

# estate planning



*Understanding the  
process and importance of  
having an Estate Plan*



## Begin by taking this simple quiz – it will help you determine if an Estate Plan is for YOU!

### Yes or No Answers

1. I would like to leave instructions regarding what decisions to make in the event I become incapacitated due to an accident or terminal illness.
2. I would like to name someone as my Power-of-Attorney over my finances if I become incapacitated and unable to make decisions on my own. Don't know what a power of attorney means? According to legal definitions a Power of Attorney is a written authorization whereby you are authorizing someone to represent or act on your behalf in private affairs, business, or some other legal matter.
3. I have a child/children.
4. I have a special needs child/children or adult disabled child/children.
5. I want to determine who gets whatever I leave when I die whether it be money, real estate or "stuff".
6. I want to know that my family or significant others are taken care of in the manner I choose after I die.
7. I want to leave something to one or more charities when I die.
8. I want to leave a positive "Legacy."
9. I want to maximize the value of the estate I leave behind.

If you answered YES to any of the above questions – you should definitely consider having a comprehensive Estate Plan!

# UNDERSTANDING ESTATE PLANNING

Estate Planning will enable you to make decisions regarding guardianship over any minor children or adult disabled children you may have. Estate Planning will also give you a peace of mind in knowing that you have removed a huge burden of stress that would face your family and loved ones at some point in time in your life. You can be comfortable in knowing that your desires can be carried out in a timely and efficient manner.

Estate Planning is for the living healthy individual and family. Your life will most likely be filled with changes and therefore you need to understand that your Estate Plan is an ongoing lifelong process. As your life situations change, you need to make changes and update your plan as necessary to keep pace with your current life and the choices that go along with it.

Bottom line, Estate Planning is a life-long process that involves:

- Making important decisions.
- Who gets what assets and when?
- What are your end-of-life choices?
- What legacy do you want to leave?
- Who do you want as your Trustee?
- If necessary, who will become the Guardian of your children?
- Who will make decisions for you?
- Deciding financial matters in advance
- Medical issues.
- End-of-life issues.
- Organizing important information relative to your life.
- Keeping your plan current.
- Funding your trust and keeping it current relative to changes in your estate.



## UNDERSTANDING ESTATE PLANNING

## ESTATE PLANNING IS NOT ONE SIZE FITS ALL AT THE MINIMAL YOU SHOULD HAVE....

An up-to-date Last Will and Testament or Revocable Living Trust are very important documents that should be considered “must haves” for everyone. Keep in mind that a Will generally means it will have to go through the expense and time delays of Probate Court. Further, a Will is a “wish document” meaning that different than a Revocable Living Trust, it can be altered through the Probate Court proceedings based on the decisions of the presiding judge. The Will only takes effect at the time of death, whereas a Revocable Living Trust is designed to provide certain benefits to an individual or couple during their lifetime.

The following are included in a Comprehensive Estate Plan.

1. Revocable Living Trust
  - a. Naming of a Trustee for the Revocable Living Trust
  - b. A Living Will that states your Advanced Medical Directives
  - c. Naming of a Guardian for your minor child/children and/or adult disabled child/children
  - d. Instructions for burial / cremation and other end of life details
2. A Durable Power of Attorney – one that “kicks in” and becomes valid if you become incapacitated. Here are the different powers of attorney you should have.
  - a. Power of Attorney over financial matters
  - b. Power of Attorney over medical matters – including HIPAA authorization
3. Current and/or updated beneficiary designation forms for matters such as:
  - a. Life Insurance
  - b. 401(k) and other retirement accounts
  - c. Other relevant assets
4. Specific Bequests - The designees for who you want to get “what” and when they are to receive it.

**Note** – Even if you are single, with no children and no assets – having a Living Will makes certain that your wishes regarding end-of-life care are followed. A Durable Power of Attorney over your health will make certain that someone, not the Court System, can act on your behalf if necessary.

## SOUND LOGIC for HAVING an ESTATE PLAN

**To support a Charity or Special Cause** – If you want to make certain that a charity you support receives the financial support you want it to receive after your death, you can do so in two primary ways. First, by making a bequest in your Will. Keep in mind, a Will is a “wish” document and not a contract therefore it can be subject to Probate Court. Probate can take time, make changes in the wishes of your Will and it can bare legal costs. Second, by establishing a Revocable Living Trust and naming the charity as a beneficiary. With the Revocable Living Trust, you take Probate Court out of the picture meaning your intentions are carried out quickly.

**Provide financial support for your surviving family and friends** – A Comprehensive Estate Plan can provide you an efficient, timely manner for providing financial support for members of your family and any friends you choose as beneficiaries.

**Make sure your wishes / desires are carried out** – The only way you can be certain that your wishes – (regarding such things as distribution of your assets, guardianship of your children, end-of-life care) is to have a Comprehensive Estate Plan.

**Distribute assets in a timely, efficient manner** – Having a Comprehensive Estate Plan can avoid Probate Court meaning that your assets can be distributed in a timelier and less costly manner. Otherwise, closing an estate can take months or even years not to mention the expense, grief and stress that goes along with the process.

**Minimize costs** – A Comprehensive Estate Plan can avoid the costs of Probate Court and other legal costs.

**Make access to cash faster than having to wait for a Probate Court to finalize the distribution of your assets including money.** Many times assets have to be pledged, sold or otherwise liquidated in order to meet immediate costs. Consider this, if you own a business or have real estate that you do not want your beneficiaries to have to sell in order to cover expenses then you should consider having a Comprehensive Estate Plan including a Revocable Living Trust.

**Minimize stress and related problems for your family** – Your Estate Plan can help make certain that your family members have the financial resources available to

**Protect privacy** – Probate is public – so if your privacy is important – then you should consider a Comprehensive Estate Plan to avoid Probate Court and your information being subject to becoming a part of the public domain. In today's digital world with the Internet, information relative to someone's passing becomes public and can be accessible via the Internet. One of the fastest growing identity thefts is that of “beyond the grave”. Professionals operating in all corners of the world surf the Internet 24/7 to access information about people whose information is made known publically. Information can be accessed in many ways including a simple obituary about someone's passing. The thieves can often times find information including assets that could possibly be stolen from the deceased's estate by copying the person's identity. With the concern over identity protection becoming more prominent every day, we now have to be concerned not only about our identity while we are alive but also when we pass.

**Minimize confusion on the part of survivors** – An Estate Plan can make clear your wishes and desires regarding dispersal of assets, who you want making decisions regarding those assets and if necessary your financial matters in the event you become incapacitated. Other matters of concern include the guardianship of minor children and adult disabled children as well as the medical care you want need as you approach an end of life scenario.

**Protect your loved ones** – A Estate Plan can help protect those you name as beneficiaries from creditors and unnecessary expenses including Probate Court and other legal expenses.

**Avoiding Probate**– If you do not have an Estate Plan, your estate may be subject to excessive court costs and other fees and delays while your life and everything about you becomes a matter of public record, open for the world to see. Protection in case of your incapacity – If you were to become incompetent and/or incapacitated and unable to manage your financial and other personal affairs, not having Power of Attorneys over these matters can lead to the judicial system having to make those decisions on your behalf. Having a Comprehensive Estate Plan with these important documents can avert your estate from being subject to these legal processes and expenses.

**Remove the stress -associated with not having your personal and financial affairs in order** - With no plan in place, you may be leaving your family and loved ones the challenge of having to make “tough” choices including end-of-life decisions not to mention the loss of time and costs of settling your estate.

**Leave a positive “Legacy”** – How do you want to be remembered? Your Comprehensive Estate Plan will make going on with life so much easier for your family and loved ones. Family members are known to talk about their loss, although in grieve, with positive words regarding how much they appreciate what their loved one did to insure their life was organized and thought out to the end. You may also want to consider doing a video of your life story as a positive reminder to those you leave behind.

**Protect loved one from themselves** – If there are family members having problems i.e, credit, drug or alcohol related issues, a Comprehensive Estate Plan can help them deal with the issues. For instance, the successor trustee can be instructed to hold inheritance until such time as the issues are either solved or go away. The successor trustee's assistance can include providing maintenance and support for whatever help that might be needed.

**Protection from creditors**– Having a Revocable Living Trust may prevent creditors from laying claim to a beneficiary's inheritance.

**Business planning**– If you own a business you want to make certain that you have a well thought-out plan for transferring that asset – whether that involves the sale of the business or having family members take over.

**Naming someone to manage the estate** – Having a Comprehensive Estate Plan allows you to name the Trustee as well as a Successor Trustee who is the person that will manage your estate. In addition, you can name an individual that will manage your financial matters in case you become incompetent or incapacitated by giving them a Durable Power of Attorney. Lastly, you can name someone to carry out your end-of-life desires through a Advanced Healthcare Medical Directive, another important part of comprehensive estate planning.

**Guardianship for your minor children**– Without a plan, the court will decide who will become their guardian. An Estate Plan allows you to name the guardian of your choice. This is an important decision to be discussed in some detail later in this booklet. Note that if you establish a Trust for your children the guardian and trustee do not have to be the same person.

**Special needs children** – If you have a child with special needs your Revocable Living Trust enables you to make certain that the child/children are properly cared for in the manner you choose. You are also able to appoint a guardian otherwise the court will do so.

**Taking care of a pet** – You can include a pet or pets in your Trust appointing someone as their care taker and leave an amount of money to insure they are cared for.

**Dealing with blended families** – If your family is a blend of multiple marriages and you don't have an estate plan, you are leaving everything to “chance” as to how your children will be cared for. With an Estate Plan, you determine what goes to your current spouse and to the children, whether from the current marriage or prior marriage or marriages.

**Keeping assets in the family** – A Revocable Living Trust enables you to make certain that your assets including any real estate, businesses, personal possessions etc., pass onto the people of your choosing including grandchildren.

**Retirement accounts properly handled** - An up-to-date Estate Plan will make certain that funds from retirement accounts are used to reflect your current desires.

**Assets in multiple states** – If you have assets in more than one state, it may be necessary to go through Probate in each state's jurisdiction. By having a Comprehensive Estate Plan this expense and ensuing time delay can be avoided.

**Dying without a will** – The worst case scenario. Dying without at least a Will means you risk putting the presiding judge over Probate court in a position to make decisions about how your estate is settled which may not be in the manner you would have preferred.



## REASONS PEOPLE GIVE for NOT DOING an ESTATEPLAN

**Don't have enough assets** – Go back to the short quiz at the beginning of this booklet and see how you scored and the answer to this question should be automatic. The small investment you will make to get your Estate Plan in place will be well worth the benefits your family, friends and you derive from the results of having a well thought out plan. If your still not convinced that you should have an Estate Plan, in the least you should have a Will, an Advanced Health Care Directive, and Durable Powers of Attorney.

**Costs too much** – Yes, there are costs involved in doing an Estate Plan. The costs however should be considered an investment since not having an Estate Plan will likely cost your estate much more in addition to the potential costs of Probate court and the likely delay in getting funds to your family. Need I remind you about keeping your life private? How about the stress and grief left for someone else to straighten out when you haven't planned ahead? Getting your Estate Plan is an investment for peace of mind.

**Takes too long**– Doing an Estate Plan takes some time. But if you don't have an Estate Plan the consequences will be far more painful for your family and loved ones than the small amount of time you invest to get your estate planned out.

**Privacy**– This is a legitimate concern especially in the digital world we live in today where privacy is a major concern when it comes to someone's identity. Having a comprehensive Estate Plan assures you that your personal matters as related to your estate remain private and secure versus not having a Trust subjects your estate to Probate Court meaning everything about your life can become a matter of public record.

**Have family issues I don't want to deal with**– Estate planning can be most difficult if you have problems with your children or other family members. This can be exacerbated if there are multiple marriages and families. However, not planning is most likely to lead to even worst problems – not just after your death but if you should ever become incompetent or incapacitated, whatever problems and/or issues you have will only intensify. This is a time when the “pain” of doing the plan is much less than the “pain” of not getting your plan in place.

**I don't want to talk about money** – with anyone – The lack of communication within a family can be most destructive. Further, it may leave your heirs incapable of managing your estate – or even capable, knowing how, to take care of ordinary, everyday expenses. Find a way to communicate with your family – everyone will benefit.

**Have issues with giving my children money** – If you have concerns about leaving assets to your children either because you feel they will not be able to manage them or because they have life-style issues that are not according to what you desire for them, then having a Revocable Living Trust, a key component to a comprehensive Estate Plan, will enable you to choose how, when and under what conditions you require to be met in order for the child/children to receive anything from your estate.

**I'm single and with no children or any assets** – OK – but it is still most useful to have a Living Will with Advanced Medical Directives regarding end-of-life decisions, a Durable Power of Attorney and instructions regarding how you want your end of life to be handled.

**Not dying any time soon**– Right ... death does not need a plan – it will happen when it will – ready or not – death is a scary topic – but better to be prepared than not. There's one sure guarantee in life and that is you will die and when is simply a matter of chance.



## CHOICES

Establishing an Estate Plan involves making a number of important and often difficult decisions. The key ones include:

- Who gets what assets and when?
- Guardianship of your minor and/or adult disabled child/children.
- End of life decisions – your Advanced Healthcare Medical Directive detailing how you want your end of life to be handled.
- Naming who you want to serve as your “Power of Attorney.”
- Naming a Trustee and Successor Trustee.
- Legacy – how do you want to be remembered?

### **Asset Distribution**

Who gets what assets and when can be difficult and emotional decisions for anyone to make. It can be a struggle to determine what is best and fair according to your desires.

Here are some points to consider as you go through this process. If you still can't decide perhaps consulting with a family counselor or advisor will help you through this process.

1. Equal is not necessarily fair. Take into account what you wish to accomplish by leaving something to someone.
2. In leaving possessions, will the person want them? Care about them? Here's some advice, talk with your family members to get some idea as to what they might like. In this process, you may find that it is best to have your possessions sold and the funds distributed in the manner in which you choose.
3. If you own a business, consider having a succession plan for how you want your business to be handled.

### **Guardianship**

Naming the person or persons that will become the guardian of your child/children is a very serious matter. This is the person who will have responsibility for raising your child – for teaching them – and helping them grow up to become the person you would have wanted them to become. Note that if you do not make a decision, the

matter can be left up to the judicial system to appoint a guardian on your behalf.

Factors to consider in making your choice:

1. The age of your child/children
2. Any special needs the child/children may have
3. The age of the potential guardian – will they most likely be physically and emotionally capable of taking care of the child/children? And keep in mind that this can change – grandparents young enough today may be too old in 10 or 12 years.
4. Will the potential guardian have the financial means to provide for your children – is there a way for you to make sure they do?
5. What is the emotional relationship of your children to the potential guardian?
6. If your children are old enough – perhaps you can see what they would want in the event something were to happen to you.
7. How disruptive would the move be? Same neighborhood? Different city/state?
8. If a family member will be named as guardian – how well do your children relate to that family member? The last thing anyone wants is for sets of parents or siblings fighting over your children.

If they are old enough, talk with your children as well as the potential guardian and any other family members or friends who might have thought they would be named as the guardian. If the time comes, you want your children in a situation that minimizes stress and works for the betterment of your child/children.

Note that if you are leaving money for the care of your children – it is not necessary and in fact may not be advisable that the guardian also be the trustee for the children's beneficial interest in your Trust. Someone who makes a good “parent” may not necessarily be the best trustee. Making the guardian and your trustee different people can provide added protection to insure that your children receive what you intended for them to receive. Through your Revocable Living Trust, you can decide how and when your guardian is to receive proceeds from your estate in order to care for your child/children.

### **Advanced Healthcare Medical Directive**

End of life decisions – deciding what efforts and procedures are done in order to prolong your life in case you become incapacitated can be a daunting task for any family member or friend when put in the position of having to make end of life decisions on your behalf. Here are some advantages of having an Advanced

## Healthcare Directive.

1. You make the decision while you are of a sound mind. It's called advanced planning since you are capable of deciding for yourself. It doesn't make sense to put someone else in a position of having to make those type decisions on your behalf when it isn't necessary. All you have to do is complete an Advanced Healthcare Medical Directive stating clearly what your desires are and you are “good to go”.
2. You also can appoint someone to make medical decisions on your behalf.

It is best to discuss the Advanced Healthcare Medical Directive with your family before completing the questionnaire. If you aren't clear on what making these type decisions mean, discuss it with your physician.

### **Power of Attorney**

The person to whom you assign your “Power of Attorney” to needs to be:

1. Trustworthy – honest
2. Capable and willing to fulfill their responsibilities under the “Power of Attorney”
3. Always best for this person to be close by in the same geographic location as you.

### **Selecting a Trustee**

The Trustee that you select to manage your estate needs to be:

- ✓ Trustworthy – honest
- ✓ Reliable – will carry out your directives
- ✓ Knowledgeable – especially if money management will be involved
- ✓ Willing to put in the effort required to fulfil their obligation as your Trustee

Before selecting someone as your Trustee, make certain they are willing to accept the responsibilities that go along with this position – make sure they understand so nothing will come as a surprise when they are called upon to assume this position. It is also advisable to name someone as your Successor Trustee in case the person originally named as your Trustee cannot carry out their duties or dies.

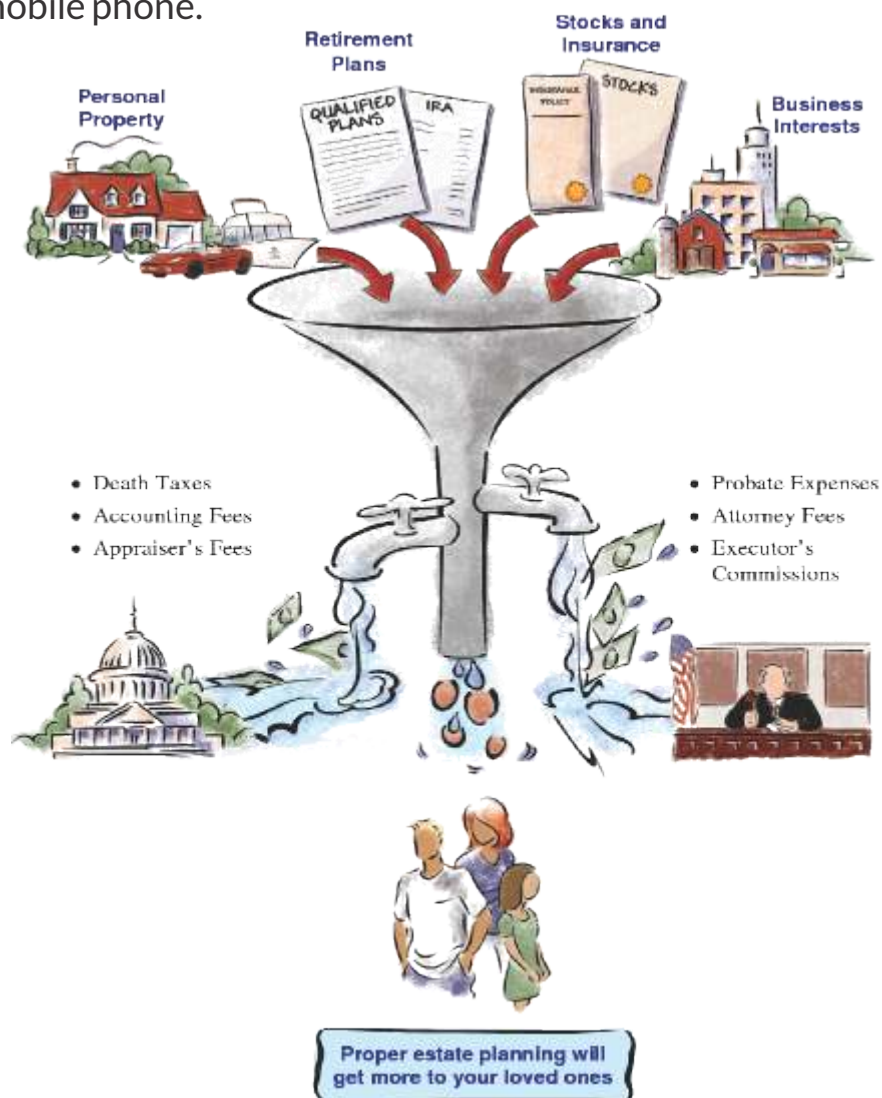
Further, if the Trust you have established has a potentially long life span you may want to consider naming a corporate entity as your Trustee. Banks and other financial

institutions provide these types of professional services.

## Legacy

What do you want to be remembered for? How do you want to be remembered? How you plan your estate as to who gets what, when and how is part of what will make up your legacy. In the event you choose to leave some form of support for charitable organizations or other non-profits, you can rest assured that doing so forms a type of legacy for who you were as a person and how you viewed what you wanted your life to mean for others benefit. Also, carefully planning out your end of life desires can impart life lessons to your children or other family members as well as friends. Believe it or not, what you want your legacy to be, is essentially all up to you and the choices you make while living.

One more thing, you may want to consider producing a video about what your life has meant to you along with what you would like to be most remembered for. Simple video production can be easily accomplished with the resources we have today, including a mobile phone.



## GATHERING INFORMATION

The forms that follow will assist you in gathering and organizing the information you need to complete your Estate Plan.

### FINANCIAL ACCOUNTS

(Use for Bank & Brokerage Accounts)

Name of Bank /Company	Name of A/c	A/c No.	Contact Information	User Name	Password	PIN	Value / Basis



## REAL ESTATE ASSETS

Description	Location	Property Number	How Titled	Mortgage Information	Insurance Company	Value	Basis





## PERSONAL PROPERTY

(Your stuff with significant monetary or sentimental value)

Description	Location	Value	Basis	Leave to



## VEHICLES

Make	Model	Year	VIN	State Registration Number	Insurance Company	Value	Loan



## INSURANCE POLICIES

Type of Policy	Company	Policy No.	Agent Information	Value	Beneficiary Information



## CREDIT CARDS

Name of Bank /Company	Name of A/c	A/c No.	Contact Information	User Name	Password	PIN	Search Q+A



**ACCOUNT INFORMATION**  
(Utilities, Bills, etc...)

Name of Bank /Company	Name of A/c	A/c No.	Contact Information	User Name	Password	Search Q+A



## SOCIAL MEDIA

Site	User Name	Password	"Secret" Question & Answer

### TIME TO GET STARTED!

Once you have made your decisions and gathered the necessary information – it is time to put together your Estate Plan. Advanced planning will give you a peace of mind that money cannot buy!

## GLOSSARY

**Beneficiary** – a person or entity (charity) that receives distributions from an estate.

**Blended Family** – exists when there are children from more than one set of parents – whether in or out of wedlock

**Business Succession Plan** – establishes who and under what circumstances the control and ownership of your business is transferred

**Estate** – the assets owned by an individual at their death – also assets in a trust

**Estate Planning** – is the process of arranging for the transfer of a person's estate during their lifetime. Usually done to avoid probate and minimize taxes, while maximizing the estate's value. The ultimate goal is to achieve the goals and wishes of the individual.

**Estate Taxes** – are the taxes to be paid by an estate, both federal and state. Calculated upon the net fair market value of the estate, subject to an exemption and differing rates. Contact your CPA for complete information.

**Executor** – the person, or entity, named in a Will to administer the decedent's estate.

**Fiduciary** – is a person, or an entity, who performs special acts for the benefit of another.

**Guardian** – an individual, or entity, named or appointed by the court to represent the interests of minor children or adults with special needs. Also, can have responsibility for making “parental” decisions for the same.

**Living Will** – is a document that clearly states one's desires to be allowed to die naturally if unconscious from a terminal illness or accident.

**Advanced Healthcare Medical Directive** – states what you want done, in terms of medical treatment, for a terminal illness or as a result of an accident if unconscious. It also names the person who can make those decisions for you.

**Power of Attorney** – a written authorization whereby you are authorizing someone to represent or act on your behalf in private affairs, business, or some other legal matter.

**Probate** – is the process of proving that a Will is genuine and then distributing the assets. Done by a court.

**Trust** – is an entity involving the transfer or holding of assets to one person for the benefit of another. It is formed by the following relationships (1) the trustor creates the trust; (2) a trustee that holds and manages the trust and (3) the beneficiary or beneficiaries who benefit from the trust.

**Trustee** – the person or entity that serves as the fiduciary of a trust.

**Trustor** – the person who creates a trust.

**Will** – is a document in which a person states how their property should be distributed after their death.



# Understanding Estate Planning



[www.myfeduniversity.com](http://www.myfeduniversity.com)

3733 National Drive, Suite 123 -B

Raleigh, NC 27612

Info@MyFedUniversity.com 800-570-1852

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