

# Estate Planning 101: The Essential Documents Everyone Should Have

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# Estate Planning: Why do it?

- An Estate Plan, with a Revocable Living Trust (RLT), is our Foundation
- Your RLT owns all of your assets
- 50% of Americans do not even have a Will
- Will- who & what, probate
- RLT- when & how, no probate
- Update every 5 years or when a major life event occurs

# Advantages of a Good Estate Plan

- Avoids Publicity- without a living Trust, your Will and the amount of your estate becomes a matter of public record
- Avoids Delay/Headache- going through the probate process takes time
- Avoids Expense- probate fees can vary by state
- Avoids Confusion- who, what, how, when
- Peace of Mind- you know that your assets are going exactly where you want them to go

# Unique Assets

- **Real estate** – must be owned by Trust to avoid probate
- **Children** – when they receive their inheritance is important
- **Business** – who's going to run your business and how? Special rules for S Corps owned by medical professionals.
- **Animals**
- **Guns**- rifles, shotguns
- **Crypto**- logins, keys
- **Deeds**- in your safe
- **Foreign Assets**- your Trust may mean nothing

# Make Sure Your Estate Plan Includes:

- Revocable Living Trust (foundation)-Trustee
- A Will ('pour-over will')-Executor, Guardian
- Powers of Attorney for Finances
- Powers of Attorney for Health Care- health care agent
- Advance Healthcare Directive or Living Will ('pull the plug')
- Funeral and Burial Instructions
- A Directive for Organ Donation
- Pet Caretaker
- Computer passwords/files
- Specific Bequests- leaving specific items to specific people

# Estate Tax Basics

- Inheritance is not income (*26 U.S.C. § 102(a)*)
- Inheritance Tax in IA, KY, MD, NE, NJ, PA
- Stepped-Up Basis (*26 U.S.C. § 1014*)
- Subsequent earnings are taxable (*26 U.S.C. § 61(a)*)
- Lifetime Exemption Amount (*26 U.S.C. § 2010*)
  - 2026- \$15,000,000. Spouses get \$30,000,00 if AB Trust language
  - some states have lower Estate Tax threshold
- Federal Annual Exclusion Amount (*26 U.S.C. § 2503(b)*)
  - 2026- \$19K per recipient per giver
  - anything above \$19K is reported on form 709 (*26 U.S.C. § 6019*)

# Revocable v. Irrevocable Trust

Revocable	Irrevocable
<ul style="list-style-type: none"><li>• Can make changes (through amendments)</li></ul>	<ul style="list-style-type: none"><li>• No changes can be made</li></ul>
<ul style="list-style-type: none"><li>• Move assets in and out</li></ul>	<ul style="list-style-type: none"><li>• Trust own the assets-no changing</li></ul>
<ul style="list-style-type: none"><li>• Pass-through</li></ul>	<ul style="list-style-type: none"><li>• Files its own return in highest tax bracket</li></ul>
<ul style="list-style-type: none"><li>• No EIN</li></ul>	<ul style="list-style-type: none"><li>• Has it own EIN (separate entity)</li></ul>
<ul style="list-style-type: none"><li>• No asset protection</li></ul>	<ul style="list-style-type: none"><li>• Asset protection</li></ul>

# Funding the Trust

- Life insurance
- Brokerage accounts
- Vehicles
- Home and other real estate
- Businesses
- Bank accounts
- Retirement accounts
- Crypto other digital assets
- Personal property, precious metals, firearms

# Due-on-Sale Clause

12 U.S. Code § 1701j-3(c)(8) states:

"A lender may not exercise its option pursuant to a due-on-sale clause upon a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property."

# Thank you!

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