



# Estate Planning Basics

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## **P** LANNING:

Should be part of everything we do—even a part of dying. How will you preserve your assets for your heirs? How will you distribute assets according to your wishes? Who will make final medical decisions in the event of your incapacity? By taking steps in advance, you have greater say in how these questions are answered.

## **W** ILLS:

Just about everyone needs a will. Besides enabling you to determine the distribution of your property, a will gives the opportunity to nominate your executor and the guardians of your minor children. If you fail to make such designations through your will, the decision will probably be left to the courts. Property distributed through your will is subject to probate which can be time consuming and may incur additional expenses.

## **D** URABLE POWER OF ATTORNEY FOR FINANCES:

Incapacity poses a great threat to your financial well-being. A durable power of attorney is a legal agreement that avoids the need for court conservatorship and enables you to designate who will make your legal and financial decisions if you become incapacitated. Unlike a “standard” power of attorney, “durable powers” remain valid if you become incapacitated.

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## **L** IVING WILL:

A living will is also known as a “Directive to Physicians.” It spells out the kind of life-sustaining treatment you will permit in the event of your incapacity. A living will may be used in conjunction with a health care proxy (see next bullet). Caution: state laws governing the recognition of living wills vary from state to state.

## **H** EALTH CARE PROXY:

A health care proxy (Durable Health Care Power of Attorney) allows you to designate someone to make your health care decisions for you if you are incapacitated. Utmost care should be exercised when giving someone the authority to make these very important medical decisions.

## **T** RUSTS:

A trust allows you to customize the distribution of your estate with the added advantage of property management and probate avoidance. A trust must be designed to meet the specific family’s goals and objectives—a trust that is appropriate for one person may be unnecessary or even detrimental for another person. There are literally dozens of different types of trusts, each with different purposes.

All trusts are either testamentary (the trust is created under a person’s will and begins to function only after that person’s death) or lifetime trusts (the trust is created by an agreement during the person’s lifetime). All lifetime trusts are either revocable, meaning they can be revoked or amended during a person’s lifetime, or irrevocable.

A popular type of revocable trust is commonly known as a “living trust.” There are many features and person specific provisions that are included in a living trust. A living trust is an agreement between the Grantor (the person setting up the trust) and the Trustee. The Grantor normally names himself as Trustee and appoints a Successor Trustee to serve upon the Grantor’s disability or death. Some advantages of a living trust are:

- Assets in a living trust avoid probate.
- A living trust helps avoid a contested will and facilitates orderly management of the Grantor’s affairs.
- A living trust avoids multiple estate proceedings if the Grantor of the trust owns real estate in more than one state (an issue that often applies to merchant seaman).

Estate planning is normally not high on one’s priority list, but we never know what the future holds for us. I strongly recommend taking the needed steps to assure that your legacy is NOT an estate planning disaster.

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