

What to Know Before Meeting with An Estate Planning Attorney

**Define your estate planning goals
and objectives early to save
both time and money.**

Presented to you by:



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“What’s So Important About Having an Estate Plan?”

Having a comprehensive estate plan in place can help you **feel more confident about the future and that your loved ones will be taken care of**. It can help you achieve a variety of goals and objectives, including:

- Providing support and financial stability for your spouse.
- Preserving assets for future generations.
- Supporting a favorite charity or other worthy cause.
- Ensuring all of your assets, including those that pass by beneficiary designation (e.g., retirement accounts and life insurance policies), will be distributed according to your wishes.
- Minimizing taxes and expenses.
- Ensuring that individuals you choose can make decisions on your behalf in the event of your incapacity.

“What Should I Expect From the Estate Planning Process?”

It’s important to work with an experienced, qualified attorney, who will help you to avoid potential pitfalls as you create a plan that works for you. The creation of an Estate Plan typically involves:

1. Identifying your goals and setting a direction for your plan.
2. Evaluate your assets to establish the approximate worth.
3. Signing and filing all necessary documents recording those assets and your desires.

Your estate includes everything you own or anything you could have an interest in, including investments, such as individual stocks, bonds, and mutual funds; retirement accounts; your home and other real estate; business interests; and personal property. It also encompasses assets that you may not typically think of, such as life insurance policies, certain annuities, certain trusts, and joint accounts you own with your spouse or with someone else.

If you don’t make an estate plan, expect delays, legal issues and tax complications as your assets go through the state’s system. If you die without a will, you die intestate. Your estate is then distributed according to the intestate laws of the state in which you resided. These laws typically are designed to reflect what most people want to happen, such as caring for immediate family. However, there’s no guarantee that the distribution of your assets will reflect your personal wishes.

“What Questions Should I Be Prepared to Answer?”

Here are the most important questions you will need to answer yourself:

- Are you concerned about whether your heirs have the ability to manage or protect your wealth?
- Do any of your family members have special needs?
- Whom do you want to leave your financial assets to?
- Are there specific assets you'd like to give to specific individuals?
- Are you concerned about trying to protect assets from a divorced spouse or a beneficiary's future creditors?
- If your beneficiaries are different ages, are you concerned about the timing of distributions to them (e.g., second marriage situations, beneficiaries of varying generations)?
- Do any potential beneficiaries have specific needs that you'd like to meet?
- Do you need succession planning for a family business?
- Do you expect a significant change in your assets, such as an inheritance?
- Do you have an interest in any trusts?

Many factors can influence the design of a comprehensive estate plan, and your own plan should be customized to achieve your personal goals and objectives.

“What Taxes Will Apply to My Estate?”

There are three distinct but related federal transfer taxes: estate tax, gift tax, and generation-skipping transfer (GST) tax. All of these taxes could have an impact on the amount passing to your beneficiaries, depending on the value of your estate.

Also keep in mind that there may be additional estate and/or inheritance taxes on the state level.

While trusts (a legal arrangement through which assets are held for a beneficiary) are often used as part of a plan to minimize or eliminate transfer taxes, there are also other reasons, unrelated to taxes, to establish a trust while you're alive or to create one upon your death. Because the circumstances for you and your beneficiaries are unique, it's important to discuss whether a trust is appropriate for your estate plan.

As an attorney and CPA, Carl Miller's goal is to help you transfer as much of your property with as little taxation as possible.

“What Documents Will Be Drafted & Signed?”

No estate plan is complete without having the following documents prepared:

Durable power of attorney (POA) is a simple way to arrange for someone else (an agent) to handle your financial affairs if you are no longer willing or able to do so. You should check with your financial institutions for their specific requirements for use of an attorney-drafted POA. Many have their own authorizations for the accounts at the financial institution.

Power of attorney for health care (health care surrogate designation/health care proxy) enables a trusted family member or friend to make decisions about your medical care if you're unable to do so. It's advisable to discuss the type of care you'd want with this individual ahead of time.

Privacy waivers (privacy releases) ensure that your health care agents will have access to the information and documents necessary to represent you in health care matters. Many health care powers of attorney include this privacy waiver. Check with your medical provider because many have their own version of a privacy waiver.

Living will (advanced medical directive) provides instructions to your physician on the types of life-sustaining treatment you do or don't want if you're unable to communicate those decisions yourself.

Special note about young adults:

Remember that in most states, once a child reaches age 18, he or she is considered an adult. As a result, you may not have access to information, such as his or her health care details, that you otherwise would have had when your child was a minor. Therefore, you may want your adult child to meet with an estate planning attorney to determine whether he or she should have any of these additional documents, specifically the health care power of attorney and living will.

“What Happens After Signing?”

Once you have your estate plan in place, you may think you're done. But it's important to begin preparing your beneficiaries by helping them understand what will happen after you pass away, and what they should expect when they inherit your assets.

Organize your belongings and documents, and write a Letter of Instruction, detailing where to find your assets and any debts. You may choose to share this information with your beneficiaries and include any directions or preferences regarding your funeral and burial. At the very least, make sure everything is filed with your attorney, and make sure the beneficiaries know how to contact them.

By starting to prepare your beneficiaries now, you can help ensure that your family's transition will be more seamless, while also minimizing the emotional impact of your death on your family.