

5 steps to create an estate plan

See ways to help you save on taxes and protect your assets and privacy.

Fidelity Viewpoints



Key takeaways

Consider setting up an estate plan, especially if you want to minimize probate costs, protect your privacy, and find ways to save on taxes.

An estate plan helps you control the disposition of your assets upon your passing, ensuring that assets flow to your heirs according to your wishes.

Your estate plan does more than disburse your financial assets; it also provides guidance for your loved ones regarding your preferences for end-of-life medical intervention.

For many people, creating an estate plan is a task that routinely gets pushed to the bottom of the pile. Some assume that estate plans are only for the wealthy. Others may simply want to avoid thinking about some of the tough topics estate planning entails.

Yet, most everyone should have an estate plan.

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In addition to arranging for the distribution of your assets, estate plans should include vital documents that address a range of thorny issues, from who will be the guardian of your children if you pass away, to how your loved ones should approach your medical decisions if you are incapacitated.

"An estate plan addresses many extremely important aspects of your medical and financial life, and ensures that your loved ones understand your wishes," says Nathaniel Arnett, estate planning specialist at Fidelity Investments. "Having a plan in place can help give you and your family real peace of mind."

With the help of legal and financial professionals, drafting an estate plan is probably easier than you think. Experienced financial professionals can help make sure you don't miss any important pieces and that your estate plan addresses all your needs.

Here are 5 steps to get you on the right track:

1. Establish a power of attorney

A power of attorney is a legal document that grants another person the ability to make financial or medical decisions for you in the event that you become incapacitated.¹ Such decisions may include liquidating investments to pay for medical bills, managing your insurance, and, in the case of a medical power of attorney, making sure you get the medical care and interventions that you want.

Financial and medical powers of attorney are generally 2 different legal documents and it may make sense to appoint 2 different people. In the case of designating a financial power of attorney, consider someone you trust wholeheartedly. This person will be opening your mail, contacting your banks, transferring your assets, and paying your bills, if needed. They don't need to be a financial whiz, but you should trust this person to make pragmatic and thoughtful decisions on your behalf.

Your medical power of attorney—sometimes called your health care proxy, depending on where you live and how it is drafted—will make medical decisions on your behalf. This person will use your living will (also known as an advance health care directive) as a guide for determining the care you desire. Many people designate a spouse or adult child in this role, also naming an alternative in the event that the person initially named is unable to serve.

Whoever you choose, have a discussion to gain mutual understanding that makes sure they are aware of your medical preferences. "Have a proactive conversation so that you can answer important questions and make the person's job easier in the event that they ever need to fulfill the role," Arnett says.

2. Create a living will

Your estate plan certainly provides for the opportunity to do more than disburse your financial assets; it also provides guidance for your loved ones regarding your preferences for end-of-life medical intervention, in case you can't communicate for yourself.

Most living wills address instructions for handling the following:

- Life-prolonging treatments, including blood transfusions, medication, and surgery
- Artificial life support and ventilators
- Pain relief or palliative care
- Administration of food and water (including tube feeding)
- Do-not-resuscitate (DNR) orders

These documents can be as specific as you like, and can denote your religious preferences and any plans for organ donation. "A living will offers much-needed guidance for your medical team and family, especially when a decision isn't clear," Arnett says.

Your attorney can help you draft a living will along with the rest of your estate plan. Make sure you send a copy to your primary care physician to ensure that your living will is easily accessible and becomes part of your medical record. These documents are also often coupled with the medical power of attorney paperwork, so consider making sure your doctor has access to all your important medical directives.

3. Make a last will and testament

Your will is a crucial component of your estate plan. This important document serves 2 distinct purposes. First, it outlines who will receive your assets after your death. If you have minor children, it also designates who will be their guardian. Without a will, a judge likely will make both of these determinations. "You probably have a distinct idea of who you want to inherit your assets or raise your children," Arnett says. "But if you don't record your preferences in a will, a judge may make a decision that's far from what you intended."

A will can be as simple or as complex as your estate requires. Begin by contacting an experienced attorney, who can walk you through the process. Many attorneys draft a basic will for a flat fee, which could be a few hundred dollars or more, depending on the attorney and your situation. You may also want to consult with your financial professional to help you inventory and organize your financial assets.

You'll also need to designate an executor—the person or institution who will oversee the management of your estate and will carry out the instructions of your will. You may also want to designate an alternative in case the person you choose is subsequently unable or unwilling to serve as executor. Their tasks may include taking inventory of your assets, selling your property, and paying your taxes. In selecting an executor, choose someone you view as responsible, levelheaded, and trustworthy. Also make sure they're willing to take on the responsibilities of being the executor of your estate.

Meet the players...

Your estate plan involves more than just you. Here are some of the main people involved:

<p>Your attorney An attorney can help guide you through the process of building an appropriate plan. Attorneys also may specialize in certain areas of estate law, such as special needs planning or elder law, so consider whether that expertise may be useful as you build your estate plan.</p>	<p>Your financial professional Your professional can help you take inventory of your assets and work with your attorney to create a tax-efficient plan that serves your family's financial needs.</p>	<p>Estate executor This is the person you designate to manage the disposition of your estate. They will need to, among many other tasks, file court papers, pay taxes, fulfill any financial obligations of your estate, and make sure your assets are distributed as you intended.</p>
<p>Guardian In the event that you (and your spouse or children's other parent) pass away, you need to designate a legal guardian for your minor children. A guardian may also be necessary for an adult child with special needs, or even for an aging parent.</p>	<p>Power of attorney A power of attorney (POA), also known as "attorney in fact" or "agent," is a person you can appoint in writing to manage your financial affairs or your medical decisions while you are alive based on your instructions. You may delegate this duty for financial and medical decisions to one person or separate people.²</p>	<p>Trustee A trustee carries out the instructions in the trust document, and is responsible for managing the assets and tax filings. The trustee also makes distributions to the beneficiaries according to the terms of the trust. In some cases, a corporate trustee may make sense, such as when there's a more complicated trust to oversee.</p>

4. Consider creating a trust

There's a common misconception that trusts are only for the very wealthy. However, trusts can play an important role in many estate plans. They give you more control as to how assets are distributed and allow you to keep the details of your assets out of the public eye after you die. In addition, trusts also can:

- Reduce the taxes owed by your estate and heirs
- Protect your assets from creditors and lawsuits
- Put conditions on how and when your assets are distributed

People may often use a trust in conjunction with a will, but trusts can be more expensive. Creating an estate plan that includes a trust can cost from approximately \$1,000 to more than several thousand dollars, depending on the complexity of the situation and assets involved. The expense of building an estate plan is generally a one-time fee. However, there may be recurring costs associated with the administration of certain kinds of trusts or with the revision of your plan over time.

There are many kinds of trusts, each with specific advantages and disadvantages. One of the most common is a living trust, which lets you retain control of the assets you place in the trust while you're alive, then transfers them to your beneficiaries after your death.

If you do establish a trust, you'll need to name a trustee. The trustee is responsible for making sure the trust does what it intends. The trustee's responsibilities include managing the assets, ongoing administration and tax filings for the trust, as well as making distributions to beneficiaries according to the terms of the trust. For instance, you may want your children to use the trust funds only for higher education. Your trustee would make distributions from the trust in accordance with the trust document.

When choosing a trustee, pick someone you trust. Consider their age (often you want someone younger) as well as how confident you are in their decision-making ability. A trustee may be a sibling or a close family friend, but also can be an independent corporate trustee with no ties to your family.

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5. Update your estate plan regularly

Creating an estate plan is a great accomplishment. But it's not a plan that should sit around gathering dust. Indeed, you'll likely need to update your plan regularly so that it continues to reflect your wishes and needs, which may change along with your family and finances.

Also consider updating your beneficiaries. Most financial accounts, such as insurance policies, retirement savings accounts, or brokerage accounts, require you to designate a beneficiary, and these beneficiary designations typically trump any directions in a will. The estate planning process is a good time to make sure you've identified beneficiaries in each of those accounts, and to consider whether those beneficiary designations mesh well with your overall estate plan.

Experts recommend reviewing your estate plan every 2 to 5 years, and updating it after major life events, including marriage and remarriage, divorce, births or adoptions, and deaths. Changes in your financial goals; purchases of large assets such as a home; or major financial events such as a bankruptcy, retirement, or business sale, are also important milestones that justify a review of your estate plan.

Procrastinating on creating an estate plan is certainly tempting. But having a well-conceived plan is more than worth the time and money it will take to build it. "You'll give your loved ones the authority and guidance they need to navigate a tough situation," Arnett says. "That way you can rest easy, knowing that if something unexpected happens, you're more than prepared."