

Is Your Estate Plan Arranged So Your Family Can Rest in Peace?



The Basics of Estate Planning

When it comes to financial planning, many people overlook the critical aspect of planning for their estate when they pass away. Over half of Americans don't have the basic documents that comprise an estate plan, including a will, living will or medical and financial power of attorney or directives. (Source: *Forbes.com*)

The importance of an estate plan cannot be expressed enough. Do you want to leave your hard earned money to chance or to your loved ones? Establishing an estate plan specific to your individual circumstances will help streamline the settlement of your estate and ensure that your intentions come to fruition after your passing.

Why Do You Need an Estate Plan?

The primary purpose of estate planning is to preserve your wealth and try to ensure that what you spent a lifetime achieving is transferred to the proper, designated beneficiaries at the time and in the manner you chose with minimal costs, tax burdens, and the least amount of pain and suffering.

No one is immune to the complications that may arise after their loved ones pass away.

One of the richest men in the world, Howard Hughes died in 1976 intestate, leaving his \$2.5 billion estate to decades of litigation, finally closing in 2010, 34 years after his death.



When Elvis Presley died in 1977, his estate was valued at more than \$10 million. His estate went through probate and after taxes and fees that devoured 73% of the estate's worth, his heirs received less than \$3 million.

The estate planning objectives that most people have can be grouped into two major categories: financial and non-financial. Most of us have accumulated some kind of financial wealth, that is, things that can be measured monetarily. We have also accumulated non-financial things, or personal possessions. These are items that mean a lot to us like heirlooms and family traditions. Both of these should be accounted for in your estate plan.

Estate planning can be a bit daunting due to the numerous federal and state laws and potential estate and income taxes. It can also get confusing as many of today's families are split and/or combined with additional members throughout the years.

Important Estate Planning Documents to Draft and Keep Updated

Your Will: First and foremost, you should have a will – and keep it updated. Make sure that it includes language that protects you against potential change in estate tax exemption amounts. Instead of naming a specific sum that will fund a trust, many estate planning documents refer to a percentage. Phrases such as “that amount,” or “that fraction,” or “that portion” are many times standard practice.

Living Will, Health Proxy and Durable Powers of Attorney for medical wishes. Your family members will not be left guessing your wishes if you have clear instructions that are expressed in these documents.

Durable Financial Power of Attorney for financial activities should you become incapacitated.

Letter of Instructions. This is an important document that addresses specific personal requests not in your will. It should be opened in the case of a severe illness or post-mortem. It can be used as a roadmap that shows the locations and the details of important documents and items from safe deposit boxes to checkbooks. Remember also to safely store all of your key documents and note where they are in your Letter of Instructions so your heirs can find them.

Review of all beneficiary designation forms on all of your trusts, retirement accounts and life insurance policies. Many people feel that if they have a will, retirement accounts and life insurance policies will be distributed according to these documents. Please be aware that the beneficiaries designated on your retirement accounts and life insurance policies will override everything – including your will, trust or any other estate plan. Make sure that the beneficiaries are consistent in all cases.

Review titles on all non-retirement and non-life insurance assets. For example, joint tenants, also known as joint tenants with right of survivorship, will override everything, including your Will, trust, and any other estate plan.

Things to Avoid!

Top Eight Estate Planning Mistakes

Avoiding these eight most common mistakes can help make life easier for those who survive you.

- 1 Not having an estate plan!** Any saver or investor at the least needs to have a current will.
- 2 Believing that having a will avoids probate.** A will is basically a document that informs the judge and your loved ones during probate of your wishes after death. It helps with guardianship if you have minor children and it provides a safety net for the intentions you have of your personal belongings and estate.
- 3 Believing that establishing a revocable living trust will reduce estate taxes.** After you pass away, your trust will have its own tax ID and the trustee must file an annual income tax return on its behalf. You may want to consider a Bypass Trust (AB Trust) to help reduce taxes by leaving some of your property to your children, but allowing your surviving spouse to use it during his/her lifetime.
- 4 Not having your estate updated regularly.** Many times, when an estate plan is originally drafted to the time of death, many things have changed, from new assets to new family members.
- 5 Improper titling of assets.** Having the wrong beneficiary named on retirement accounts, life insurance policies, and trusts regardless of what your will says, your accounts will override it.
- 6 Not having a current durable power of attorney for health care/directive to physicians.** Without these, your desires may not be understood and are left to interpretation of the parties involved, which may lead to disagreements and lack of continuity between them.
- 7 Not having a community property agreement.** This is of utmost importance to those who live in community property states.
- 8 Not funding your living trust properly.** No matter how thorough your living trust is, it needs to be sufficiently funded. Designating the trust as the legal owner of your property and assets can help avoid probate and possible estate taxes.

Who Can Help

Your Attorney

If it has been more than 3 years since you've looked at your estate plan, consider meeting with an attorney to make sure everything is in order. It is not uncommon to go through life changes that can affect your estate plan such as divorce, death, new children, grandchildren or new assets that may warrant a modification in your plan. Also, make sure your durable power of attorney and living will/advanced directives are current.

Your Financial Advisor

Uncertainty and confusion still reign supreme when it comes to estate planning. With the proper guidance and planning you should be able to take advantage of any tax saving opportunities and avoid taxing pitfalls.

Remember, review and amend your plan periodically and as your objectives, acquisitions, inheritances and personal situations change.

Estate Planning Tax Considerations Estate Tax Exemption Amount

In 2016, individuals can transfer up to \$5.45 million of assets without owing federal gift or estate tax. Remember to check your state exemption amount as this is often different than the federal exemption.

Bypass Trust (AB trust)

If you have more than \$5.45 million of assets (\$10.9 for married couples), you may want to consider a Bypass Trust (AB Trust) to help reduce taxes by leaving some of your property to your children, but allowing your surviving spouse to use it during his/her lifetime. You can make the portability election on a spouse's death to preserve the exemption as well. Remember to contact your estate planning attorney before deciding on a course of action.

Reduce Your Estate

There are several ways to reduce the assets from your estate to help reduce taxes. Besides spending and enjoying it, among these strategies are tax-free gifts, creating an Irrevocable Life Insurance Trust (ILIT) and creating charitable trusts. A knowledgeable financial advisor and estate planning attorney can help create the best plan for you based upon your individual situation.

Key Steps to Help Your Estate Plan

Assess Your Current Financial Situation	<ul style="list-style-type: none"> <input type="checkbox"/> List all of your assets <input type="checkbox"/> Determine the exact ownership of each asset <input type="checkbox"/> Review all of your beneficiary forms on each asset <input type="checkbox"/> Determine who you would like to provide for <input type="checkbox"/> Provide adequate coverage for your spouse and dependents. Determine how you would like your property and assets divided <input type="checkbox"/> Protect your assets from creditors <input type="checkbox"/> Evaluate sale or succession plans for businesses you own <input type="checkbox"/> Reduce your taxable estate values <input type="checkbox"/> Organize all of your personal records
Identify planning alternatives for your specific estate	<ul style="list-style-type: none"> <input type="checkbox"/> Draft a will <input type="checkbox"/> Create a durable power of attorney <input type="checkbox"/> Sign a health proxy <input type="checkbox"/> Name guardians for under aged children <input type="checkbox"/> Select an executor and/or trustee <input type="checkbox"/> Consider the form & amount of property left to key dependents (especially your spouse) <input type="checkbox"/> Look into usage of the estate tax exemption amount <input type="checkbox"/> Review gifting possibilities <input type="checkbox"/> Create trusts <input type="checkbox"/> Identify a trusted family member or friend
Implement your estate plan	<ul style="list-style-type: none"> <input type="checkbox"/> Have an attorney draft or review documents <input type="checkbox"/> Create a flow chart to illustrate how you would like assets to transfer <input type="checkbox"/> Determine the best way to pay estate taxes (if appropriate) <input type="checkbox"/> Sign all necessary documents <input type="checkbox"/> Have a family meeting <input type="checkbox"/> Develop a personal list of requests
Monitor your estate plan	<ul style="list-style-type: none"> <input type="checkbox"/> Review your plan periodically <input type="checkbox"/> Review your plan as your objectives change <input type="checkbox"/> Review your plan as your personal life changes <input type="checkbox"/> Review how changes in estate tax or income tax affect your situation

Conclusion

Thinking about dying is never easy, but planning for the inevitable is necessary, especially if you want it to be as stress-free as possible for the ones you leave behind. Mistakes can potentially be avoided with proper planning and guidance from an estate planning attorney and a qualified financial professional.

One of the roles as your financial advisor is to help you formulate strategies in this critical area of estate planning that can help bring clarity to your loved ones and simplify the estate settlement process during an already difficult time.

We take a comprehensive look at your overall picture and how the current estate planning rules can affect you and your plan.

If you have any questions about your specific situation, please give us a call so we can assist you.



COMPLIMENTARY FINANCIAL CHECK-UP

If you are currently not a client of Jackson Roskelley Wealth Advisors, we would like to offer you a complimentary, one-hour, private consultation with one of our professionals at absolutely no cost or obligation to you.

To schedule your financial check-up, please call Jackson Roskelley Wealth Advisors, 480.609.1055.

We would be happy to assist you!

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