



SeniorCaringTM

SENIOR CARE, MADE SIMPLE.

GUIDE TO ESTATE PLANNING

Preparing for the Future



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SeniorCaring Guide to Estate Planning

It's never too early to start planning for the future, especially for seniors. Older adults that start estate planning now can ensure that everything goes according to their wish should they become unable to make decisions for themselves or pass away.

This guide is a starting point for anyone looking to get a plan in place. This is not a replacement for professional financial, tax, or legal advice. Before creating or revising your estate plan, be sure to talk to a qualified estate-planning advisor.

Why Estate Planning is Important

Most people don't like to think about dying, but the truth of the matter is we are all going to die one day. For seniors that want to leave money or other assets to their friends or family, estate planning is very important.

While a senior is still in good health, they should create a plan to determine how their assets will be divided. If you have no plan in place, a relative, friend, or even the courts could decide what happens to your things.

When you have everything planned out, it makes everything much easier on your friends and family who will be grieving when you are gone. Proper planning can also help reduce taxes so that your family can keep your assets instead of handing them over to the government.

Questions to Ask

Begin your estate planning by asking some fundamental questions. The first of which should be, "Who is to receive your assets?"

Who is to receive assets?

If you are married, take note of your state laws, as some states protect surviving spouses. In some states, even if you have a will or living trust, if the state feels you have not provided enough to your spouse, the courts can allow the survivor to receive a larger amount.

Beyond your spouse, you also need to determine whether you are including your children or grandchildren, as well as how they are to split it. You can also leave assets to charities if you are so inclined.

What assets are people to inherit?

There are two different types of assets. Probate assets are those owned in your name and do not have a beneficiary. Common examples of probate assets include bank accounts that are solely in the decedent's name, or personal property like jewelry.

Non-probate assets are those that are automatically passed to another person or beneficiary when you die. Common non-probate assets include property held in a trust, or the balance of retirement plans.

When should they inherit the assets?

There are some factors to consider when deciding when and how assets should be bequeathed. You may want to think about the age and maturity of beneficiaries, the financial needs of your spouse, and the cost of estate taxes.

Planning With a Will

If you do not have a will in place when you die, the state courts will likely get to decide how your assets get divided. Even though wills are one of the most common estate planning tools, 3 out of 4 Americans die without one.

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Probate Process

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The probate is the legal process of transferring assets to beneficiaries. This process can be time consuming and costly. The first step in the process is to notify the interested parties, which will include all beneficiaries named, natural heirs, and creditors.

If you have not named an executor in your will, the court will appoint one. A complete inventory of all the assets you own or control will need to be taken. After this step, creditors are generally given a timeline to file claims. If a creditor fails to file a claim on time, the claim will most likely be excluded.

Once all creditor claims have been paid, the next step is to file the deceased last income taxes and the estate's income taxes. After all debts and taxes have been paid, the executor can distribute the remaining assets to the beneficiaries and close the estate.

Planning With a Trust

There are more upfront costs with a trust in comparison to a will, but there are also many benefits that should be considered when doing your estate planning. Trusts are a tool of choice in estate planning for asset protection, tax reduction, and avoiding the probate process.

A trust is a legal document that creates three roles to determine how property or assets should be managed. The grantor, or creator of the trust, decides the terms and assets or property to be included. A trustee will be responsible for managing the property under the agreement terms. The beneficiaries of the trust are any person or charity that will be benefitted.

A testamentary trust is inside your will and will take effect when you die, while a living trust will remain effective when you're alive. In almost every state, if your assets are held in a living trust when you die, you can avoid the probate process. Assets can remain private; you can avoid probate costs, and not have to worry about estate taxes.

Planning for Incapacity

In the event that you become incapacitated, someone else will have to act on your behalf and make decisions for you. When you take the time to plan when you're healthy, you get to decide whom that is.

A senior is considered incapacitated when they are unable to make decisions for themselves. The cause of incapacitation may be the result of an injury, dementia, a stroke, a heart attack or other condition. Incapacitation may be temporary or permanent.

If you become incapacitated without a plan in place, the court will decide who ends up managing your assets for you. Even if you have a will, this won't help as wills only deal with what happens after you die. In most cases, even owning property jointly will not help.

Power of Attorney

A Power of Attorney (POA) is a document that you can use to appoint another person the legal rights to act on your behalf. The POA has some major limitations because if the principal (creator of POA) becomes incapacitated, the POA would immediately be terminated. To counter this, the Durable Power of Attorney (DPOA) was created.

A DPOA grants authority to a designated party that remains in effect, even if the principal becomes disabled or incapacitated. You can also create a separate DPOA for health care or finances.

A Living Will

Also known as an advance health care directive, this document will specify your wishes for the use of life-sustaining medical procedures such as, artificial feeding and breathing. The document will specify when the procedures should or should not be used.

A Living Trust

A living trust allows you to remain in control of your assets during your lifetime. You can decide who is to handle your affairs should you become disabled or incapacitated. You can also choose who receives assets, when they receive them, and under what terms.

A living trust will allow you to avoid the probate process and take advantage of tax laws, avoiding estate and inheritance taxes. Living trusts will also help to maintain your privacy, as the contents of a trust are private. A will on the other hand is a public document.

Estate Taxes

A federal tax is to be paid on all property an individual owns or has rights to when they die. The tax will be based upon the fair market value at the time of their death. Properties included are any mentioned in a will, real property in joint names, joint bank accounts, retirement plans, insurance policies and more.

There are various differences in law between the federal and state levels, so be sure to speak to an estate-planning advisor before creating your plan so you can avoid any

unexpected tax liability or consequences.

There are a couple techniques and strategies that can be used to reduce, or even eliminate that amount of tax you must pay. Ask your estate planner about some of the following:

Spousal Exemption

As long as your spouse is a United States citizen, you can leave them an unlimited amount of assets that will be tax-free at the time of death. By placing your assets into two trusts, both spouses can use the exemption. This means that there will be no estate tax due with the first death. Then, if your spouse dies, they can use your unused exemption so that no estate taxes have to be paid and money can be distributed according to your wishes.

Annual Tax-Free Gifts

You can give a gift of up to \$14,000 per year (tied to inflation) per recipient tax-free. You can also give unlimited gifts to charity, and for medical or educational expenses paid to the provider.

In Trusts We Trust

Explore all of your trust options. There are many different type of trust with varying tax benefits. Some will remove your home from your estate at a discount value, while other may let you start transferring assets to your children before you die to reduce your taxable estate.

Estate planning is important for older adults in order to make sure that their assets are distributed the way they wish when they die. Find a qualified estate-planning advisor that is well versed in elder and tax laws so that they can help you make sure your wishes are followed in your absence.