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A guide to estate planning documents

Legal documents are the foundation of every estate plan. By understanding common estate planning documents and forms, you will get a better idea of the role they play and obtain useful background information for a further discussion with your attorney. You can use the space below to make notes for future reference. The specific requirements for any legal document vary depending on applicable state law. **See your attorney for legal and tax advice related to your situation and to draft appropriate documents.**

Documents in effect while you're living

Power of attorney (POA)	Gives another person the legal right to handle some or all of your financial affairs. A general POA, valid for most purposes, is the most common Power of Attorney. A special POA is limited to a specific act or situation. A durable power of attorney is effective immediately and a springing power of attorney is only effective when an individual is certified disabled or incapacitated. The powers are the same.	Notes:
Health care directives or medical powers of attorney	Health care directives typically provide two sections. In the first section you name an agent and a successor agent to make decisions for you in the event you are incapable for providing direction to your medical team and family. In the second section, you have an opportunity to provide some direction regarding issues such as use of heroic measures or psychotropic drugs or the disposition of your remains after death.	Notes:
Revocable living trust	An arrangement you create for the management and distribution of your property during your lifetime. As the "trustee," you can manage the trust assets while you are alive. You can also receive income or principal from the trust. After your death, a successor trustee takes over and distributes the trust property according to the terms of the trust. Property ownership must be transferred to the trust when you are alive. A "pour over will" is also recommended. Revocable Living Trusts avoid probate and maintain privacy, key reasons for their popularity.	Notes:

Documents in effect while you're living continued

Prenuptial agreement or postnuptial agreement	Signed before or after marriage, these agreements control the distribution of property, allocation of income and other legal rights in the event of a divorce. These agreements are typically created when either or both parties have substantial assets, children from a prior marriage, potential inheritances or high incomes. They are designed to prevent major disagreements and protect assets and income if a divorce occurs.	Notes:

Documents that take effect at death

Will	Legal instrument that directs how your estate will be managed and distributed after your death. Your will controls the distribution of your probate property, nominates individuals to serve as guardians of any minor children and names a personal representative (executor) to handle the probate process for your estate. If you die without a will or some other estate document such as a revocable trust, state laws will control how your property will be distributed, regardless of your wishes.	Notes:
Testamentary trusts and irrevocable trusts	Written agreement for the management and distribution of your property. In the trust document you designate another individual or a trust company as the trustee. The trust terms control how and when the property will be distributed. These trusts generally hold property for a length of time, subject to limitations in state law. A testamentary trust is created as part of your will or a revocable living trust, and takes effect upon your death. An irrevocable trust can be effective during your life or at your death, and cannot be changed. Trusts are sometimes used to provide controls and guidelines over the use of assets, limiting the likelihood that your heirs would abuse or deplete their inheritance.	Notes:
Beneficiary forms **IRAs, 401(k)s, life insurance, annuities**	Identifies the person who will receive the death benefit or account balance after your death. Each asset or account requires a separate beneficiary form. The financial services or insurance company keeps all beneficiary information on file. With a proper beneficiary designation, after your death the death benefit or account balance will transfer to the named beneficiary outside the probate process. Naming your estate as beneficiary should generally be avoided because it subjects the asset to the probate process. If your beneficiary designation is improper, income or estate taxes could be incurred or increased.	Notes:
Property title	Establishes property ownership. Assets such as your personal residence and investments have titles or specific ownership designations. Joint tenancy with right of survivorship establishes that there are two or more owners. If one owner dies, the asset is transferred outside of probate to the other owner(s). With tenancy in common, two or more people also own the asset. If one of the owners of the tenancy in common dies, the decedent's share of the asset is transferred through the probate process, subject to the decedent's will. In certain states, property obtained by a married individual is considered community property and is handled similar to a tenancy in common. If your assets are improperly titled, your will could become ineffective, and your heirs may be subject to increased income or estate taxes.	Notes:

Documents that take effect at death continued

Buy-sell agreement (business owners only)	A written agreement for the sale of a business owner's interest at the owner's death. The agreement is usually either a cross purchase or an entity purchase (stock redemption). With a cross purchase, the business owners individually agree to purchase the deceased owner's share of the business. With an entity purchase or stock redemption, the business agrees to purchase the deceased owner's share of the business. Without a buy-sell agreement, heirs may be forced to sell your business at a deflated price or be obligated to continue the business regardless of whether they have the ability or desire to do so.	Notes:

Next steps

- **Review your personal estate planning goals.**
- **Consider analysis of final expenses and estate taxes.**
- **Meet with attorney to review, update or draft new documents.**

This information is a general discussion of the relevant federal tax laws. It is not intended for, nor can it be used by any taxpayer for the purpose of avoiding federal tax penalties. This information is provided to support the promotion or marketing of ideas that may benefit a taxpayer. Taxpayers should seek the advice of their own tax and legal advisors regarding any tax and legal issues applicable to their specific circumstances.

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