

TRUSTS

Not everyone needs a trust, but your attorney can help you determine whether you should consider one. Like a will, a trust details how a person's assets will be managed and distributed upon his/her death. It also enables the person creating the trust (called the grantor) to designate someone to manage his or her assets during his or her lifetime, should he or she become incapacitated. The grantor works with an attorney to determine whether a trust is appropriate. The attorney writes a trust document and the grantor transfers ownership of selected property to the trust. They also name a trustee to manage the trust for a beneficiary's (or multiple beneficiaries') benefit.

Some describe certain trusts as "will substitutes," but in most cases even if you have a trust you should also have a will to control disposition of property not owned by the trust.

A revocable trust can be amended at any time as long as the grantor has capacity to do so. An irrevocable trust cannot be amended.

A living trust is effective while the grantor is alive. A testamentary trust is one that is written today, as part of the will, and is not effective until the grantor dies.

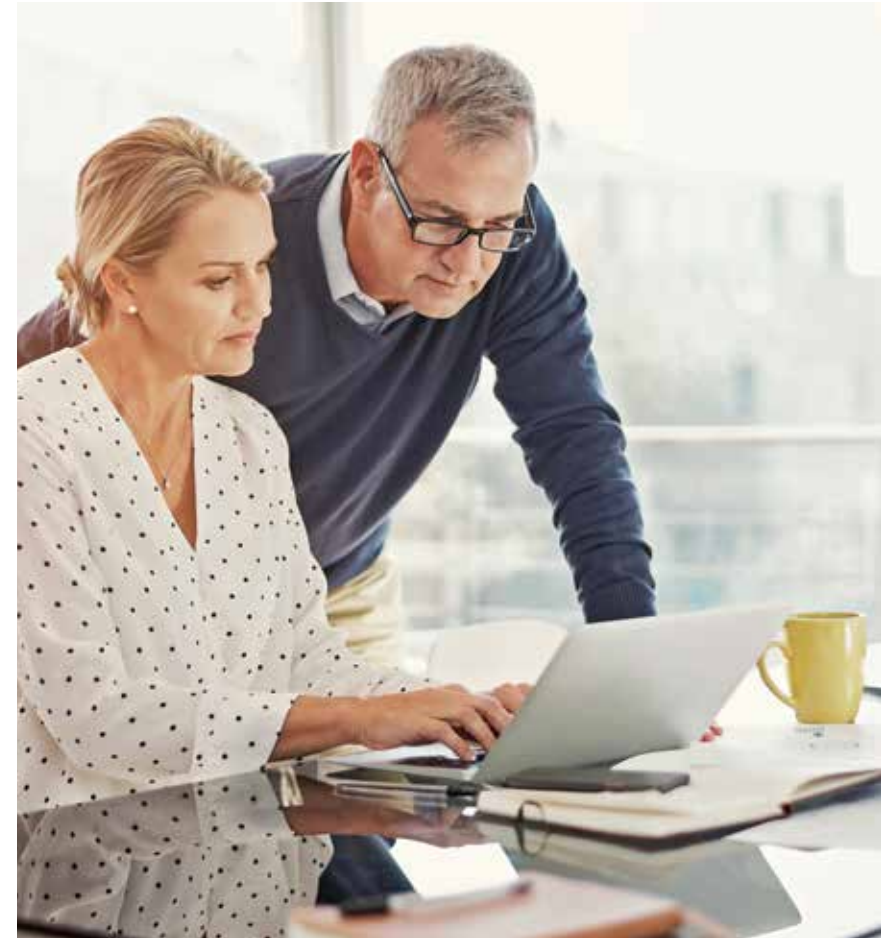
An estate plan can help carry out your wishes and give you peace of mind. Work with your attorney to develop an estate plan that addresses your unique needs and goals.

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COMMON ESTATE PLANNING DOCUMENTS



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An estate plan can help record your final wishes, specify how you want your assets distributed, and give you reassurance. But to develop a solid estate plan, it's important to discuss your specific situation with an attorney. The attorney will then help you put the appropriate legal documents in place. For your reference, here's an overview of some common estate planning documents.

WILL

Your will outlines how you want your property distributed after your death. In your will, you name a personal representative (executor) who is responsible for settling your estate – which includes distributing property, paying bills, and filing a final tax return. Your will can also contain final instructions – including funeral and burial preferences – and name guardians for minor children. If you die without a will, the laws in your state will dictate how your property is distributed. The state will also select a personal representative on your behalf. **You can change your will at any time as long as you have capacity to do so.**

POWER OF ATTORNEY (POA)

A POA allows you to name a trusted person to make decisions on your behalf. There are several types of POAs:

- A general POA gives someone (the POA “agent” or attorney-in-fact) broad authorizations. The agent may be able to make medical decisions, legal choices, financial decisions, or business decisions on your behalf.
- A financial POA gives the agent the ability to manage your money.
- A special POA typically is established for only a certain purpose, and expires at a set time.
- Durable POA is generally broader and is effective after one becomes disabled.

States vary in their POA laws, so ask your attorney for guidance about your specific situation. **A POA automatically ceases to apply upon your death.**

HEALTH CARE DIRECTIVE

A health care directive appoints someone (referred to as a health care proxy) to make medical and/or treatment decisions on your behalf. If you don't appoint a health care proxy, the default is often the next of kin.

LIVING WILL

While a health care directive generally grants broader medical and/or treatment decisions to your health care proxy, a living will records your wishes regarding specific life-prolonging measures, should you become incapacitated or terminally ill. Making your care preferences known in advance can be helpful to your family by relieving them of the burden of having to make such decisions for you, since you've already documented your wishes. Some states combine a health care directive and a living will into one document.

PROPERTY TITLING

To help avoid costly disputes, it's important to understand how your property is titled – and to make sure your estate plan properly takes this titling into account. There are various forms of property titling available, some of which depend on your state of residency:

- **Sole ownership:** Only one person is on the title and the property passes through probate, subject to the person's will.
- **Tenancy in common:** Two or more owners (with equal or unequal ownership percentages) are listed on the property's title. An owner's share generally passes through probate subject to the person's will. A tenant in common owner can also sell his/her share at any time to anyone.
- **Joint tenancy with right of survivorship (JTWROS):** Involves two or more owners with equal ownership shares. When a JTWROS owner dies, his/her share passes automatically outside of probate to the surviving owner(s). In general, a JTWROS owner cannot easily divide or sell his or her share of the joint tenancy.
- **Tenancy by the entireties:** This ownership is similar to a JTWROS, but is available only to married couples in a limited number of states. Property owned in tenancy by the entireties avoids probate, and passes automatically to the surviving spouse when one spouse dies. It may also provide creditor protection for the couple.



- **Community property:** In certain states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin) any property purchased by a married couple during the life of the marriage is presumed to be community property and is owned equally by both spouses. In general, property brought into the marriage or received by gift or inheritance during marriage is considered separate (not community) unless commingled.

BENEFICIARY DESIGNATIONS

Beneficiary designations name the person(s) who will receive the death benefit or account balance of a specific asset upon your death. (Life insurance policies, annuities, IRAs, and retirement plans all pass by beneficiary designation, for example.) When you name a beneficiary, the asset bypasses probate, but you must complete a separate beneficiary designation form for each asset. If a beneficiary is not named, or a named beneficiary is deceased, the asset is typically payable to the account owner's estate, which subjects it to the owner's estate. The asset is then distributed according to your will, if you have one. When the asset is passed through your estate, it could result in less favorable tax consequences. **If you name multiple beneficiaries and one or more of the primary beneficiaries dies before you, the shares of those beneficiaries generally go to the other primary beneficiaries. You may want to specify your wishes for this situation.**