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Estate Planning Basics

The Five Common Aspects of Estate Planning

What is estate planning?

Estate planning is creating a set of documents that protect your assets and explain how you want them to be distributed at your death. Some estate planning documents, such as Powers-of-Attorney, Living Will Directives, and some Trusts, are active during your lifetime.

What kind of estate planning is right for me?

Depending on your assets, family relationships, and goals, your attorney may recommend one or a combination of some of the following: Powers of Attorney, Last Will and Testament, Living Will, or Trust. Only an attorney can help decide what is right for your situation.

#1: Powers of Attorney

A Power of Attorney (POA) is a legal power you can grant someone (your “Agent”) to allow them to act on your behalf. You can authorize or not authorize them to do specific things. Our office does two types of POAs: a financial and legal one, where the Agent is able to make legal decisions on your behalf, and a health and personal one, where the Agent is able to make health care and other personal decisions for you.

Don't get it confused! A Power of Attorney is different than a Guardianship. You can have a Power of Attorney and still retain all of your rights. In the case of a Guardianship, your rights would be transferred to your Guardian. In many instances, having a POA helps people avoid Guardianship.

#2: Living Will Directives

This is an official document where you can choose to specify what type of medical care you would like to be given or withheld toward the end of your life if you are incapacitated or cannot speak for yourself.

These only go into effect if you no longer have decisional capacity, have a terminal condition, or become permanently unconscious. Our office does these for our existing clients free of charge.

#3: Trusts

Trusts can serve many purposes, depending on your goals. There are several different types of trusts, and they are not one-size-fits-all. You should consult with an attorney if you are thinking about a Trust. An attorney needs information about you, your family, finances, and goals to help you find the trust that works best for you. Some reasons people use trusts are: qualifying for Medicaid, avoiding or reducing inheritance or estate taxes, making sure a loved one (including minor or disabled beneficiaries) is provided for, providing legal protection for your assets, or avoiding Probate.

Many people go to great lengths to avoid needing their family to probate their estate. However, the probate process in Kentucky can be quite simple.

#4: Estate Settlement

There are two types of estate settlement in Kentucky. The first is a Dispense with Administration. This is a shortened process where the full administration does not take place. This is appropriate if the value of the estate is \$30,000 or less, the applicant is a surviving spouse, child, or preferred creditor of the decedent, and the estate is not involved in litigation.

The second type of estate settlement is a full estate administration. If any of the requirements for the Dispense with Administration are not met, a full probate will be required.

#5: Wills

Wills are usually the first thing that comes to a person's mind when they think about estate planning. Simply put, a Will is a legal document instructing your loved ones about what should be done with your money and property after your death. You can also appoint someone as executor of your will. This person will be in charge of making sure your assets are distributed according to your wishes.

Having a will doesn't mean your estate will not need to be probated. If you are concerned about this, you should meet with an attorney, who can give you detailed instructions on how to avoid it based on your situation.

Please note that estate planning spans many areas. The areas listed here are among the most common.

These materials are for general informational purposes only. Consult an attorney for legal advice about estate planning.

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