

1: Estate Planning: Wills, Trusts and Other Tools

*The Procrastinator's Guide to Wills and Estate Planning [Eric Matlin] on www.enganchecubano.com *FREE* shipping on qualifying offers. In a common-sense guide that cuts through the legal complexities, an attorney offers a step-by-step breakdown of the process of estate planning.*

Who needs a will? A will allows you to state who will inherit your assets when you pass away and to nominate a person – called an executor – to be in charge of the probate administration process upon your death. If you have minor children, a will also allows you to nominate a guardian in the event you and your spouse pass away unexpectedly. Additionally, even if you have a trust, it is still important to have a will, typically called a pour-over will, that directs any assets accidentally left out of the trust into the trust. Unless you want the State of New Hampshire to tell your family members or friends how to distribute your belongings and assets after you pass away, you need a will to outline your intended distribution plan. Even if your estate is tiny, a will maps out your express wishes with regard to how you want your things distributed. In addition, if you are a parent, a will is the document in which you name a guardian s to care for your children upon your passing. What can someone expect to occur during a meeting with an estate planning attorney? In addition, the attorney will ask questions about how the assets are titled, the value of the assets and in what form they are owned. Some attorneys have clients answer a questionnaire before the initial meeting in order to gather this kind of information. The attorney needs to know about your assets, your family and your wishes regarding distribution of those assets upon your death. In addition, the attorney needs to know whether you have friends or family who can assist you in the event that you become incapacitated, and whether those same friends or family can manage the administration of your estate or trust after you die. Once the attorney has enough information, he or she can prepare an estate plan that is designed to meet your specific wishes and needs. What documents could be included in my estate plan? Advance directives consist of durable powers of attorney for health care; living wills; and durable general powers of attorney for financial matters , while dispositive provisions consist of wills and trusts. The following information is centered mainly on dispositive provisions. What is the difference between a will and a trust, and what are the advantages of each? A major difference is that with a will, the executor will have to work with the probate court to administer your estate, whereas the trust administration process does not have to be overseen by the courts. This means wills are typically less expensive to establish, but cost more to administer, while trusts are often more expensive to establish, but less expensive to administer. Trusts can also provide more planning options than wills for people with complex estates. A will is like a ruler or straight edge – it gets your assets from point A to point B, but your assets will have to pass through the often lengthy and costly probate process to get to your intended heirs. However, a will is often times less costly than a trust. A trust is more like a rubber band or elastic – it stretches and also gets your assets from point A to point B, but in a more flexible way by bypassing the probate process. The will must go through probate in order to allow the executor of the will to pay bills, sell assets and make distributions to the will beneficiaries. A revocable trust also allows a New Hampshire resident to control who receives his or her assets after death. A revocable trust also allows a greater amount of privacy than if probate occurs, because court records regarding the terms of the will and the assets owned by the deceased individual are public records. A revocable trust is often more expensive to prepare than a will, which may lead some individuals to choose a will over a trust. What should I consider when choosing an executor or trustee? First, the company or individual being named should have a clear understanding of what the fiduciary office entails. In both roles there are many reporting, accounting, tax and other obligations that need to be taken care of. Often there are deadlines associated with these tasks and a good executor or trustee will have experience handling these important reports and filings. The fiduciary also has to be responsible and trustworthy, as these are both very important roles and involve handling of client assets and making filings such as tax returns with government authorities. You can also name co-trustees or co-executors in the event you have more than one qualified person or you have children who bring different strengths to the table. How can I best minimize estate and inheritance tax? Most people are under this limit, so a bigger focus now is

income-tax planning to make sure your beneficiaries receive a step-up in basis on the assets they inherit and therefore do not have to pay potentially large capital gains on appreciated assets. If you are over the federal exemption amount, then New Hampshire offers progressive credit shelter and asset protection trust structures which can provide additional safeguards for your assets. When and how often should I change my estate plan? However, if you leave specific dollar amounts or specific assets to named beneficiaries, and the value of your assets changes or you no longer own the specific assets listed, you need to update your estate plan. If your total asset level increases significantly, you may want to update your estate plan to avoid tax issues that did not exist when your estate was smaller. Even if your estate value does not change significantly, you should update your estate plan if other life changes occur, such as the birth, death, marriage or divorce of beneficiaries, or changes in your circle of friends and family that change who can help out if you become incapacitated or die. Even if none of these circumstances apply to you, and it has been more than five years since you had your estate plan prepared, you should review it to make sure you are still happy with the choices you made when your plan was created. For example, through concepts like virtual representation which allows certain beneficiaries to represent the interest of other beneficiaries, trustees often can resolve administrative issues such as the interpretation of ambiguous trust provisions without having to seek court involvement. New Hampshire law permits the use of non-judicial settlement agreements NJSAs to modify and clarify trusts. In addition, as of , New Hampshire trusts are generally no longer subject to state income tax. This allows the trust funds to grow more quickly because the trust assets are not depleted by payment of income tax. How is life insurance utilized as an estate planning tool? If you have family members who depend on you for support, life insurance may be an important part of your overall estate plan to provide support to your family members in your absence. Life insurance can also be a tool for payment of debts or taxes after your death, so that your beneficiaries can receive your assets debt and tax free. What are some of the potential pitfalls to drafting your own will without the assistance of an expert? In order to be valid, a will must be in writing, signed by the testator, and properly attested to and signed by two or more credible witnesses. Additionally, even if the formalities are met, it is easy to forget to include secondary beneficiaries in case the primary beneficiaries pass away before the testator or to forget to include a rest, residue, and remainder section in the event you acquire assets after signing the will, which were not otherwise provided for. The time and expense spent administering and litigating a self-drafted will almost always exceeds the money that would have been spent to consult with an attorney in the first place. This could happen for various reasons: In any event, it is wise to have an expert help you to be certain that your will is compliant with the law and able to be honored. What is your best piece of advice about wills and estate planning? First, provide your estate planning attorney with as much financial and personal information as you can, because it will help he or she to better advise you and draft documents that reflect your wishes. Finally, your estate plan may last for years to come so provide your trustee with as much flexibility as you are comfortable with to carry out your wishes. As history has shown, the world changes pretty quickly. Additionally, making sure your named executor or trustee knows your intentions and the location of your documents now in the event they need to act under your estate planning documents can be crucial. How do I get started? Committing to the idea is the most important step, and a qualified estate planning attorney will walk you through the process and help you make decisions that are right for your family. Even if you have an estate plan in place, you should review the documents to make sure they still reflect your wishes and comply with the current law. Typically, an estate plan should be reviewed and updated every years, or more often if family and financial circumstances have changed. After all, the uncertainties of life can leave your loved ones reeling, and having your estate planning document in place can often ease some of that concern for them.

2: Guide to Wills and Estate Planning

The Procrastinator's Guide to Wills and Estate Planning by Eric G. Matlin Everyone needs an estate plan-even the people who'd rather not deal with it. In The Procrastinator's Guide to Wills and Estate Planning, attorney Eric Matlin cuts through the legalese of most estate planning guides with a step-by-step breakdown of the process that can.

He can use a will, a trust or both to make his wishes known. Assets may include real estate; stocks, bonds and mutual funds; personal property; retirement accounts; and bank accounts. Even if your loved one has a small estate, he may want to create a will to ensure that his money and property are distributed according to his wishes. Otherwise, if he dies without a valid will, the state will divvy up his assets in accordance with local laws. Your loved one can divide his assets in whatever way he chooses. For instance, he might leave everything to his spouse, divide the estate equally among his children, or leave specific items to individuals or charities. Your loved one should appoint an executor, a personal representative who will carry out his wishes after his death. This person will pay taxes, pay money due to creditors and distribute the assets. In fact, he should review his will periodically to make sure that it still works for him. Probate is the legal process that determines the validity of the will and oversees distribution of assets, even if there is no will. The probate process differs by state. But it also enables the person creating the trust called the grantor to designate someone to manage his assets during his lifetime should he become incapacitated. To establish a trust, the grantor writes a trust document and transfers ownership of selected property to the trust. The grantor can appoint himself as the initial trustee so that he can manage the trust property himself. If he names himself as trustee, then he also must appoint a successor trustee to manage the trust and distribute its assets after the grantor becomes incapacitated or dies. 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. Choosing a Will, a Trust or Both A will is usually easier and less expensive to set up and maintain than a trust. It may be a better option for someone with a small estate. Yet, he may want to establish a trust for reasons such as these: To provide for management of his assets should he become incapacitated. To avoid or minimize the probate process, especially for out-of-state real estate. To provide for the long-term support and maintenance of a child or grandchild with extraordinary needs. For any property not included in a trust, your loved one may need a "pour-over" will, which details how to distribute that property. Any asset with a designated beneficiary, such as an individual retirement account, will go to that beneficiary. Your loved one should not attempt estate planning on his own. He should meet with an experienced and licensed estate-planning attorney and a tax accountant. For more on estate planning, click here.

3: Wills, Trusts, Estate Planning And Managing Assets

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The Procrastinator's Guide to Wills and Estate Planning Electronic Version Eric G. Matlin, Attorney-at-Law Originally published by the New American Library division of Penguin Group.

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