



# Estate Planning

How to and Why Not.



What is Estate Planning and why is it important?



Removing the Mental and Practical Roadblocks



The importance of a Will: reviewing your assets, choosing an Executor and designating beneficiaries.



The Why Nots! Of having a Will



What other steps can you take? - Planning for events during life.

## Did you know how easy it is to leave a legacy that will last for generations?

- Estate Planning is “Financial, Succession, Charitable, Medical, Disability, Legacy and gift planning”
- Estate planning is a gift you give to your loved ones and to yourself. **In many ways, it is your legacy.**

## What is your Estate:

### Tangible Assets:

- House
- Real Estate
- Automobiles
- Jewelry
- Household Possessions

### Intangible Assets:

- Bank Accounts
- Annuities
- Stocks
- Bonds
- Business Interests
- Life Insurance
- Retirement Plans

## **Basic Estate Planning Documents:**

### **Distribute Estate:**

- Lasting Will and Testament
- Irrevocable Trust

### **Disability Planning:**

- Financial Power of Attorney
- Medical Power of Attorney
- Living Will

### **Provide for Children:**

- Appointment of a Guardian

### **Last Will and Testament:**

- Provides instructions for distribution of your property on death
- All assets disposed of via will must go through Probate

### **Revocable Trust:**

- Provides set of instructions to care for you and your family during your lifetime, during incapacity and after death
- All assets disposed of via Trust will not necessarily go through Probate
- A Trust must be funded with Assets

# Wills

- The person making the Will ('testator') must have **legal and mental capacity to make a Will**;
- The Will must be in **writing**;
- **Clear intention** to dispose of Property including digital assets;
- **No undue influence** or acts of Fraud; and
- Will must be **signed** by or on behalf of the testator in the presence of two witnesses and attested to by the two witnesses in the presence of the testator;
- Your **will does not have to be registered**, but it can be voluntarily lodged at the Probate Registry for safekeeping.
- **DO NOT FORGET YOUR WILL- UPDATE** when necessary

## **Living Will:**

- An expression of your wishes regarding end of life care
- A living will takes effect after you are diagnosed with terminal illness, if unconscious and/or a doctor determined you are unable to make your own care decisions

# Trusts

- Trusts are **flexible** and can specify how and when the assets pass to beneficiaries. They can be established during lifetime (inter vivos trust) or at death by inclusion in a will (testamentary trust).
- In certain circumstances a trust is a helpful planning tool. It can help plan for **incapacity** and keep certain assets **out of probate**.
- Trusts can either be set up **during your lifetime** as a separate, stand-alone entity (inter vivos trust), or included in the body of your will to be **established after death** (testamentary trust).
- In addition, you may want to use a trust as part of an **overall strategy** to minimize taxes, to have certain property managed by a professional, and to provide for minor children, elderly parents and other dependent beneficiaries. Furthermore, certain trusts can be established to **protect your assets** from future creditors.
- Trusts can provide a means to administer property according to your wishes on an ongoing basis, allowing you to **maintain a degree of control** after property is placed in the trust, even after your death.

## How Often Should I Update my Documents:

- Recent Good Fortune
- Change in Family Relationships
- Becoming a Parent/ Grandparent
- Loss of Loved Ones
- Change of Address
- Change in Health/ Need for health care or care facility
- Your children have grown up
- Desired Changes

## The Best time to plan your Estate, is NOW.

### Estate Planning Goals:

- Maintain Control Over Assets
- Avoid Probate
- Reduce Estate/Tax
- Protect Spouse & Children
- Protect Inheritance from Creditors
- Provide for Disability Planning
- Continuity for Asset Management
- Mitigate Delays
- Protect those with Addictions
- Protect those in volatile relationships

# Don't:

## Be

Be too Specific- update your will periodically, or keep it a little less specific in certain areas. For example, general descriptions of assets, such as “the car that is in my name”

## Hide

Hide your Original Will. In the age of digitization, paper is king for your Will

## Forget

Forget to account for your debts! This is equally as important as your gifts!

## Fail

Fail to appoint Guardians for your kids

## Underestimate

Underestimate those who will contest your estate



# Procrastination is the Devil

## Intestacy

- If the deceased died without a Will, there is a set legal formula for distributing assets to beneficiaries, which is called the 'rules of intestacy'. It means your loved ones may not get everything automatically, when you die.
- The Legal Personal Representative (LPR) of the deceased must distribute the estate according to these rules in keeping with an application for "Letters of Administration"
- The Role of Executor or LPR is one that involves trust, transparency, independence, strength, time, capacity and capability- Choose wisely!
- If an Executor or LPR refuses the role, the law provides procedures for beneficiaries to assume the role.

• **Is there anyone who Should Note have an Estate Plan?**

• **NO! You need an estate plan regardless of your worth or situation.**

# Do you want your last wished to be governed by archaic principles?

- **Married or in a civil relationship:** Your partner keeps all of the assets of an estate.
- **Consider your surviving children.** If you have no children, your partner will receive everything.
- **Unmarried with children:** They will inherit your whole estate on their 18th birthday.
- **Unmarried with no living relatives:** The estate passes to the State.

# Continued...

- **The rules of intestacy were written over 100 years ago, and they don't take modern families into account; For example, if you live with your partner but are not married or in a civil partnership, they would not automatically inherit any of their partner's assets.**
- **The same goes for step-children, who could also miss out on any inheritance unless you include them in a written will.**
- **But wills aren't just about ensuring your assets are distributed in the manner of your choosing, they are also a place to answer a range of important questions.**
- **Clearly laying out your wishes in a will makes things far easier for your loved ones after your death, with less stressful admin and a much lower risk of disputes over who receives what.**
- **It can also avoid them having to go through a lengthy probate process which can be both time consuming and expensive.**

# “Don’t Put your Faith in the Fairness of Others”

## Your Members, Your People

- 174 Members participated in last year’s forum and only 5 requested follow up Attorney consultations;
- There have been 273 new members during for the period October 2022 to date. YOU are the future;
- Of the 273, 116 joined through existing Members with the remaining 157 joining through member companies. How do we protect our children, our investment fund, our future!

# Other Steps You can Take:

- **Allow for flexibility in your investments**
- **Consider placing others onto your bank account/ issuing authorization notices**
- **Invest and teach your kids how to invest**
- **Give a Gift or an Equity Transfer**
- **Draft a Lasting Power of Attorney: (i) Property and Affairs, and Health and Welfare; A Property and Affairs Lasting Power of Attorney allows elected Attorneys to deal with the financial aspects of the Donor's Estate, whereas (ii) the Health and Welfare Lasting Power of Attorney allows your Attorneys to deal with your health and care decisions**

**There are steps you can consider during life:**

- **Insurance Policies**
- **Financial Literacy & Investing**
- **Make it Fun! AI and Apps for Kids to Adults.**
- **Don't fail to provide for your Pets**

# Common Questions

- Why do I need a beneficiary on my account?
- Can I assign my children (who are under the age of 18) to be my beneficiaries?
- How often should I update my beneficiary?
- What is the average time for probating a will or getting letters of administration?
- What are the general costs associated with the above?
- Can property be passed on to children during life?