

# I'm single, why do I need an estate plan?

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December, 2015

Frequently, traditional estate planning focuses on married couples, older persons with adult children and the wealthy, but what about planning for people who are single, younger or those who do not believe they have significant assets? *Everyone* should have an estate plan - if not for yourself, for your loved ones.

Most people believe that estate planning focuses on what happens when you die and how the assets you own pass at death. While this is part of what estate planning encompasses, estate planning *also* plans for what happens if you live and become incapacitated and/or need expensive long term care. A *good* estate plan accounts for *both* what happens upon your death *and* how your healthcare, finances and personal affairs would be managed should you become mentally or physically incapacitated during your lifetime. Spelling out your wishes can save your loved ones hours of work, stress and dollars spent in court. In this article I will briefly discuss the two sides to estate planning, affairs at death and fiduciary planning during your lifetime, and why they are particularly important for single clients.

## AFFAIRS AT DEATH

### **A Last Will and Testament**

Most single people own assets individually. While some of these assets may have beneficiary designations to direct where they pass at death, assets that lack a beneficiary designation such as a house would pass through probate. A Will is the most basic estate planning tool. It directs where and how assets pass at death. Without a Will, assets would pass according to the single person's respective state's intestacy laws, which are default rules that dictate how assets pass in the absence of a Will. Generally intestacy laws leave assets first to a spouse, then to children and finally to the next closest relatives. In the absence of relatives, the assets pass to the state. If a person has other wishes (for example, they hoped to benefit a specific charitable organization or friends), they must have an appropriately designed estate plan to direct funds upon death. When intestacy laws take over, the result is often distant unknown relatives inheriting in lieu of lifelong friends, partners or valued charities.

A Will also appoints a personal representative to oversee the probate process. Having chosen a trusted fiduciary in advance can streamline the administration of your final affairs and maintain harmony among your loved ones. If a single person has minor children, a Will also names their future guardian(s). Guardians can be appointed to manage both finances and to have custody of the children. In the absence of a spouse or involved co-parent, the appointment of future guardians is vital.

While you may feel that your assets are too minimal to require an estate plan, think again. Even minimal assets add up. Simply directing where small bank accounts, furniture, vehicles and other personal property passes upon death can be immensely meaningful and helpful to your loved ones.

## **Revocable Living Trust**

If privacy is of utmost importance, holding assets in trust during your lifetime is the key to a single person's estate plan. The key feature of a living trust is that the trust assets are not subject to court administered probate proceedings at death. The living trust is not a public document as is a Will after it is probated. Unlike an estate proceeding, the filing of an inventory of public record is not required in a revocable living trust after the trust creator's death. This keeps the value of your assets and your intended heirs private.

The trust creator also maintains complete control of the trust during her lifetime, which provides additional benefits in managing assets. However, a living trust also provides for lifetime asset management if a person becomes disabled or unable to personally supervise control, thereby avoiding guardianship and related procedures by naming a number of successor trustees who would take over money management in the event the trust creator becomes incapacitated. Being able to name future fiduciaries, maintain privacy and have a quick and easy transition to a successor trustee upon incapacity makes a revocable living trust a great option for a more sophisticated estate plan for a single person, which brings us to the second side of estate planning, fiduciary planning.

## **FIDUCIARY PLANNING: MANAGING YOUR AFFAIRS DURING YOUR LIFETIME**

Fiduciary planning is the process of choosing various agents to act on your behalf, if you are unable to do so. If a person becomes incapacitated during her lifetime and appropriate planning has not occurred, a guardian would have to be court appointed to manage the person's personal and financial affairs. The appointed guardian could be an individual or social service organization with no knowledge of the person's wishes or preferences. Having the appropriate fiduciaries appointed in the proper documents can avoid such proceedings and assure that such assistance is provided by a person or organization that is aware of your preferences. Married clients often choose their spouse as their personal representative or guardian. If a single person does not have children or trusted family or friends, the process of choosing the appropriate fiduciaries becomes more complicated and often results in interviewing various organizations in advance to assure that affairs are properly managed. The peace of mind knowing you have appointed and discussed your wishes with a future fiduciary is very valuable.

The basic documents for appointing fiduciaries are:

### **Durable Power of Attorney**

A Durable Power of Attorney is the grant of legal rights and powers over financial matters to a designated Agent. A durable power of attorney can take effect when executed, or the document can be designed only to take effect when a doctor certifies that you have become incapacitated. The agent, in effect, stands in your shoes and acts for you in regard to your financial and business matters. Some of the powers given to your agent include accessing funds in banks and investment accounts, paying bills, cashing checks, and selling or buying real estate. In the absence of a durable power of attorney, a family member, friend or partner would have to petition a court for the right to handle things for you as a guardian. Guardianship proceedings are time consuming, expensive and ultimately result in a person being declared legally incapacitated.

## **Healthcare Power of Attorney**

A Health Care Proxy or Durable Power of Attorney for Healthcare appoints an agent to make healthcare decisions for you if you are unable to communicate your wishes, or simply would like to give another person access to your medical information. Absent a valid document, a guardian of the person would need to be appointed by a court if you became incapacitated.

## **A Living Will**

This document is often also called an advanced directive and permits an appointed agent to act in accordance with your designated wishes in various circumstances including end of life treatment and organ donation. By indicating your preferences for future medical treatment, this document ensures that actions taken by your agent are consistent with your desires and values. This document only applies if you are terminally ill or in a permanent vegetative state and can mandate that your wishes are followed even if you are unable to communicate them.

These are just the basics documents to ensure that your wishes are followed both during life and upon death. Often there are more complicated issues that can be resolved through proper planning such as trust planning to protect a disabled family member or partner, asset preservation planning in the event long term care is needed and tax planning. Having your individual situation reviewed by an estate planning specialist can give you confidence in the fact that your affairs are fully in order.