



# More Than Just a Will: Your Guide to Estate Planning Tools

Those who are new to the world of estate planning sometimes feel overwhelmed by the many tools that are at their disposal. Many have fallen for the myth that an estate plan is just a Will and are surprised to learn that there are so many other components at play. The truth is that a good estate plan rarely ever consists of just a Will alone. That's why we created this guide to the many estate planning tools you can use to take charge of your future.

## **Last Will and Testament**

The Last Will and Testament is a document in which you express your wishes about how and to whom your assets will be distributed after your death and who shall be responsible for distributing those assets. You can also use a Will to express your wishes regarding the guardianship of your minor children. While it's a mistake to believe that a Will is the only estate planning tool you will need to use, it is true that this document is the backbone of your estate plan, and an excellent place to start.

In your Will, you will name a Personal Representative (also known as an Executor), whose responsibility it will be to oversee the administration of your estate. This person will perform many important duties including collecting your assets, paying any debts or expenses of the estate and any taxes that may be owed and finally, distributing your assets as provided in the Will. You can choose a family member or friend, or even your CPA or a bank, but make sure you discuss it with the person before making your decision.

Without a Will, you leave the distribution of your property in the hands of the probate court, who will follow intestate law to pass your estate to your closest (by their definition) living relatives. If you have minor children with no surviving parent, it will be up to a judge to decide who will become the guardian of your children.

It is possible to create a Will yourself, but we don't recommend it. The form Wills that you find online might not be valid in every state. Wills that aren't prepared by an attorney are more likely to be challenged. Not to mention the fact that, as we mentioned, a Will will almost certainly not be the only planning document you need, and an attorney can help you determine what documents should go along with your Will.

### **Revocable Living Trusts**

A trust is a legal and financial vehicle into which you can transfer your assets during your lifetime while you continue to manage them. Most people name themselves as the initial trustee in charge of managing the assets and this allows you to maintain control of your assets during your lifetime. Unlike a Will, assets held in a living trust do not go through probate which can save time and money and also provide privacy with respect to your financial affairs. A living trust also contains provisions for management of your trust assets by a successor trustee should you become incapacitated or unable to serve.

There are many other types of trusts including basic revocable and irrevocable trusts as well as special needs trusts, charitable trusts, gun trusts, spendthrift trusts, asset protection trusts, and more. Which one is appropriate for you will depend on your individual circumstances and needs. You may need to utilize more than one kind of trust.

### **Durable Power of Attorney**

Good estate planning doesn't just make arrangements for after your death. It also involves planning for what would happen if you were incapacitated, whether it be slowly like through dementia or suddenly like enduring an accident that leaves you in a coma. While these aren't pleasant possibilities to think about, it is wise to consider them in your plan!

A durable power of attorney is a document through which you can grant another person the power to act as your agent on your behalf while you are still alive. The person you choose to be your agent in the event that you become incapacitated, either temporarily or permanently, will be able to handle your financial affairs for you. It can be a huge relief to know that if anything happens to you, someone you trust will be making the decisions and performing necessary tasks with respect to your financial affairs.

### **Health Care Power of Attorney and Living Will**

A health care power of attorney allows you to designate who you would want to make decisions about your health care in the event that you are unable to make those decisions because you are incapacitated, either temporarily or permanently. In that document you will be able to express your desires concerning organ donation, life-sustaining treatment in the event that you have a condition that is incurable or irreversible, and tube feeding to prolong your life.

### **Who can help me make use of these estate planning tools?**

Now that you have learned about the most important estate planning tools at your disposal, it's time to put them to use. An experienced estate planning attorney can help you make a plan that is perfectly suited to your values, your finances, your family, and your needs. The Charleston Estate Planning Law Firm team is here to help. If you have questions about the estate planning tools listed above or any that weren't listed, we encourage you to reach out. You should also contact us to set up a free consultation if you're ready to dive into your estate planning journey. We can't wait to hear from you!