

## Background

Estate plans are important for legal, financial, and personal reasons. They allow an individual to clearly define their wishes in case they are incapacitated or die.

Estate plans can help reduce the mental and emotional burden of medical decisions, financial management and estate distribution—and avoid undesirable delays and disagreements that may unfold if there are no clear instructions.

## Basic Elements of an Estate Plan

1. **KEY INFORMATION FILE.** This document will include details for all relevant insurance, banking, credit card and investment accounts for reference if needed by an executor, trustee, or agent who must act on your behalf. Information on debts, digital assets, online accounts and personal property such as real estate, vehicles, collectibles and jewelry should also be included.
2. **WILL.** A will, or last will and testament, is a legal document that defines who will manage your estate after you die, how you want your assets and property to be distributed, and who you have selected to be named guardian for your minor children.
3. **POWER OF ATTORNEY.** This is a legal document that allows someone else to act on your behalf. There are two key types of POA: financial and health care.
4. **ADVANCE DIRECTIVE.** Also referred to as a living will, this legal document defines a person's wishes about critical medical care when they are unable to make these decisions themselves.
5. **HIPPA AUTHORIZATION.** This form allows trusted named individuals to receive your protected health care information for specified purposes. This form does NOT authorize the named individuals to make medical decisions on your behalf.
6. **TRUST.** An optional part of an Estate Plan, a trust is a legal document that will specify instructions for the management, control and distribution of your assets during your lifetime and after your death. There are many types of trusts.

## A Call to Action - Avoid These Common Estate Planning Missteps

1. The most-common mistake is the most basic: Failing to create a comprehensive Estate Plan. Only 33% of Americans have a documented Estate Plan – this percentage is even lower for people under 55 years of age.
  - **Solution:** Stop deferring this important task. If you don't know where to start, many estate attorneys offer free initial consultations to gather information on your situation, outline a relevant estate plan structure, and present the fees that will be charged to create your Estate Plan documents. A Financial Advisor can also help you understand the process for creating an Estate Plan and steer you to resources to put your plan in place.

2. Failing to name beneficiaries on insurance policies, bank accounts and retirement accounts. Beneficiary designations apply to certain assets such as retirement accounts, bank accounts, and life insurance policies. Such designations name the specific beneficiaries to receive the asset upon the death of the asset owner. Beneficiary designations are required by some companies for their products, they will typically have precedence over a Will's instructions, and they allow for a more-efficient transfer of assets than a Will, as they bypass the probate process.
  - Solution: most institutions ask for beneficiaries to be named when an account is created and offer written or online options to update your beneficiary information. Ensure that you periodically review this information for accuracy and save a copy of the designations with your other Estate Plan documents.
3. Neglecting to Update Your Estate Plan. Crafting an estate plan is not a one-time task. Life changes, including marriages, divorces, new jobs and additions to your family can alter your previously-defined intentions and estate contents.
  - Solution: Make it a habit to review your estate plan annually or any time you open/close new accounts or experience a significant life change.
4. Crafting an Incomplete Estate Plan. Establishing a will is a good start, but it only addresses certain estate planning tasks. Wills are pivotal for defining how your assets should be distributed and selecting guardians for your children after you die, yet they fall short in areas like incapacity planning, probate avoidance, and minimizing estate taxes.
  - Solution: Expand your estate plan toolkit by including a Key Information File, a power of attorney, an advance directive for medical decisions, and a HIPPA authorization form. Certain types of trusts may also be applicable based on your assets and legacy intentions.
5. Overlooking Tax Implications. Underestimating the tax consequences of estate transfers can lead to a significant portion of your legacy being reduced by estate and income taxes. With estate taxes reaching up to 40% for substantial estates, failing to strategize can be costly.
  - Solution: Integrate tax planning into your estate strategy. Working with a skilled finance or tax professional can help you navigate the evolving landscape of tax legislation and optimize your estate for tax efficiency.
6. Excluding Estate Plan Participants and Loved Ones from the Planning Process. An important, yet often overlooked or avoided, part of Estate Planning is the process of reviewing your estate plan with key participants, including Executor(s), Agent(s), Trustee(s) and Key Beneficiaries. These discussions may be as simple as noting that you have estate planning documents in order, confirming the expected role of that person in your Estate Plan, and ensuring your designated agents know how to access key information and documents in case you are incapacitated or die. Having conversations about your Estate Plan will help your loved ones better understand and respect your wishes and may also identify situations that may require adjustments in estate plan roles.

- Solution: Discuss your estate planning intentions with your key estate plan participants, informing them of where your estate plan documents are stored and their designated roles. Transparency now can prevent distress and discord later.

## Summary

While estate planning may seem daunting, the right guidance can demystify the process and secure your legacy effectively. Whether you are a novice at estate planning or revisiting an outdated estate plan, consulting with an estate attorney or financial professional may help provide clarity on the estate planning process and guidance on options to put a comprehensive estate plan in place.

## References

The articles below were referenced in preparing this information and are excellent resources to better understand this topic.

1. <https://www.legalzoom.com/articles/estate-planning-statistics>.
2. <https://www.investopedia.com/articles/personal-finance/120715/estate-taxes-who-pays-what-and-how-much.asp>. Other articles on Investopedia.com were also cited.
3. <https://www.fidelity.com/life-events/estate-planning/overview>.

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