

HOW YOU CAN PREPARE FOR YOUR ESTATE PLANNING MEETING

While meeting with an estate planning attorney may not be on your bucket list of items to accomplish during your lifetime or among your New Year's resolutions, it is not something that you should put off until you are on your death bed. Many individuals are intimidated by the prospect of planning their estate, however, in most cases it is much easier if you come prepared.

A typical Florida estate plan consists of the following important documents: Last Will and Testament; Revocable Trust (for many individuals); Power of Attorney; Health Care Surrogate; Living Will; and Pre-Need Guardian Declaration. The Revocable Trust (if one is created), Power of Attorney, Health Care Surrogate, Living Will, and Pre-Need Guardian Declaration are all designed to operate during your lifetime and provide guidance in how your personal and financial affairs are handled during your lifetime. In contrast, the Revocable Trust and Last Will and Testament control how your property is distributed after your death.

When you meet with your estate planning attorney, they will guide you through the various choices and planning options available to you, so that your legal documents reflect your intentions. In order to make your time with your attorney most productive, the following is a list of things that you should discuss and prepare in advance of the meeting:

Create a list of your assets and liabilities. This list should include the value of your home (including mortgage), bank accounts, investment accounts, business interests, personal belongings with value (e.g., artwork or jewelry), insurance policies on your life and retirement accounts. For each asset on the list, include an estimate of its value or current balance, as well as whether you own the asset in your individual name or in joint name with another person, such as your spouse or children. This information will assist your attorney in guiding you through the planning process.

Agents During your Lifetime

Health Care Surrogate: Who will make medical decisions for you if you become incapacitated. The individual you name to serve as your health care surrogate will be empowered to make health care decisions for you, if you are unable to do so. Thought should be given to whom should be appointed for this position, along with a successor to him or her.

Power-of-Attorney: Who will take care of your financial affairs if you become incapacitated. The individual you name to serve as your power of attorney will act as your agent with regard to your financial matters during your lifetime. The power of attorney will become effective immediately after you sign it. Thought should be given to whom should be appointed for this position, along with a successor to him or her.

Living Will: End of Life Decisions. The individual you name to serve as your surrogate will act as your agent with regard to your financial matters during your lifetime. The power of attorney will become effective immediately after you sign it. Thought should be given to whom should be appointed for this position, along with a successor to him or her.

Administration Upon Your Death

Who has the ability and skill to serve as your Personal Representative(s). The individual or professional entity that you select to serve as the Personal Representative of your probate estate will be charged with settling your estate following your death. Their duties will include collecting your assets, paying debts, expenses and any taxes that may be due and then distributing the remaining estate assets to your beneficiaries. With married couples, each spouse typically names the other to serve as their personal representative. The next consideration is who or what entity will serve as their successor, if they fail to survive you or are unable to serve. You may name more than one individual to serve in this role, but under Florida law they must either be a family member or resident of the state. Most importantly, it is important that the selected individual(s) or entity are trustworthy.

Who has the ability and skill to serve as your Trustee(s). The individual or professional entity that you select to serve as the trustee of your Trust, upon your death or inability to serve, will be responsible to manage your financial affairs, while you are alive, and settling your financial affairs following your death. Similar to a Personal Representative, their duties will include collecting your assets, paying debts, expenses and any taxes that may be due and then distributing the remaining estate assets to your beneficiaries. With married couples, both spouse's typically serve as the trustees, while they are capable. The next consideration is who or what entity will serve as their successor, if they fail to survive or are unable to serve. You may name more than one individual to serve in this role, without any restrictions of family membership or resident of the state. Most importantly, it is important that the selected individual(s) or entity are trustworthy.

Items of Personal Property and to whom they should pass upon your death. Create a written document which states how you would like to dispose of your personal items (wedding ring, jewelry, automobile(s), baseball card collection, etc.) at your death, even if you do not believe they have any monetary value. Without a separate written statement, your personal items will pass to a surviving spouse or be divided equally among your children or beneficiaries. The itemized list can potentially avoid family disputes over items with sentimental but no monetary value.

Plan for Distribution of your Estate. How, to whom and in what amounts you want your remaining estate assets distributed is the next important decision you will need to consider. Your assets can be distributed to any individual (family member, friend, acquaintance, etc.) or charity you may select. The assets can be distributed outright or over an extended time period (they reach a certain age, until the beneficiary needs or wants funds, etc.). There is no wrong decision as you are free to distribute your assets as you choose.