location lists will be extraordinarily helpful to your loved ones and Trustees and should be kept current.

Having your affairs in order provides you with peace of mind.

DURABLE SPECIAL POWER OF ATTORNEY FOR HEALTH CARE

This power of attorney is Adurable@ in that the persons to whom it is given can make health care decisions on your behalf if you are disabled. Unlike a general power of attorney, your durable special power of attorney will survive your disability.

It is Aspecial@ in that it gives its holder only the right to make decisions regarding medical attention and services. The holder cannot use this power of attorney for any other purpose.

Durable special powers of attorney are often given to several close family members. In the event of a medical emergency, this document can be presented to a health care service provider as written documentation authorizing the holder of the power to make health care decisions for you if you are unable to do so.

LIVING WILL

A *living will* is also known as a *Physician's directive*. This document directs your physician to cease life-sustaining procedures which would serve only to prolong your death if you are terminally ill. It gives guidelines for your physician to follow, as well as clarifies your intent as to life-sustaining procedures.

Your living will, to be effective, must be witnessed by disinterested individuals who cannot gain financially from your death.

MEMORIAL INSTRUCTIONS

You may want to share with your trustees or loved ones your burial or cremation wishes and information on the kind of memorial service you would like. You may also desire to express your feelings about the general amounts that should be spent for these remembrances. The *memorial letter* gives your loved ones some idea of your feelings on these subjects by providing general guidelines and suggestions.

ANATOMICAL GIFT

If you wish to make gifts of your body parts, an *anatomical gift form* enables you to make a gift of all or part of your body for medical or dental educational research, therapy, or transplant to permissible recipients such as:

- § Any hospital, surgeon, physician, or coroner.
 - § Any accredited medical or dental school.
 - § Any organ bank or storage facility.
 - § Any specified individual for therapy or transplant that is needed.
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PERSONAL EFFECTS

Your living trust can provide that your personal effects will be first distributed according to any specific written instructions you have prepared on a *memorandum for disposition of tangible personal property*, which is in your living trust.

These forms allow you to leave specific personal effects to specific loved ones without having to go to the time and expense of changing your pour-over will or amending your living trust.

If you wish to use the memorandum for the disposition of tangible personal property, it is important that you carefully follow the instruction that we provide to assist you. If you follow our instructions carefully, your Trustees and loved ones should have little difficulty following *your* instruction.

Trust Maintenance System

Your personal situation will change

Children and grandchildren are born and grow up. Relationships change. Marriages and divorces occur. People become ill and eventually die.

Tax laws are always changing. State laws affecting your estate plan change as well.

The Trust Maintenance System will keep your estate plan current and up to date. Annually we will review your personal situation and trust to bring your estate plan up to date. The funding of your trust will be reviewed.

Your successor trustees need to understand their duties and responsibilities. Your beneficiaries need to know all the benefits your trust provides for them.

We provide all of this as part of the estate planning process.

What is the Next Step

You have familiarized yourself with Estate Planning Tools.

Your next step is to call an estate planning attorney to make an appointment for a consultation. Ask if you will receive a free first consultation, or you will incur fees.

Your attorney will send to you a Confidential Questionnaire to complete. Bring it with you to your initial meeting. Also, bring copies of the documents requested within your Confidential Questionnaire.

Once your estate plan is completed you will enjoy the peace of mind that comes with knowing that you have taken care of your family.

Brought to you as a service of

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