

New Year's Resolutions and Your Estate Plan

As you settle into the New Year, you may have set resolutions you hope will last. Now that you've been going to the gym for a few weeks and have cut back on holiday indulgences, it's time to consider another resolution: executing basic estate planning documents. Not having an estate plan can lead to a longer settlement process, potential confusion and disagreements among family members, as well as additional legal fees. Taking the time now to ensure your wishes are clearly documented is one of the most thoughtful and enduring gifts you can give your family. Whether your net worth is \$1,000,000 or \$100,000,000, you should take full advantage of available lifetime wealth-transfer strategies to ensure your legacy. It's critical that you have the following foundational documents in place:

Will

Your will is a formal legal document that states your final wishes and provides instruction for the ultimate distribution of your assets to beneficiaries. Instructions often include naming your executor, the person who will settle your affairs, pay off your debt, and file your final tax return; naming guardians for minor children and providing for their care and support; designating caretakers for pets; and directing the distribution of tangible personal property such as jewelry, vehicles, furnishings and collectibles to specific beneficiaries.

Revocable Trust

Sometimes called a living or *inter-vivos* trust, a revocable trust is a written document that places your personal assets into trust for your benefit while you are alive and passes them to named beneficiaries at your death. One of the benefits of a revocable trust is the avoidance of probate, a public, often costly and lengthy court proceeding in which assets are distributed by your named executor. Whereas a will is a public document, a trust is not made public upon your death, so any assets transferred via trust will remain private. Lastly, a revocable trust provides for continued management of trust assets by a named successor trustee. In the event of incapacitation or death, your successor trustee automatically steps in to ensure continued management of assets while you are living, or distribution of assets upon your death.

Durable Power of Attorney

A durable power of attorney (DPOA) appoints a trusted individual to be named as your agent with the power to act on your behalf in the event you are unable to do so yourself, including mental incapacitation. The DPOA can give your agent the power to pay your bills, access financial accounts, file your taxes, and enter into financial, legal, and real estate transactions. Absent a DPOA, a court may ultimately decide what happens to your assets if you become legally incapacitated, a decision that may not match your intent.



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Whereas a will is a public document, a trust is not made public upon your death, so any assets transferred via trust will remain private.

Health Care Proxy

A health care proxy appoints an individual, your agent, or your proxy, to make medical decisions for you when you are unable to do so yourself. Naming a proxy can help ensure that you receive the care you prefer in the event you cannot communicate your wishes. It is important to choose a trusted individual who is clear on your personal wishes regarding life-sustaining care, religious beliefs, and your preferred medical providers and health care institutions.

Living Will

A living will is a written record of the type of medical care you would want to receive in specific situations and can be used in the event you are incapacitated and unable to communicate your wishes. Such wishes may include, for example, not resuscitating you if a serious illness or injury has progressed to a certain point, forestalling certain treatments you do not wish to receive, or providing instructions regarding any specific life-sustaining treatments. If you have named a health care proxy, the living will can be a valuable tool in his or her decision-making process. Each state has different laws governing living wills and many states combine the two into one “advance directive” document. Massachusetts is one of the few states that does not recognize living wills as legally valid, but it can guide your designated health care proxy in his or her choices.

We would be happy to work with your attorney and tax professional to put any of these documents in place, or to review your current documents to ensure they properly reflect your current wishes and desires for directing your wealth to your loved ones.

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Disclosure

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