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The Essential Estate Planning Documents

Consider including these key estate planning documents as part of your wealth plan.

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Estate planning is the process of organizing one's personal and financial affairs to ensure that your wishes for your health and wealth are clear.

A well-designed estate plan distributes assets according to one's wishes after death, while also maximizing the value of the estate by minimizing taxes and other potential costs. And, should you become incapacitated and unable to make health care decisions for yourself, having an advanced medical directive in place will allow you to define your wishes for what type of medical treatment you do and do not wish to receive.

There are several key documents necessary for a well-designed estate plan. While each person's situation is different, these common estate planning documents play a key role in most financial plans.

Last Will and Testament

A last will and testament provides a detailed list of instructions for how an individual's property should be distributed after he or she dies. Individuals who pass away without a will have their estate settled in a probate court, where a judge determines how to distribute the assets. Having an estate settled in probate court creates additional cost to the estate and can also be a time-consuming process that delays the distribution of the assets to beneficiaries.

A last will and testament also designates a guardian for any minor children and nominates an executor for the estate. It is the executor's responsibility to carry out your wishes.

Advance Medical Directive

Commonly referred to as a designation of health care surrogate or medical power of attorney, an advance medical directive allows an individual to name a health care agent to make medical decisions on his or her behalf in the event that individual becomes incapacitated or is otherwise unable to make those decisions. This document may also name a conservator or guardian to manage an individual's affairs should a court determine that he or she is mentally incapacitated.

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Living Will

A living will provides a set of instructions for a family and physician to follow should an individual become incapable of making decisions. The living will specifies whether or not someone wishes to receive life-sustaining procedures and treatment in the event the individual is not in a condition to make that determination.

Financial Power of Attorney

A financial power of attorney allows a person to name an agent to manage his or her financial affairs in the event that individual becomes incapacitated or is otherwise unable to manage his or her finances. Managing finances may include handling any assets titled in the individual's name, including bank accounts, brokerage accounts or retirement accounts, or simply paying bills. If the individual has a revocable trust, the financial power of attorney may allow assets to be transferred into the trust should it remain unfunded while the individual is incapacitated.

Revocable Living Trust and Pour-Over Will

While a last will and testament instructs where one's assets go after he or she passes away, the document still requires authentication by a probate

judge and, depending on where the individual lives, this process could take time. A revocable trust may be used in place of, or in conjunction with, the previously described estate documents to

streamline the distribution of assets and avoid probate court completely. A

revocable trust, or living trust, is designed to hold and own the trust-maker's assets, while also providing instructions for how the estate is to be managed should the individual become incapacitated or die. The trust-maker appoints a trustee, which can be a person or institution, to manage the trust's property.

Assets held within the trust avoid probate at the trust-maker's death and are distributed in a manner specified within the trust document. It's

also common for these types of estate plans to contain a pour-over will, which directs property into the revocable trust if it had not previously been referenced in the trust document.

Creating a well-designed estate plan is a critical step in the development of an overall financial plan. It is important to note that any changes made to an estate plan or existing estate planning documents should be made only after consulting with a wealth advisor and legal counsel. Should you have any questions about your estate plan or documents related to your estate plan, please contact your advisor.



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