

BASIC COMPONENTS OF EVERY ESTATE PLAN

People often put off doing their Estate Planning for a variety of common reasons. One typical reason is that Estate Planning seems complicated and difficult, primarily because most people do not think about Wills and Trusts and the other aspects of good Estate Planning in their every day lives. Estate Planning can be complex, but there are basic components that comprise a good estate plan that apply to everyone, and those components can be easily understood.

Create a Will. When we think of Estate Planning, we immediately think of a Will. Even for a person with the most modest of estates, a Will provides the opportunity to appoint guardians for your minor children or dependants and an executor to handle the task of administering your Estate. The executor will be responsible for identifying and gathering up your assets, wherever they are, paying off your final bills, and distributing what is left to whom and in the way that you direct. Without a Will, you will have no say in who will care for your minor children or who ultimately handles the administration of your Estate.

Update your Beneficiary Designations. Assets like life insurance, IRA's, and 401(k)'s can be distributed on death to designated beneficiaries. People often make initial beneficiary designations when a life insurance policy is created or an IRA or a 401(k) is established, and forget about it. Those beneficiary designations are part of your Estate "plan". Those assets will be distributed to the beneficiaries you have designated, and will not be distributed per the instructions in your Will. You should make sure that the directions in your Will and the beneficiary designations work together to carry out your desires for the distribution of your Estate. You might want to add adult children as secondary beneficiaries. If you have been divorced, you probably do not want your ex-spouse to remain named as a beneficiary. Beneficiary designations are part of your Estate Plan and should be reviewed periodically.

Health Care Directives. Your Estate Planning should not only address plans for the event of your death, but also plans that may need to be implemented during your life. You should at least have a Living Will that memorializes your directives in the event that a determination is made that an illness or condition is terminal. Without any direction, a physician has a professional obligation to keep you alive by whatever means possible, even if that means sustaining you in a vegetative state. If that is not your desire, you may leave the instructions you want a physician to follow in a health care directive like a Living Will.

Powers of Attorney. Estate Planning includes planning for the possibility that you might become incapacitated at some time in your life, whether temporarily or permanently. If you are unable to attend to your financial affairs or to make necessary health care decisions for yourself, someone will need to step up and initiate a guardianship proceeding in court, with much time, effort and expense, in order to manage your affairs and make health care decisions on your behalf unless you have created, ahead of time, a Health Care and Property Powers of Attorney. With Powers of Attorney, you may name a person to be your Agent who can handle all of your financial affairs (Property Power) and interact with and make health care decisions for you (Health Care Power) during the time that you are incapacitated and unable to attend to your affairs. With written Powers of Attorney, you can designate people in which you have a high degree of trust and confidence to handle your affairs. If you have not executed Powers of Attorney, any person who takes the initiative can become guardian of your person and Estate if you become incapacitated.

Although there are many more estate planning tools and considerations, every estate plan should include a Will, a Living Will, a Health Care Power of Attorney and a Property Power of Attorney. You may have other concerns, like whether a Trust might be right for you, how to handle your retirement assets as part of your estate planning, estate taxes, and other more complex issues, regarding which an estate planning attorney can give you advice along with your Estate Planning. You will find, however, that the basic Estate Planning that everyone should do fairly simple and straight forward and easy to understand once you consider it.