



A Beginner's Guide to Estate Planning

All adults who either have people who depend on them or are in a position in their life where they have even modest assets should have an estate plan in place. For those who are earlier in their careers, this may just be a simple Last Will and Testament. For those who are further along in life, it will involve other estate planning tools like legal trusts.

Unfortunately, millions of people in America fail to go through this process, which often leads to major difficulties in their lives and the lives of their loved ones. If you don't have an estate plan in place, or you have one that hasn't been updated in years, you will want to learn more about this important legal tool and take action right away.

Understanding an Estate Plan

An estate plan is essentially a legal document, or series of legal documents, that are used to determine what happens to your estate in the future. The following are some of the key things that a good estate plan should accomplish:

- **Distribution of Assets** – When you pass away, your estate plan will identify who gets what from your estate.
- **Decisions if Incapacitated** – In the event that you become unable to manage your own estate (either temporarily or permanently) the estate plan will determine who makes decisions on your behalf.
- **Identifies Your Wishes** – You can include instructions on things like where you want to be buried, who you want to care for your children, and much more in an estate plan.
- **Manage Taxes** – An estate plan can be used to help minimize taxes you or your loved ones must pay.
- **Maintain Control of Assets** – An estate plan can be used to help control your assets even after you have passed away.

To get started with any estate plan, one must be familiar with the two most common types of estate planning documents, which are Wills and Trusts.

Is a Last Will & Testament Sufficient?

A Last Will and Testament, or simply a Will, is the first and most basic form of estate planning. Virtually every adult, regardless of their situation, should at least have a basic Will in place. For young adults and those with a very modest estate, a Will may be the only estate planning document that is needed at the time. Even for those with significant assets, however, a Will should still be an important part of an overall estate plan.

Unlike Trusts and many other legal documents, a Will does not take effect until you pass away. Once you die, however, it goes into effect and must be followed by the courts and your loved ones. While there are ways for loved ones (and others) to contest a Will, the courts will generally only violate what is written in the Will if it is clear that there was some type of problem when it was written, which is quite rare.

When a Will is created, it will provide instructions about what you want to happen upon your death. In it you can include details such as:

- **Care for Children** – If you have minor children, a Will can name a legal guardian.
- **Distribution of Assets** – You can include who you want to receive your assets after you pass away.
- **Executor of Estate** – The Will can identify who you want to manage your estate until the formal estate administration process is complete and everything is distributed to your beneficiaries.
- **Final Wishes** – You can include things like where you want to be buried, what type of funeral you want, and other details. (Note that while you can make your wishes known, there are some desires that may not be legally enforceable).

What Is a Legal Trust?

A legal trust is another common estate planning document, and actually comes in many different types. Legal trusts are entities that can “own” property and other assets on behalf of another party. For example, one could put a vacation home into a legal trust, which would then be the

owner. The trust could then be managed by one or more people (called the trustees), who can make decisions about the property in question.

When it comes to estate planning, legal Trusts offer a variety of advantages over a Will. To start, you will maintain control over the assets within the Trust and can make adjustments to it as needed. When you pass away, the Trust can continue and provide instructions on how your assets will be managed going forward. In the example of the vacation property, your Trust may continue to own the property after your death and provide each of your children a right to use it. You can identify someone (often a child) to serve as your Trustee after your death; that person will be responsible for following your instructions and maintaining the property so long as it remains in the Trust.

There are different types of legal Trusts available to meet your specific goals. The following are some of the most common types of legal trust:

- **Revocable Living Trust** - The main draw of this type of trust is that it can be modified by you and you maintain full control over your assets during your lifetime. If you become incapacitated the trust can continue to provide for your needs. After your death the trust can continue to provide for the needs of your children or other beneficiaries without surrendering full control of your assets until your children are old enough to properly manage the assets themselves.
- **Special Needs Trust** – If you have a child with special needs, this type of trust will allow you to have your estate managed by a third party on behalf of your child. This will ensure your child has what they need throughout their life, but that they don't have to worry about the day to day worries of your estate.

- **Charitable Giving Trust** – Many people want to give some of their estate to a charity but want to make sure it is used properly. A charitable trust will allow you to specify which charity will get your assets, and how they can be used. For example, you could give money to a hospital with the instructions that it is to be used only to pay for treatment for low-income families, and not for research.
- **Firearms Trust** – If you own any type of firearm, you can place it into a trust. This will allow you to pass the firearm on to a loved one, even if they don't yet have the legal right to own it. This can help to ensure your firearms remain in the family, and your loved ones don't face legal risk upon your death.

There are many other types of legal trusts ranging from quite simple to very complex. As you progress through your life, and your estate grows, you will almost certainly need to have legal trusts as part of your overall estate plan.

Whether you just need a simple Will, or you require complex legal trusts, Norton Pelt's estate planning attorneys will be able to help you every step of the way. Please contact us to schedule an appointment to get this important process started.