

---

# Estate Planning Essentials

---



# Estate Planning Essentials

---

## Introduction

Estate planning is a critical process that ensures wealth and assets are managed and distributed according to an individual's wishes while managing financial and healthcare affairs in the event of incapacity.

## The essential estate planning documents

Most comprehensive estate plans include the following documents:

1. Last will and testament (LW&T)
2. Revocable living trust (RLT)
3. Durable financial power of attorney (DPOA)
4. Health care power of attorney (HCPOA)
5. Living will (Advanced Directive)
6. Health Insurance Portability and Accountability Act Authorization (HIPAA)

## Estate planning essentials

It is critically important to have essential estate planning documents in place regardless of age, health, or wealth status. Having estate planning documents in place protects wealth by potentially shielding assets from creditors and lawsuits; reducing potential family disputes; and ensuring wealth distributes according to desires after death, providing peace of mind. It also preserves wealth with the minimization of taxes and avoidance of unnecessary court involvement, which limits administrative costs and maintains privacy. If no estate plan is in place, state law decides the disposition of wealth, which may lead to distributions to unwanted beneficiaries.

If an individual becomes incapacitated and does not have a durable power of attorney for finances in place or a health care power of attorney in place, a loved one may be forced to petition the court to be appointed as guardian or conservator in order to gain the authority they need to care for that individual.

---

## Last will and testament

A last will and testament is a legal document that names an executor to manage an estate upon death. The executor can be an individual; a professional executor, such as an attorney or accountant; or a corporate executor, such as a bank or trust company. A will provides the executor with directions as to how assets held in an individual's name distribute upon their death. Wills provide flexibility and can be revoked or amended at any time up until incapacity or death. A will also provides the ability to name a guardian for minor children. If an individual dies without a will (dying intestate), state law will decide who will inherit wealth.

It is important to note that wills do have limitations. A will only takes effect after death. Each state has its own rules as to what constitutes a valid will. A will also does not avoid probate. Probate can be time consuming and delays asset distribution to beneficiaries. It can also be costly, due to court fees and attorney fees. Probate is public record, so it provides little privacy.

## Revocable living trusts

When a revocable living trust is established, an individual transfers ownership of specific assets from themselves to a trustee to be administered for beneficiaries. The individual must transfer the title of assets into the name of the trust for the assets to be distributed according to the trust terms. It is a valuable document that provides protection from lawsuits and creditors and is difficult to contest. It also provides the creator of the trust control of his or her assets after death. A revocable living trust is flexible, allowing the creator of the trust to amend or revoke it at any time prior to incapacity or death.

Upon death, the trustee does not need court approval to distribute the trust assets to the named beneficiaries. This allows for much quicker and more seamless distributions. One of the most significant benefits of a revocable living trust is that it avoids probate, which reduces time and both legal and court costs while maintaining privacy. A trust is more expensive to set up than a will and requires the retitling of assets to fund the trust. There may also be higher fees to manage the trust, and creditor claims may take longer to resolve.

# Estate Planning Essentials

---

## Durable financial power of attorney

An individual designates another individual to manage financial and legal affairs in the event of incapacity. This can include paying bills, filing tax returns, handling investment decisions, and managing accounts. Trust powers can be broad or limited, and the creator can specify when it becomes effective. The durable financial power of attorney ends upon death. Without this in place, an individual might have to go to court to get another individual appointed to handle bills and to make legal decisions on their behalf. It can be difficult to revoke. It creates significant challenges if an agent is acting improperly. There is limited oversight and less court supervision, so the agent must be chosen carefully.

## Health care power of attorney

An individual names another individual to make healthcare decisions on their behalf due to incapacity. A health care power of attorney only goes into effect when the individual no longer has the capacity to make decisions regarding medical care. The individual provides guidance on their medical preferences in the event of medical treatment.

If no health care power of attorney is in place, a conservator will need to be appointed by the court to make medical decisions on the individual's behalf. Much like the durable financial power of attorney, the health care power of attorney has the potential to be abused due to less court oversight. It is limited in scope and only covers medical decisions and not legal or financial decisions.

## Living will

This is a legal document in which an individual informs medical professionals of their wishes for end-of-life care or other critical medical treatments if they are unable to communicate, in a terminal condition, or are permanently unconscious. It guides the medical team and healthcare agent as to what the individual's wishes are. Conflicts can be avoided if the individual has clear instructions. A living will typically encompasses CPR, ventilator use, artificial nutrition, and end-of-life comfort care. It is important to note that a living will applies to end-of-life situations and does not cover broader medical decisions or incapacity scenarios, so it is narrow in scope.

## Health Insurance Portability and Accountability Act Authorization

This is an authorization form that allows an individual's healthcare agent and others they designate to access protected medical information without delay. This allows medical agents to make the most informed decisions about an individual's medical care. There is potential misuse if the authorization is not carefully limited. It can also expose sensitive and personal health information to multiple parties.

## Importance of beneficiary designations

Some financial accounts, such as individual retirement accounts, 401(k) plans, and insurance policies, ask individuals to name beneficiaries. It is important to designate a beneficiary in order to avoid probate and ensure that assets get transferred to the intended recipients. Proper designations can help minimize taxes as well as provide for a quicker transfer of assets. Designations are critically important, because designations override the will. Designations must be kept up to date.

## When to review an estate plan

Ensuring an estate plan is up-to-date is vital. It is recommended that an estate plan be reviewed every three years or in the case of a major life event, such as birth, death, marriage, divorce, adoption, or relocation to another state. In the event of a sale or acquisition of a significant asset such as business or real estate, an estate plan should be revisited. If there is a major change in tax laws, it would be prudent to review the estate plan to ensure that it is designed as intended and is structured in a way that minimizes taxes.

# Estate Planning Essentials

## Case study: The importance of estate planning

**Background:** Laura is a successful entrepreneur with a blended family: two minor children from a previous marriage (Daniel and Cara), her current spouse Steven, and Steven's child, Jennifer. Laura owns a business (LLC), multiple real estate properties, retirement accounts, life insurance, art and jewelry collections, and significant digital assets (cryptocurrency, online accounts).

### Laura had the following in place:

#### Revocable living trust

Most assets titled in the trust, avoiding probate and ensuring quick distribution.

#### Will

Covers assets outside the trust, names guardians for minors, and allocates sentimental items such as tangible personal property (art and jewelry).

#### Durable financial power of attorney

Allows Steven to manage finances during incapacity.

#### Health care power of attorney and living will

Ensures medical decisions are aligned with Laura's wishes.

#### Beneficiary designations

Retirement accounts and life insurance paid directly to named beneficiaries.

#### Buy-sell agreement

Enables smooth business transition and liquidity.

#### Digital asset plan

Allows access to cryptocurrency and online accounts.

#### Tax planning

Minimizes income taxes.

### If Laura had no plan:

- All assets go through probate, causing delays in distributions to beneficiaries and public exposure.
- State law determines guardianship for minors, possibly against Laura's wishes.
- Family disputes arise over property and business interests.
- Outdated beneficiary designations send assets to unintended recipients.
- Business collapses without a buy-sell agreement.
- Digital assets become inaccessible.
- Higher taxes reduce inheritance.

## Comparison of no estate planning vs. comprehensive estate planning in Laura's case study

### Estate planning outcomes: Side-by-side comparison

Category	No estate planning	Comprehensive estate planning
Total estate value	\$5,000,000	\$5,000,000
Probate costs	\$200,000 (4% of estate)	\$0
Estate tax	\$0 (below federal exemption)	\$0 (tax planning minimizes taxes)
Distribution time	12 months (probate delays)	2 months (trust/beneficiary)
Misdirected assets	\$1,000,000 (20% misdirected)	\$0
Business outcome	Risk of collapse, delays	Smooth transition, liquidity
Digital assets	Often inaccessible	Accessible via digital asset plan
Beneficiary designations	Outdated, assets to wrong parties	Up to date, assets to intended parties
Privacy	Public probate records	Private trust administration

# Estate Planning Essentials

---

## Best practices

- Begin by assessing your financial situation and goals, and gather all relevant documents such as property deeds, insurance policies, and retirement accounts.
- Specify asset distribution and guardianship for minors, ensuring your will is legally valid and compliant with state law.
- Consider revocable or irrevocable trusts for asset protection, as trusts can help avoid probate and reduce taxes.
- Designate a trustworthy and competent individual to handle financial and legal matters if you become incapacitated, and prepare both a living will and a medical power of attorney.
- Communicate your wishes clearly to family and healthcare providers and regularly review insurance policies and retirement accounts to ensure designations align with your overall plan.
- Consult with a tax advisor to help minimize estate and inheritance taxes.
- Consider gifting strategies and charitable contributions.
- Revisit your plan every three years or after major life changes, ensuring all documents remain legally valid and reflect your wishes.

## Common mistakes

Many people procrastinate and delay planning or fail to involve family and trusted advisors early in the process. Failing to update the will after major life events, using generic templates without legal advice, and not funding the trust properly are frequent errors. Ongoing management requirements are often ignored, and some individuals do not specify clear limits and responsibilities for those involved. Failing to update documents after relationship changes, leaving directives vague or incomplete, and not reviewing them periodically can lead to unintended consequences.

People sometimes forget to update after marriage, divorce, or the birth of children or grandchildren, and they mistakenly assume the will overrides beneficiary designations. Ignoring tax implications of large gifts, not planning for state-specific tax laws, and assuming a one-time setup is sufficient are other common pitfalls. Finally, failing to communicate updates to relevant parties can undermine the effectiveness of the estate plan.

## Key takeaways

Everyone benefits from coordinated estate planning regardless of wealth, health, or age. Trusts, wills, powers of attorney, and beneficiary designations must work together. Trusts and wills are complimentary, and just because an individual has one does not necessarily mean that they should not have the other.

Proper estate planning is beyond just creating estate planning documents. Individuals must be proactive in retitling assets in the name of the trust in order for assets to pass according to the trust. Accounts that allow beneficiary designations should have named beneficiaries. Business assets and digital assets require specialized planning.

It is also critically important to update estate plans during major life changes or significant changes in the law. Be sure to keep all important documents in a safe place with a list of assets and locations.

## Conclusion

Estate planning is not just for the wealthy; it is essential for anyone who wants to protect their assets, minimize taxes, and ensure their wishes are honored. Regular updates and coordination among documents are key to a successful plan.

For more information, [please contact your advisor.](#)

This article is part of the Planning Strategy Series, a foundational series exploring topics of particular significance to sophisticated investors and professional advisors. The Planning Strategy Series is produced by the Key Wealth Institute, a team of highly experienced professionals representing multiple disciplines within wealth management who are dedicated to delivering expert analysis, strategic advice, and timely insights to help you understand the forces impacting your wealth so that you can better navigate your financial journey.



---

The Key Wealth Institute is comprised of financial professionals representing KeyBank National Association (KeyBank) and certain affiliates, such as [Key Investment Services LLC \(KIS\)](#) and KeyCorp Insurance Agency USA Inc. (KIA).

Any opinions, projections, or recommendations contained herein are subject to change without notice, are those of the individual author(s), and may not necessarily represent the views of KeyBank or any of its subsidiaries or affiliates.

This material presented is for informational purposes only and is not intended to be an offer, recommendation, or solicitation to purchase or sell any security or product or to employ a specific investment or tax planning strategy.

KeyBank, nor its subsidiaries or affiliates, represent, warrant or guarantee that this material is accurate, complete or suitable for any purpose or any investor and it should not be used as a basis for investment or tax planning decisions. It is not to be relied upon or used in substitution for the exercise of independent judgment. It should not be construed as individual tax, legal or financial advice.

Non-Deposit products are:

**NOT FDIC INSURED • NOT BANK GUARANTEED • MAY LOSE VALUE • NOT A DEPOSIT • NOT INSURED BY ANY FEDERAL OR STATE GOVERNMENT AGENCY**