

# Frequently Asked Questions

## What is estate planning?

Estate planning is the process of preparing for the transfer of your assets upon your death and deciding who should make financial and medical decisions on your behalf in the event you are unable to make decisions for yourself due to incapacity.

## Who needs estate planning?

Every adult needs some form of estate planning. If you want your estate distributed according to your wishes after your death, wonder how your financial affairs will be managed if you become incapacitated, want to plan distributions for the benefit of your descendants, you want to alleviate the burden on surviving family members, or want to appoint persons to make medical decisions on your behalf if you become incapacitated, estate planning is for you.

## Who are these templates designed for?

Our templates are designed for those with straightforward estate planning goals. It is not ideal for those with potential estate tax issues (\$7 million + in assets), those with complex financial situations, complex family structures or blended families or those with unique needs.

## Is this legal?

All of our estate plans are created by attorneys. Every template is state specific and legally-valid. To finalize your estate plan so that it is legally binding, you will need to sign and notarize the documents upon downloading.

## What documents are included in an estate plan through this software?

The estate plan templates include a Will or Revocable Trust, Financial Power of Attorney, Medical Power of Attorney, Advance Directive/Living Will, HIPAA Authorization, Declaration of Appointment of Guardian, and Appointment of Agent to Control Disposition of Remains.

## What is the purpose of these templates?

**Will** – Outlines the disposition of your estate—who your beneficiaries are, assets they will receive and who administers your estate.

**Revocable Trust** – This document is your trust agreement which outlines the disposition of your estate—naming your beneficiaries, assets/distributions they will receive and when, and who administers your estate if you are incapacitated and upon your death.

**Trust Certificate** – A summary of the pertinent provisions in your trust. You may provide this form in lieu of your entire trust agreement to financial institutions (banking, brokerage/investment, etc.), title companies, etc. to effectuate a change in the title of assets to your revocable trust.

**Pour-over Will** – This works in conjunction with a revocable trust. It is intended to move assets into the trust that may have not been moved over when funding your trust.

**General Power of Attorney** – This document allows your named agent the authority to make financial, property and investment decisions as you've selected in the event you become incapacitated.

**Medical Power of Attorney**—Gives your named agent the authority to make health care decisions in accordance with your wishes in the event you become incapacitated.

**Advance Directive/Living Will** –Communicates your decisions about end-of-life care.

**HIPAA Authorization** – This document gives authorization for your physician or medical entity to disclose your health information to your designated representative.

**Declaration of Appointment of Guardian** –Designates the person(s) you would like to serve as your guardian in the event you require a guardian during your lifetime. The guardian is generally in charge of your financial matters and your welfare or well-being. In some states, the guardians are separated into guardians of the person and guardian of the estate. Guardian of the person means your being, including medical and housing, and welfare. Guardian of the estate pertains to your financial and property matters.

**Appointment of Agent for Disposition of Remains** – This document appoints your agent to control your remains (body) upon your death.

## **What is the difference between a Will and Revocable Trust?**

Wills go into effect when you pass away. It is an easier way of distributing your assets to the beneficiaries via a probate process. While revocable trusts are effective immediately after signing and funding the trust, they are more complex than Wills. Similar to a Will it provides for the distribution of your assets held in trust to the beneficiaries and to you as the creator of the trust in the event you become incapacitated. With a Revocable Trust, a Pour Over Will is included which works in tandem with your Revocable Trust to cover any assets held outside of your trust. It directs any assets that are not already in the trust to be transferred into the trust upon your death. It is important to note with Wills and Revocable Trusts, one is not “better” than the other as it greatly depends on your individual needs and goals.

## **What are beneficiary designations?**

Naming the person or persons who will inherit the balance of an account upon your (the account owner’s) death. The most common assets you may have designated persons to inherit upon your death are life insurance policies, annuities and retirement accounts. It is important to review these designations periodically to ensure that they align with your goals.

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## **What is probate?**

Probate is the legal process of administering your estate after you pass away. This process involves identifying and valuing your assets, paying any outstanding debts, and distributing the remaining assets to the heirs.

## **Can I avoid probate?**

Yes, there are certain estate planning strategies that can help you avoid probate, such as creating a revocable living trust, designating beneficiaries for your assets, and establishing joint ownership of property.

## **What is funding a revocable trust?**

Funding a revocable trust involves transferring ownership or title of your assets from your individual name to the trust. To do this, contact the respective financial institutions, title companies, etc. and complete the necessary paperwork provided by the entity. They may ask for a copy of your signed trust certificate. Funding your trust is a very important step in establishing your trust. If you do not change title/ownership of your assets to your revocable trust, you will not avoid probate.

## **Can I transfer my home to the trust?**

Whether you own the property or have a mortgage, you can transfer your primary residence/homestead to your revocable trust. If you have a mortgage, you will need to notify your mortgage company as there may be additional requirements such as documentation needed. You will also want to check if your mortgage has a due-on-sale clause. It is recommended that you obtain written documentation from the mortgage company that such transfer does not violate the clause or any other terms of the mortgage.

## **Are there any disadvantages to a revocable trust?**

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There are a few disadvantages to a revocable trust as there is no asset protection from creditors. Creditors have a right to collect any debts that are owed. There is no tax advantage of creating revocable trust as it is a pass-through entity, meaning income, expenses, credits and deductions pass to the grantor (person who created the trust) on their individual income tax return. In addition, whenever a major life event occurs such as birth of a child, marriage or divorce, you should update your documents, this will result in additional costs. Lastly, retitling of assets to the trust takes time on your end as you will need to contact the institutions or custodians of accounts, title companies, etc. As you continue to add assets to your estate it is recommended you title those in the name of the trust.

### **What is the difference between a revocable and irrevocable trust?**

A revocable trust can be changed or revoked by the person who created it as long as they are competent, while an irrevocable trust usually cannot be changed or revoked except in very limited circumstances and with court permission along with approval of all beneficiaries.

### **Do I need an estate plan if I don't have many assets?**

Yes, everyone can benefit from having an estate plan, regardless of the size of their estate. An estate plan can ensure that your assets are distributed according to your wishes and can also provide for your care in the event that you become incapacitated.

### **How often should I update my estate plan?**

It is recommended to review your estate plan every three to five years or after any major life event, such as marriage, divorce, or the birth of a child.

### **Can I make changes to my estate plan?**

Yes, you can make changes to your estate plan at any time. It is important to keep your estate plan up to date with any changes in your life circumstances, such as the acquisition of new assets, the birth of children, or changes in your health. Please note, making changes to your estate plan with us carries the same cost as initiating a new estate plan and will result in the creation of new plan documents which require new signatures.

### **After I download my forms, what are the next steps?**

After downloading your forms, follow the instructions to execute/finalize the documents in your package. Sign and notarize the forms and store the originals in a safe location (a safe deposit box or secure location at home) and make copies. We recommend that you provide your agent copies of your medical power of attorney and living will/advance directive in case of emergency. If you have created a revocable trust, we recommend that you make extra copies of the trust certificate as you will need to provide financial institutions, title companies, etc. this document for trust funding purposes.

### **Should I inform others that I have created an estate plan?**

Estate planning documents provide directives to the trusted persons you have named as your agent, executor, trustee, etc. By discussing your estate plan, you may eliminate confusion as to your plans and how you want things handled on your behalf, which in turn may provide peace of mind for you and those persons you have named to carry out your wishes. While your estate plan is confidential, it is important to notify the agents/individuals tasked with acting on your behalf. This list could include your accountant, lawyer, trustees, executors, anyone who holds medical/durable power of attorney on your behalf and potentially your beneficiaries.

### **What happens if I die without an estate plan (Intestacy)?**

If you die without an estate plan, your assets will be distributed according to the laws of your state (intestate), which may not align with your wishes. This can result in your assets going to unintended beneficiaries and can also lead to disputes among family members.

### **Is my information secure?**

We are serious about security and will never sell your personal information. In addition, we are SOC II Type 1 certified.