

PREPARING FOR AN ESTATE PLANNING APPOINTMENT

Before you meet with an Estate Planning Attorney, it is helpful to do some thinking about your wishes for your estate plan, and to gather information and documents. However, if you haven't made up your mind as to what you want, and/or don't have all the information and documents, you can still go to the appointment. The attorney can help you work through the decisions and help with gathering the documents.

DOCUMENTS

If you want the estate planning attorney to prepare a living trust, the attorney will need a copy of the Grant Deed(s) to your real property and a copy of your property tax bill(s). If you purchased the property brand new, the deed would be called a Corporation Deed, or if it was transferred from a spouse, it could be an Interspousal Transfer Deed or quit-claim deed. In other states they sometimes call it a Warranty Deed. The deed the attorney wants is the one that passed title from the prior owner to you, and not a Deed of Trust or Reconveyance, which involve the mortgage company.

Other useful documents are either copies of statements, or a list of your accounts with account numbers, and a list of your trustees and beneficiaries, with the correct spelling of their names, and their addresses.

YOUR PERSONAL REPRESENTATIVES

One of the major goals of estate planning is to make it easier for your loved ones after you're gone or if you become incapacitated. Reducing conflict to preserve the family relationships is another important goal. In order for your estate plan to meet those goals, one of the important decisions is who will distribute your estate when you're gone. Some of the tasks that your executor (for a will) or trustee (for a trust) may have to do are:

- Sell real estate
- Manage the estate finances
- Keep records and account for money received and spent
- Distribute personal property (and/or sell it, or give it away)
- Work with a realtor, attorney, and/or accountant
- Distribute the real property and/or money in the estate

Ideally you want to pick the person or persons in your family or friend circle that can do a good job with those tasks, that are trustworthy, and that can communicate well with the beneficiaries (the representative(s) can be beneficiaries).

There are also other roles for which you may want to appoint or nominate someone. The roles can be filled all by the same person or persons or by different people. You may also want to nominate alternates. Some of the roles are:

- Attorney in fact (has power of attorney to manage your finances if you're incapacitated)
- Agent for medical decisions
- Trustee, Custodian, or Guardian of the Estate, to manage the finances of young children until the age you specify for distribution
- Guardian of the Person to physically care for your minor children

PROPERTY DISTRIBUTION

Another important question is who you want to receive your property when you're gone, including alternates if your beneficiary(ies) die before you.

If you have minor children, their money will need to be managed for them until they are at the age you specify for distribution. You can leave the decision about how the money will be used while they are minors to the discretion of a custodian, or you can specify how it will be managed on their behalf by the trustee of a child's trust. You can also specify at what age or ages you want your children to receive the balance.

If you have particular personal property that means something to you, you may want to designate beneficiaries for it. You may also have favorite charities that you want to receive part of your estate.

IF YOU'RE FEELING OVERWHELMED

If you don't have all the answers or documents before the appointment, it's fine, you can discuss them in the appointment, and missing information and documents can be provided later.

USEFUL VOCABULARY

Settlor (also called Trustor or Grantor): The person that puts their property into a trust

Trustee: The person that manages the trust

Executor: The person that distributes the property that passes by will, under supervision by the probate court

Intestate: Died without a will (A testator is a person that writes a will)

Probate: The court process for approving a will, settling any disputes about a will or intestate distribution, and overseeing sales of property, payment of creditors, accountings, and distribution of the estate assets.

Guardian of the Person: Physically takes care of a minor child in place of the parents

Guardian of the Estate: Manages the money for a minor child if other provisions haven't been made

Custodian: Manages the money for a child up to the maximum age of 25, using their discretion

Trustee of a Child's Trust: Manages the money for a child based on the terms of the trust