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The Importance of Estate Planning

by Shivon Patel, Esq.

Many people spend more time vacation planning than estate planning. But without a comprehensive estate plan, a significant portion of the assets you worked hard for throughout your life can be lost, or given to unintended beneficiaries. A common misconception is that estate planning is only for the very wealthy. But anyone can benefit from proper estate planning.

Regardless of the size of your estate, it's very important to understand the basics of estate planning. Without proper estate planning, your estate will be subject to probate, and in some situations your assets may go to the state.

Probate is a court proceeding that distributes your assets after your death. If you don't have a will, or you have only a will, probate will most likely be required. Probate proceedings are extremely costly—the costs are usually paid out of your estate—and your assets can be tied up in court for years. Probate proceedings also provide an opportunity for someone to contest your will.

One of the most effective ways to avoid probate is to create a trust as part of your estate plan. A trust is an agreement between the person who creates the trust (the grantor—you) and the person designated to manage the trust assets (the trustee). The trustee manages the trust assets for the benefit of the beneficiaries. Trust assets can include your house, bank accounts, investments and more.

A revocable trust, often called a living trust, is a trust that can exist during the grantor's lifetime. You can change or revoke a revocable trust during your lifetime. And since you're named as a trustee, you can continue to control and use the trust assets. You can add or remove assets from the trust, and you can change the trustee and beneficiaries. The person you name as the trust's "successor trustee" takes over at your death or incapacity, and holds or distributes the assets according to the terms of the trust agreement.

An estate plan should also include advanced directives such as a Durable Power of Attorney, a Designation of Healthcare Surrogate, and a Living Will. It's never too early to establish a comprehensive estate plan to protect your assets, and ensure your family's financial well-being.

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Shivon Patel is an attorney with The Principal Law Firm. Her practice areas include estate planning, business law and real estate law.

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