

A Basic Estate Plan

A Basic Estate Plan includes four documents and accomplishes several important things. It includes a revocable or living trust and for each person; a pour over will, a durable power of attorney for asset management and an advance health care directive. These four documents will ensure that you and your family will be protected in case of an illness, accident, disability or death.

1. A Revocable or “Living” Trust is used to avoid the cost and delay of probate by including provisions regarding disposition of your assets, thereby allowing the trustee to distribute the trust assets without the supervision of a probate court. A Revocable Trust has detailed provisions naming initial and alternate trustees to distribute assets on your death; hold, invest and manage trust assets for an extended period of time for minors or disabled beneficiaries and specific terms to reduce estate taxes to a minimum.

Since these trusts are revocable, can be revoked or amended at any time, they are very flexible documents. Special terms to cover a variety of needs, restrictions, special gifts, distributions and contingencies can be entered in the document and provide protection for you and your beneficiaries.

Community Property and Separate Property retains its character even after it is placed in the trust, that is, community property remains community and separate property remains separate. The terms of the trust ensure that only the owner of the separate property may withdraw that property from the trust or amend the terms of the trust with regards to that separate property.

Grantor Trust is another quality of the revocable trust, that is, even after assets are put in the trust they are still held under your social security number. All income and deductions received from or paid for the trust assets will still be reported by you on your individual income tax returns. Since the trust is a revocable grantor trust it does not need to file its own income tax returns.

2. Pour Over Wills are required for each person and provide that all assets “pour over” into the Trust, even those that were not formally placed in the Trust during the person’s lifetime. If you don’t have a pour over will with the proper terms any assets that are not formally placed in the trust during your lifetime may go to unwanted beneficiaries. Our will even includes a provision that if the trust is determined to be invalid for any reason that your assets will go to a trust with substantially the same terms as your existing trust, that is, you’re covered in case a judge voids any portion of your trust document for any reason. A major feature of your will may be designation of guardians for your children.

3. Durable Power of Attorney for Asset Management is a document that protects you and your family in case you become disabled. You could experience a disability at any time due to a car accident, fire or any number of unforeseen events. A durable power of attorney will enable your spouse or designated agent to act on your behalf with regards to many of your affairs.

Primarily it allows your agent or “attorney in fact” to pay bills, sign documents, buy, sell or rent property, transfer funds, borrow money and take other action on your behalf. It can give as many or as few powers as you want. It can be for as long or as little time as you want. Usually it doesn’t take effect until you are disabled. Our power of attorney has detailed descriptions of when you will be considered disabled, who may decide and what proof is needed. It also describes what happens if you regain capacity or overcome your disability.

4. Advance Health Care Directive is one of your most important documents giving someone the power to make life and death decisions about your medical treatment. This only takes effect if you become unable to make these decisions for yourself. Our advance health care directive has descriptions of when you will be considered unable to make these decisions, who may decide and what proof is needed. It also includes terms about organ donation, burial or cremation, living arrangements, pet care provisions and more that are not included in standard institutional forms. The Advance Health Care Directive also allows

your health care providers to disclose your confidential medical information to your designated agent. Without this document your health care provider would otherwise be prohibited from disclosing such information.

Any One of These Documents Alone Will Not Provide the Complete Protection You and Your Family Need. Call us to discuss your options!