

WHY CONSULT AN ESTATE PLANNING ATTORNEY?

What Is Estate Planning?

An “estate” consists of the real and personal property owned by an individual or over which the individual has some control. “Estate planning” is the process of arranging for the protection and transfer of your estate in the event of incapacity or death. It helps your loved ones manage your affairs when you are unable to do so and after you are gone.

Estate planning entails much more than just preparation of a last will and testament for distribution of assets upon death. At a minimum, a complete estate plan includes a will, a financial power of attorney, and an advance health care directive. In some cases, a revocable living trust, a life insurance trust, a special needs or supplemental needs trust, or other advanced planning documents may also be appropriate.

What Decisions Do I Make In My Estate Plan?

The first step in estate planning is to make an inventory of all of your assets. Some items pass by operation of law rather than under the terms of your will. These assets, sometimes called “non-probate assets,” are still part of your estate and must be taken into account when creating your estate plan. Your estate includes not only your home, motor vehicles, and bank accounts, but also the value of IRAs and retirement plans, life insurance policies, real property and investments held in joint tenancy, and any other assets over which you may exercise control.

The next step is to determine how and to whom your property will be transferred. Every estate plan is unique. In some cases, special arrangements such as trusts for spouses, minor children, or disabled family members may be appropriate. Gifts of tangible personal property can be made in a memorandum. Gifts to charities require special consideration.

Another aspect of estate planning is nominating a personal representative (formerly known as an executor) to administer your estate after your death. You may also need to nominate trustees for any trusts you establish and guardians for minor children.

A complete estate plan provides the opportunity to record your health care preferences in the event of terminal illness and to choose agents to make financial and medical decisions for you in the event of incapacity. The estate planning process may also involve recording your wishes about funeral and burial arrangements and disposition of your remains.

How Can An Estate Planning Attorney Help?

Estate planning attorneys are educated and experienced with respect to wills, trusts, powers of attorney, advance health care directives, and the complexities of wealth transfer taxes. They will apply their knowledge of the Maine Probate Code, the Maine Uniform Trust Code,

and relevant case law to your particular circumstances. An estate planning attorney will consider your assets and any tax ramifications, and tailor legal documents to meet your personal estate planning goals.

This article is intended to provide information of a general nature only. It does not provide or replace professional legal advice, and it does not establish an attorney-client relationship with the Maine Elder Law Firm or Rudman Winchell. Please consult an attorney for advice regarding your specific circumstances.

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