



## What is Estate Planning

Estate planning is the process of considering all alternatives regarding:

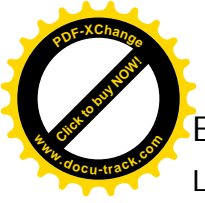
How your assets will be managed for the benefit of loved one after your death.

To whom those assets will pass and then legally establishing arrangements that will meet your objectives if something happens to you or those you care about.

Estate planning typically minimizes potential estate taxes and fees, establishes contingency plans if you are incapacitated, itemizes how you want your property distributed when you die as well as provide for the care of your minor or disabled children.

You should have an estate plan if:

1. You have property that you care about.
2. You are the parent of a minor or disabled child.



## Estate Planning:

### Living Trusts

A Living Trust is one aspect of what is commonly referred to as Estate Planning.

A Revocable Living Trust is a document which outlines in detail exactly who you desire to receive your entire estate at the time of your death.

The advantage of a revocable living trust is that you can avoid the cost of probate proceedings, with no adverse effects to you or your estate. The costs of probate proceedings can be thousands of dollars.

If you decide to create a revocable living trust it is often a good idea to also have a "Will", a Durable Power of Attorney, and a Health Care Power of Attorney.

Drafting a Will with your Living Trust, also known as a "Pour Over Will" allows you to include in your Living Trust, assets which for some reason you left out of your Revocable Living Trust at the time it was created or you acquired after its creation.

One of the reasons revocable Living Trusts are so popular is that you can cancel your living trust at any time.



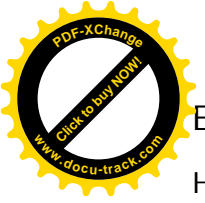
A Durable Power of Attorney allows you to appoint a trusted person to act as your financial manager, in your place, if the need arises in the future.

A Health Care Power of Attorney allows you to appoint a trusted individual to make medical decisions, according to your wishes, on your behalf when you are no longer able to do so.

A very effective yet simple estate plan, is to have drafted at the same time the following documents: Revocable Living Trust, A Pour Over Will, a Durable Power of Attorney and a Health Care Power of Attorney. Often times these are all the documents you will need to protect your assets.

*We here at the Law Office of Dennis M. Schuster are able to assist you in the creation of all your estate documents.*





## Estate Planning FAQ:

How can an estate plan help me?

Estate Planning allows you to designate the recipient of your assets upon your death. It can serve as a vehicle in which a guardian for minor children is selected. It allows for greater control over your assets, who gets them and in what manner, after your death.

What is a probate?

A probate is the legal process of administering the estate of a decedent who dies without a will, a living trust or who has not created a living trust.

What is a Will?

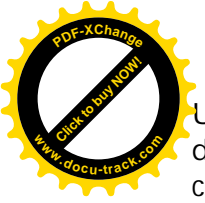
A will is a written document directing how your assets are to be disposed at the time of your death.

What is a Trust?

A trust is a legal document that allows you to dispose of your assets without the time and expense of a probate proceeding.

Can I appoint one of my children as the Trustee (Manager) for my Living Trust?

You can appoint one of your children as the trustee of your living trust.



Usually you remain the trustee during your lifetime and your children take over at your death. You cannot name a minor child as a trustee.

Can a Living Trust be contested like a Will?

Usually not. A living trust contains language that makes it almost impossible to contest, even by an heir.

Does transferring property into a living trust cause a reappraisal of the property so that property taxes are raised?

Absolutely Not! Revenue and Taxation Code 62 specifically states that a transfer into a Revocable Living Trust does not cause a reappraisal or revaluation of the property for tax purposes.

Do I have to file a special tax return for a living trust?

No you continue to file a personal 1040 tax return as you always have, using your social security number. A living trust being revocable does not need a tax identification number and does not file a tax return on its own.

How does a Living Trust avoid Probate?

Property you transfer into a living trust before your death doesn't go through probate.





The successor trustee, the person you appoint to handle the trust after your death, simply transfers ownership to the beneficiaries you name in the trust. In many cases, the whole process takes only a few weeks, and there are no lawyer or court fees to pay. When all of the property has been transferred to the beneficiaries, the living trust ceases to exist.

Is a living trust document ever made public?

A will becomes a matter of public record when it is submitted to a probate court, as do all the other documents associated with a probate. The living trust and its contents have no need to be made public.

Can I sell assets or add assets to my Trust?

You can sell assets and add new assets to your trust. You can do anything you want with your property while it is in the trust. You retain complete control over your assets and you can terminate your trust any time you choose without notification to your beneficiaries. The only exception to this is if you create an irrevocable trust which cannot be altered or changed after its creation.





Information to gather for your Estate Planning:

*Personal/Family Data*

Name: \_\_\_\_\_

Spouse: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

E-Mail: \_\_\_\_\_

*Your Children*

1. Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Spouses Name: \_\_\_\_\_

*Children of this Child:*

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

2. Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Spouses Name: \_\_\_\_\_

*Children of this Child:*

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_



3. Name: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_  
 Spouses Name: \_\_\_\_\_

*Children of this Child:*

Name: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_  
 Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_

**Choice of Fiduciaries**

Personal Representative  
 Relationship to you:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Guardian of Minor

Children: Relationship to  
 you: (for the Living Trust  
 or Will)

1. \_\_\_\_\_
2. \_\_\_\_\_

Agent under a General  
 Power of Attorney (for  
 financial purposes):

Relationship to you: (for  
 the Power of Attorney)

1. \_\_\_\_\_
2. \_\_\_\_\_





Agent under a Health  
 Care Power of Attorney:  
 Relationship to you:  
 (for the Health Care  
 Directive)

1. \_\_\_\_\_
2. \_\_\_\_\_

Memorial Arrangements

1. Funeral Arrangements:  
 "Burial" "Cremation"
2. Are you an Organ  
 Donor?  
 "Yes " "No"

Special funeral, burial,  
 memorial service or other  
 provisions that you would  
 like to include in your  
 Will: \_\_\_\_\_  
 \_\_\_\_\_

Assets and Liabilities  
 —*approximate*

ASSETS:

Cash \_\_\_\_\_

Investments \_\_\_\_\_  
 \_\_\_\_\_

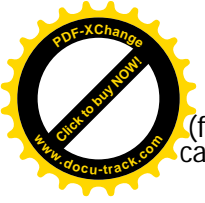
Real Property:

Residence \_\_\_\_\_  
 \_\_\_\_\_

Vacation \_\_\_\_\_

Investment \_\_\_\_\_  
 \_\_\_\_\_

Personal Property: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



(furniture, jewelry, collections,  
cars, etc.)



Notes Receivable \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Retirement Accounts \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Life Insurance (face value)  
\_\_\_\_\_  
\_\_\_\_\_

Small Business (i.e., family)

Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LIABILITIES:

Mortgages  
\_\_\_\_\_  
\_\_\_\_\_

Credit Cards  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bank Loans  
\_\_\_\_\_  
\_\_\_\_\_

Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## Definitions:

### Grantor:

An eligible person who grants or gives property or the right of property in the establishment of a trust and transfers his or her property to it. Also called a Settlor.

### Beneficiary:

Individual, agency, association, branch, corporation, estate, group, partnership, or other entity or organization having legal rights and responsibilities separate from those of other entities and/or of its owners or members which can serve in the role of beneficiary.

### Agent Under a General Power of Attorney:

A person named by you to manage your financial affairs pursuant to the terms and conditions set forth in a written power of attorney, without court intervention, should you ever become disabled.

If married, often the spouse is named as the first agent. Usually family members are identified as successor agents.



Agent Under a Health Care Power of Attorney:  
A person named by you to make health care decisions for you if you cannot do so yourself. If married, the spouse is normally named, with family members as successor agents.

Personal Representative\_ (Executor):

The person identified in your Will to manage your estate through the probate process. If married, the first choice is usually the surviving spouse. However you are free to name any adult to probate your estate.

Trustee:

A person or institution appointed to hold and manage property put into trust by that person, and to make distributions of the trust property.