

The Foundations of

# ESTATE PLANNING



versant  
CAPITAL MANAGEMENT



Estate planning can be tricky, and it can be challenging to understand what you need to have in place to ensure that your estate is properly planned and will be administered correctly. We've compiled this short guide to help you understand the estate planning process.

Estate planning is a unique journey for each individual or family, involving the intellectual and administrative task of organizing one's affairs. The objectives of estate planning are as diverse as the people who undertake it.

Such objectives usually include:

- Assuring financial stability for a family in the event of the death or incapacity of a primary provider.
- Maximizing the value of assets transferred to future generations by minimizing taxes and costly administrative burdens.
- Providing significant financial support to worthy charitable organizations.
- Authorizing trusted individuals and entities to make decisions on one's behalf in the event of death or incapacity.

# What is Estate Planning?

Endeavoring to accomplish this task usually results in receiving a binder of documents from an estate planning attorney.

However, misunderstanding the purpose of each document in that binder often leads to confusion, or worse yet, to a plan that ultimately fails in accomplishing its initial objectives.

To curtail such confusion and failure, here is a summary of the most common documents found in an estate planning binder:

LAST WILL & TESTAMENT

REVOCABLE TRUST

DURABLE POWER OF  
ATTORNEY - PROPERTY

DURABLE POWER OF  
ATTORNEY - HEALTHCARE

LIVING WILL

ASSET TRANSFERS

BENEFICIARY DESIGNATIONS

## LAST WILL & TESTAMENT

The law allows you to direct a few major decisions in the management of your estate when you die, and the last will is the tool the law provides you with to do that. Simply put, you can choose (a) who is authorized to make decisions on behalf of the estate (“personal representative” in Arizona and Texas, and “executor” in some other states); (b) who is guardian of your minor children, if any; and (c) who gets your stuff (“devisee”).

### Common Misunderstanding

Many people mistakenly believe that having a last will is all they need to avoid probate. This is untrue. Admission of the last will is one of the primary functions of the probate process.

## LIVING WILL

The living will, sometimes confused with the last will, provides specific instructions to medical professionals treating you regarding the types of life-sustaining treatment you do or don't want to be applied to you in situations where you are unable to make that decision for yourself.



## REVOCABLE TRUST

A trust is a legal agreement through which a “trustee” holds assets for a “beneficiary.” A revocable trust is a trust that can be changed by the person (or persons) who created the trust (“settlor,” grantor,” and “trustor” are synonymous terms used to refer to the creator of the trust). Such a trust can be used to avoid the burdensome probate process by establishing terms by which a nominated successor trustee holds, administers, and distributes the settlor's assets upon death.

### Common Misunderstanding

Many people mistakenly believe that a reason for not creating a revocable trust is because the net worth of their assets is not great enough to cause problems. In Arizona, if your personal property is worth over \$75,000 or your real property is worth over \$100,000, your estate must go through probate without proper planning.

In Texas, if your estate's assets in total, personal and real property, are worth over \$75,000, not including homestead property, your estate must go through probate.

## ASSET TRANSFERS

If you have created a revocable trust, it is important to make sure your assets are transferred to the trust to avoid probate and be subject to the terms of the trust in the event of your death or incapacity. The process of transferring your assets to your trust is usually called “funding” your trust. Sometimes, the best-drafted revocable trust agreements fail to accomplish their primary objectives because they were never properly funded.

## DURABLE POWER OF ATTORNEY - PROPERTY

In addition to planning for death, estate planning should also plan for incapacity. Who do you want to be authorized to pay your bills and make decisions about your property and finances if you cannot make those decisions yourself due to incapacity? A durable power of attorney is the tool the law provides you with to make such a nomination.

### Common Misunderstanding

Many people mistakenly believe that a durable power of attorney allows a nominated agent to manage or transfer a person's assets after death. This is untrue. The authority granted under a valid durable power of attorney expires at the death of the principal.

From investment portfolio strategies to private wealth management, tax and estate planning, liquidity and exit planning, trust services, philanthropic planning, family governance, and lifestyle concierge services, Versant Capital Management is here to provide comprehensive support for your unique situation.

## DURABLE POWER OF ATTORNEY - HEALTHCARE

Like the durable power of attorney for property described above, the law allows you to nominate someone to make medical decisions for you if you cannot make them for yourself by executing a health care power of attorney. Further, a properly drafted health care power of attorney ensures that your agent can access your private health information to make informed decisions.

## BENEFICIARY DESIGNATIONS

Some assets, like individual retirement accounts (IRA), cannot be transferred to your revocable trust. That is why effective estate planning should include reviewing and possibly revising the beneficiary designation forms provided by the institutions administering those assets. It is crucial to note that a beneficiary designation form usually trumps any validly executed last will or revocable trust. Furthermore, any change to such beneficiary designation may have significant income tax consequences, so it is essential to hire trusted professionals, including estate planning attorneys, CPAs, and investment advisors, to assist with your estate planning.

2394 E. Camelback Rd.  
Suite 100  
Phoenix, AZ 85016  
(602) 635-3760

3838 Oak Lawn Ave.  
Suite 900  
Dallas, TX 75219  
(972) 634-0980



[versantcm.com](http://versantcm.com)