

# 7 Benefits Of Estate Planning: Wills & Power of Attorney



## Do you really need a complete Estate Plan? Even Establishing a Power of Attorney?

Is it really necessary to have an estate plan and power of attorney to protect your assets? 100% absolutely, at least, for the vast majority of Americans.

What are the benefits of preparing [estate planning](#) documents for you and your family? Why is it necessary for you to hire a legal expert who specializes in Estate Planning?

Keep reading to discover the answers.

### Defining “Estate Plan”

What is an estate plan and how does it work exactly?

An Estate Plan is a set of official documents that provides legal protection for a person’s assets and clearly describes how the assets are to be distributed after they’re gone.

### The Principal Documents of the Estate Plan

- A Last Will and Testament (your Will)
- A Living Trust (your Trust)
- A Power of Attorney for Health Care
- A Financial Power of Attorney
- A Living Will

## Who needs an Estate Plan?

American law applies to every American. You either fulfill the legal requirements in exchange for full protection, or you leave yourself exposed.

Are you an American who wants to know the benefits of creating an estate plan?

**Generally speaking, an estate plan is for everyone.** However, there are circumstances where getting an estate plan may not be high on your list of priorities.

A person may not be ready for an estate plan if he or she currently:

- Has assets valued less than \$10,000
- Does not own property
- Does not have family

## Why should I get an Estate Plan?

### Avoid Probate

Ever had a fun experience at the DMV? Imagine putting your family through something similar, only worse, as your estate is being handled.

Most people employ the services of an estate planning attorney simply to avoid the nightmares of probate. You don't need to understand what probate means to know that you don't want your estate to end up there.

The bottom line, going through probate means a judge decides how to distribute your estate, and that a huge chunk of your estate disappears in costs, taxes, and fees. It also means your loved ones may have to wait months, even years to receive their inheritance.

### Tax Reduction

Nobody likes losing money, which is why you make changes to stop the leakage when you find out you're losing money.

There are great tax benefits to be enjoyed when your estate plan is in order and lots of estate planning techniques that can be employed to reduce income and estate taxes.

### Avoiding Complications

Most people hire estate planning attorneys after witnessing the resultant mess occasioned by a

relative passing on without a proper estate plan. By taking care of your estate, you automatically shield your loved ones from experiencing similar pain.

## To Protect your Beneficiaries

People create estate plans for their beneficiaries for two major reasons: (a) to protect their children, and/or (b) to prevent young adult beneficiaries from making bad decisions, experiencing creditor problems, detrimental influences, and messy divorces. Each state in the United States has its own laws for the protection of minors.

Without your Estate Plan in order, if something happens to you and your significant other, custody of your children will be decided by a judge interpreting the laws of your state. Do you really want to leave the decision on the raising of your precious children to a stranger interpreting laws that were set in stone decades ago?

Assigning a trustee and guardian to your minor beneficiaries is part of your estate planning process. It will prevent costly (emotionally and financially) legal battles, family disagreements, and a myriad of other nightmares.

Are your adult children having difficulties with life and money? Can you entrust them with your assets? If you don't fully trust your adult children to handle their inheritance appropriately, you can make stipulations and guidelines in your estate to protect them. They will receive their inheritance under your continued guidance as your legacy endures.

## To Protect your Assets

People are now hiring [estate planning](#) attorneys for asset planning protection, even those with existing estate plans. There are immense tax benefits and liability protections that you can enjoy when the proper entities are set up to hold your assets.

It might be too late to organize a plan to safeguard your assets if you're already the subject of a pending lawsuit. This is why you need to start by creating a good financial plan which can be added to an all-inclusive estate plan to protect your assets during your lifetime and after your death on behalf of your beneficiaries.

## Breaking Down Your Estate Plan

- A Will (Last Will and Testament)
- A Revocable Living Trust (or Irrevocable, depending on your situation)
- Power of Attorney for Health
- Power of Attorney for Finances

Centuries ago, people only used wills to pass on their estate to their heirs. Today, a will is only one piece of the puzzle. A revocable living trust is the next estate planning mechanism which can be combined with a will to give you full legal protection.

A living trust is not just a way of avoiding probate, it offers special before and after death benefits.

## What is a Will?

In its simplest terms, a will, or last will and testament, is a document that allows a person to assign his assets for inheritance after his death. A testator has the power to choose his heirs and determine what they receive.

A will can also be used to name executors that will distribute the testator's assets in the manner he or she deems fit. In addition, you may use a will to appoint a guardian for your child if the child is a minor.

## What is a Revocable Living Trust?

A revocable living trust is a written agreement used to appoint a manager for your property. The fact that it is created in the lifetime of the creator is what makes it a living trust. The revocability gives you the power to dissolve or change it during your lifetime for whatever reason you decide. However, a living trust automatically becomes irrevocable upon the death of the creator. There are three parties to a trust: the creator, the trustee, and the beneficiaries.

Generally, people appoint themselves as trustees to retain complete control of their assets during their lifetime. Being a trustee gives you the power to deal with your assets as you see fit- invest, sell, and do whatever you wish with your assets.

## How does living trust works and its difference from a will?

The two legal instruments are used to pass on inheritance by giving instructions on how you wish your assets to be shared.

A will can be used to declare that all your assets belong to your living trust and must be shared with probate.

Your living trust is a private document that bypasses probate.

In your living trust, you declare exactly how you want your assets are to be distributed.

## What happens if I don't have a will or a living trust?

Without either, you leave no valid and legally binding instructions for your estate. That means a [probate judge](#) will interpret your state's laws to divide up your assets.

Worst case scenario, the probate court gives your assets and estate to your state. Everything you have accumulated over your lifetime would be forfeit to the government.

## What are the benefits of a revocable living trust?

Having a living trust means you can relax knowing that your loved ones will be fully protected when you're gone. It also means your estate will be promptly distributed to your heirs.

You can draft your trust in a way that transfers your assets to your beneficiaries upon your passing, or you can assign them to be portioned over a designated period of time in specific amounts. You can also eliminate or reduce certain federal and state taxes by including certain tax saving clauses in your draft.

## Who can be appointed a trustee?

Any adult considered mentally competent can be named a trustee. Most people prefer to name themselves and their spouse as trustees. This allows you to remain in full control of your assets while you're alive. Your successor or co-trustee will take over if you become incapacitated and unable to manage the property.

Most people name their children as their successor trustees. However, if you're not confident about the ability of your children to distribute the assets according to your instructions, you should consider naming a professional fiduciary as your successor trustee. This could be the trust department of a bank, a professional trust company or a private fiduciary.

## Will there be a need for additional cost or work when investments or property are added or deleted?

No, there is no need to contact a lawyer for every change you make to your bequest or assets.

## Is it necessary for a living trust to be prepared by an attorney?

Yes, to ensure that you get the protection you need.

If your arm gets mangled, do you stitch yourself up and hope for the best? You could. Or you could see a medical professional.

It's the same when it comes to doing your own legal work. Don't become another statistic horror story. Consult a professional for professional matters.

Don't fall for the temptation of using those generic or online kits that are often passed off as customized documents prepared by attorneys.

## Understanding Your Power of Attorney

A power of attorney (POA) can be described as a legal document used to authorize another person to make legal, financial and business decisions on behalf of the maker of the instrument.

The person appointed will help manage your affairs in the event that you're unable to do so. In fact, your appointed person can pay bills on your behalf, help sell your car, renovate your home, make business decisions for you and lots more. However, if you fail to create a power of attorney, a court will have to determine your mental competence and appoint a guardian.

A power of attorney gives you the power to decide who you want to manage your affairs. It also

avoids unnecessary delays that come with the [court process](#). All the states have their different forms for creating power of attorney. However, to be considered valid in most states, the document must be notarized and signed.

## Categories of POA

Although powers of attorney are generally designed to give someone else the authority to make decisions on your behalf, they however come in different categories. Durable powers of attorney are those POAs that are applicable from their execution date. This means the recipient of the power of attorney can start managing your business once it is executed. Your competency or otherwise will not matter in this instance.

While a springing power of attorney on the other hand, is one that does not go into effect after execution until the occurrence of certain events. A good example of this, is the incapacitation of the creator. The recipient of the power of attorney will not have access to your affairs until such a time when the donor becomes too incapacitated to do so. In practice, a document or letter from a physician must be obtained to kick start this particular power of attorney.

You can also decide on the extent of the authority contained in the power of attorney. In some states, boxes are provided for you to check the particular type of authority you intend to give. For example, a financial power of attorney might give the recipient power to only manage financial transactions like payment of bills, and exempt them from transactions like selling your real estate.

## Hand In Hand

The best thing to do is to create a will, living trust, and power of attorney. The living trust and will shall provide protection for your heirs and assigns after you're gone while the power of attorney will provide protection in your lifetime. Combined, the three documents will provide all the protection you need for your assets.

With a power of attorney, a last will and a living trust, you can rest easy knowing that your family is well-protected. Do it now! Why wait? Why risk it?

## Living Wills

Unlike other types of wills, a living will is not used to assign property at death. A living will (also known as an advance directive or directive to physicians) is a document used by the maker to state his or her wishes for end-of-life medical care just in case they're unable to make their decisions known. Its power ends with the death of the testator.

A living will is usually included in your estate planning. It can provide valuable healthcare guidance for the family in the event that the testator is no longer able to pass his or her wishes across. It prevents a situation where family and healthcare professionals are forced to guess the preferred treatment options of the sick person. This could result in serious disputes which might even involve a court process.

## The form and execution of a living will

Most states provide their own advance directives forms, through which residents can state their health care wishes in detail. For instance, you can state that you want palliative care, which includes the measures taken to decrease the pain and suffering of an invalid, while reiterating that you don't want your healthcare givers to administer extraordinary measures such as cardiopulmonary resuscitation (CPR) in certain situations.

Living wills can be revoked at the instance of the testator. The document automatically takes effect from the moment it is signed or when it is confirmed that the testator is no longer able to communicate his or her healthcare wishes. However, doctors will rather rely on personal communication for as long as they can, regardless of whether or not the living will has taken effect.

## Healthcare Power of Attorney

Most living wills are combined with a document known as durable [power of attorney](#) (DPOA) to handle healthcare. There are states that combine the two documents as one. A DPOA is used to appoint a person to enforce the end-of-life treatment wishes contained in a medical directive or living will. The person named therein is called the "healthcare proxy", "attorney-in-fact" or "agent" of the maker of the DPOA.

## Living Wills Post Death

The authority contained in a living will is automatically terminated the moment the testator dies. But there is one exception and it involves a situation where the power of attorney or living will provides directions to healthcare agents on what to do about autopsy or organ donation. However, this post death authority is only for a short while since these are decisions that must be made immediately after death.

This is also different from the provisions of other types of will which does not take effect or become legally binding until the testator dies.

## What is the investment for setting up an estate plan?

The price varies depending on where you live, the size of your estate, and its complexity. Trust Attorney Nicholas Costaras with a great quote customized to your specific situation.

The real question is, if it were free, would you set up your estate plan?

If yes, then you know you need to get your estate plan set up right now.

You know that nothing is free, and you know that you do deserve the highest quality of service at a fair price.

## Getting an Estate Plan

Why don't you give yourself and your family peace of mind by making sure your estate is in good hands? Don't put it off. Now is the time to invest in an estate plan for you and your family!

## Book a Free Consultation

We offer free consultations! If you decide not to go with us that's fine. No harm, no foul.

Why not schedule one right now?

Contact me, Estate Planning Attorney Nick Costaras, for your [free consultation](#) now. Let's get your Estate Plan taken care of!