



**BARNES DENNIG**  
CPAs and Advisors

# Estate Planning

[barnesdennig.com](http://barnesdennig.com)

Ohio • Kentucky • Indiana | Independent Member, Allinial Global



## Estate Plans Are for Everyone

There's a common misconception that estate planning is only for the uber-wealthy, but the truth is that estate plans are for everyone. Anyone who owns property — home, car, bank account, 401(k), collectibles, family heirlooms, etc. — needs an estate plan. Estate plans offer protection for the people you care about, no matter the size of your estate.

Estate Planning is a broad term for establishing how you want your affairs handled after your death or in the event you are incapacitated. While the finances tend to make up most of an estate plan, there's much more to it.

An estate plan includes important documents and decision tools, such as:

- Creating a valid and up-to-date will to distribute your property according to your wishes.
- Tax protections that can preserve your assets for your beneficiaries.
- Detailing your wishes regarding end-of-life scenarios, including resuscitation, life support measures, long-term care, etc.
- Specific trusts or other clauses to protect assets, direct benefits, and more.
- Establishing powers of attorney so a trusted person can legally handle your financial and medical concerns if you cannot do so.





These are issues that almost every person should address sooner rather than later. If you don't, your loved ones may be left to make them for you. And while they will do their best, they may not handle things as you'd prefer. Not to mention, having to make these decisions places an incredible burden on them when stress is already high because of the death or incapacitation of someone they love.

Estate planning is caring for your loved ones when you're not around. It's like giving them a roadmap for how to handle things smoothly.

This guidebook is designed to help you better understand estate planning and highlight some tools and strategies to protect your loved ones. Nothing in here is intended to replace personalized, professional advice. You'll want to consult with our estate planning team and your other professional advisors before implementing any strategies discussed.

**Estate planning  
is caring for your  
loved ones when  
you're not around.  
It's like giving them  
a roadmap for how  
to handle things  
smoothly.**

## Understanding the Lingo

<b>Will</b>	A legal document specifying how a person's assets will be distributed upon death. It may also appoint guardians for children and an executor to manage the estate.
<b>Intestacy</b>	The situation in which a person dies without a valid will. When this happens, state laws determine the distribution of the person's assets.
<b>Probate</b>	The legal process by which a court validates a will and oversees the distribution of assets according to the terms of the will.
<b>Executor</b>	The person named in a will to carry out its provisions and manage the distribution of the deceased person's assets.
<b>Living Will (Advance Healthcare Directive)</b>	A document that outlines your medical treatment preferences if you cannot communicate or make decisions for yourself.
<b>Power of Attorney</b>	A legal document that grants someone else the authority to act on your behalf in financial, legal, or medical matters, especially if you become incapacitated.
<b>Beneficiary</b>	The person or entity, such as a trust, named in a life insurance policy, retirement account, or other financial instrument to receive the benefits or proceeds upon the account holder's death.
<b>Guardianship</b>	A legal arrangement that grants someone the authority to make decisions on behalf of a child or an incapacitated adult.
<b>Estate Tax</b>	A tax imposed on the transfer of a person's property upon their death. The threshold for estate tax varies by jurisdiction.
<b>Inheritance Tax</b>	A tax imposed on the people who inherit property or assets. It is different from an estate tax and may vary by state.
<b>Gift Tax</b>	A tax on the transfer of money or property while the giver is still alive. There are limits to the amount that can be gifted without incurring a tax.
<b>Testator</b>	An individual who has made a valid will or testament.
<b>Trust</b>	A legal entity created to hold and manage assets for the benefit of specific individuals or entities.
<b>Trustor</b>	This person creates the trust and transfers assets. The trustor defines the terms and conditions under which the trust operates.
<b>Trustee</b>	The trustee is the individual or entity responsible for managing and safeguarding the assets held in the trust. They are obligated to follow the terms of the trust and act in the best interests of the beneficiaries.
<b>Beneficiary</b>	The beneficiary is the person or group of individuals for whom a trust is established or who are named to inherit certain financial assets.
<b>Trust Property/Assets</b>	These are the assets, such as money, real estate, stocks, or other investments, that the trustor transfers into the trust for the benefit of the beneficiaries.



## Estate Planning 101

Proper estate planning can ensure that your wishes are carried out, minimize taxes, and provide for the financial well-being of your loved ones. The guidance of professionals, such as attorneys, financial advisors, and accountants, can ensure your estate plan is legally sound and meets your goals. But to make the most of the advice, there are a few Estate Planning 101 basics it helps to understand.

Many estate plans start with the most well-known estate planning document—a will. You probably know that a will outlines how you want things distributed among your family and other loved ones after your death. It allows you to name an executor responsible for overseeing the process. And if you have children under 19, you can name a guardian for them in your will.

Increasingly, though, estate plans also include a trust. Trusts are another way you can pass on your assets, but they involve setting up a legal entity that is managed by a trustee. Sometimes, you can be a trustee until death, which lets you maintain control during your lifetime. They can also help mitigate taxes before and after the estate is transferred and help your estate avoid probate, which can be a time-consuming and expensive legal process.

We dig deeper into wills, trusts, and probate later in this guide.

A few other pieces are also part of an estate plan. For example, you can designate beneficiaries directly for certain assets, such as life insurance policies, retirement accounts, and payable-on-death bank accounts. Assets with named beneficiaries generally pass outside the probate process in many states—you'll want to verify if that applies where you live.

Including a durable Power of Attorney (POA) in your estate plan is also smart. This document designates someone to manage your financial affairs if you become incapacitated. It grants authority to the named individual (the agent or attorney-in-fact) to make financial decisions on your behalf.

You'll also likely want to appoint someone to handle your healthcare decisions using a healthcare proxy or medical power of attorney. Your estate plan might also include a Living Will or Advance Directive outlining your preferences for medical treatment in case of incapacity.

While not legally binding, a letter of intent can provide additional guidance to your executor or beneficiaries. It may include details about the distribution of personal property, special requests, or messages to loved ones.



## The Good, Bad, and Ugly of Probate

Probate is a court-directed process ensuring a deceased person's assets are distributed. The process is notoriously lengthy and expensive. There are many steps, including settling debts, selling real estate, and liquidating and distributing assets. A court typically supervises the probate process to ensure that the deceased person's wishes, expressed in their will or according to intestacy laws, are carried out appropriately.

While probate serves the critical purpose of settling an individual's estate, there are several reasons why some people may seek to avoid it:



**Costs:** Probate can be expensive, as various fees, court costs, and legal expenses can accumulate. These costs are typically paid from the estate before any assets are distributed to beneficiaries.



**Delays:** Probate can be time-consuming, often taking several months or even years to complete. During this time, beneficiaries may have to wait to receive their inheritances.



**Publicity:** Probate proceedings are a matter of public record, meaning details about the deceased person's assets, debts, and beneficiaries become accessible to the public. Some people prefer to keep this information private.



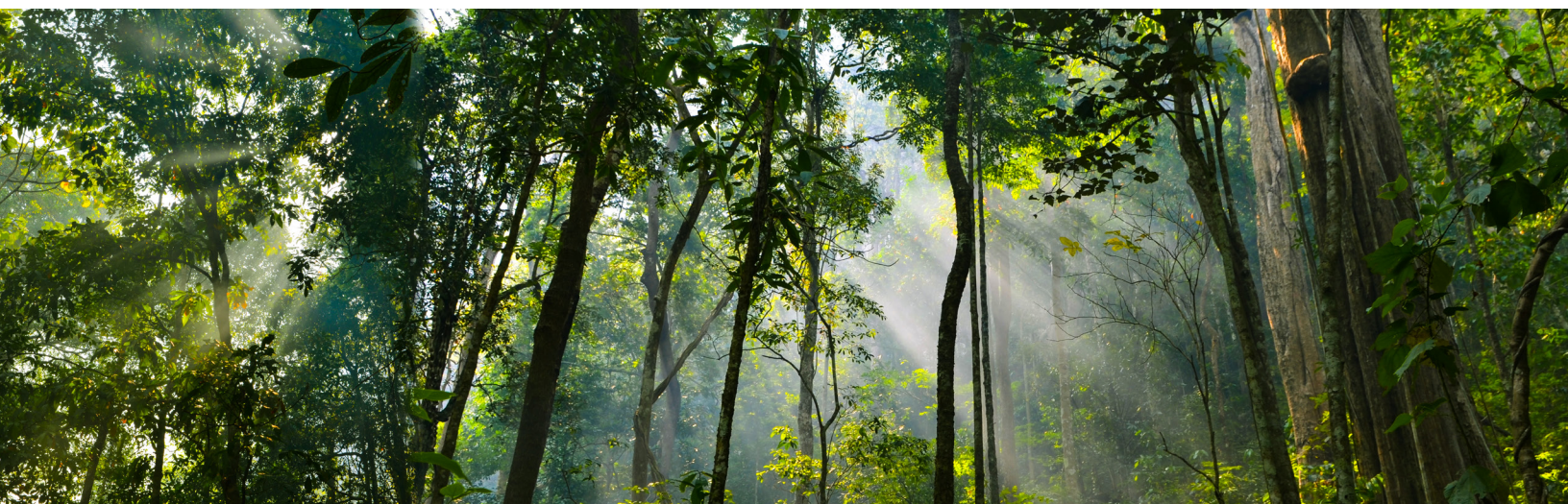
**Complexity:** The probate process can become complex, especially if there are disputes among heirs, challenges to the will, or if the deceased person's financial affairs are intricate.



**Loss of Control:** Probate proceedings are subject to court oversight, which may result in decisions that differ from the deceased person's original intentions. This loss of control can concern individuals who want to ensure that their wishes are followed precisely.

Individuals often use estate planning tools such as living trusts, joint account ownership, beneficiary designations, and other strategies to transfer assets outside the probate process to avoid probate. Consulting with an estate planning advisor can help you create a plan that aligns with your goals and minimizes the potential drawbacks associated with probate. Remember that the best approach may vary based on individual circumstances and local laws.





# Digging Deeper

## Wills vs. Trusts

Simply put, wills and (certain types of) trusts are tools designed to do the same thing: pass on assets after death. But there are some crucial differences.

A will is like your instruction manual. It's a document that says who gets what when you're not here. You can decide everything big and small, such as who inherits your bank balance, who gets your baseball card collection, who takes care of your pets, and who gets the family lasagna recipe.

Trusts are like magical guardians for your assets. They help your loved ones skip the lengthy probate court process, making it faster and smoother for them to inherit everything you want to pass on.

### But What is a Will, Really?

A will is generally the most basic and best-known way to have a say in what happens to your property after death. It is a legal document identifying your heirs and how you want to distribute your assets. A will can also be used to choose the guardian of minor children in the event of a parent's death and there is no surviving biological or adoptive parent.

No will becomes final until the death of the testator. Before that, it may be changed or added to by the testator by drawing a new will or by a "codicil" (a written addition or amendment executed with the same formalities as a will). Additionally, a will is ineffective until it is reviewed in a Probate Court and a Probate Judge declares it as your valid "last will and testament."

Wills are like the instruction manuals for your belongings after you're gone. Without one, it's like leaving your loved ones to navigate a complex puzzle without any clues. It's also called "dying intestate," which means that the probate court will decide what happens to your estate. In fact, the state provides a will for you under the state's intestacy laws.

A will lets you specify how you want your assets distributed, who will care for your dependents, and even who gets your vintage comic book collection. It helps avoid family disputes, ensures your wishes are respected, and brings some order to a chaotic time. Think of it as your final chance to have a say in things and make life a little easier for those you leave behind.



### Trust: Protection Now and Later

A common misperception is that trusts are only for the wealthy. On the contrary, a trust can be a valuable estate planning tool for many families who want to protect their assets, minimize the tax burdens of their loved ones, and ensure their secure future.

The person who creates the trust is called the trustor or grantor. They transfer property into the trust and name a person to serve as trustee to manage the assets (which may be money or property). There are many types of trusts, each serving specific purposes. Common examples include revocable living trusts, irrevocable trusts, charitable trusts, and special needs trusts. The choice of a particular trust depends on the goals and conditions of the trustor.

Trusts offer several advantages, including:

- 1 Asset Distribution:** Trusts can be used to manage and distribute assets efficiently, avoiding probate and minimizing estate taxes.
- 2 Asset Protection:** Certain trusts can protect assets from creditors and legal claims.
- 3 Privacy:** Unlike wills, which are public documents, trusts are private arrangements, offering a level of confidentiality.
- 4 Control and Flexibility:** Trustors can specify detailed instructions on how their assets should be managed and distributed, providing greater control and flexibility.

### More on Trusts

Trusts can serve various purposes, including estate planning, asset protection, and charitable giving. Several types of trusts are designed to meet specific needs and goals. Here are some common types of trusts:

<b>Revocable Living Trust</b>	The trustor can alter, amend, or revoke the trust during their lifetime. Assets placed in the trust avoid probate, simplifying the transfer of assets upon the trustor's death.
<b>Irrevocable Living Trust</b>	The trustor cannot change or revoke the trust once it is established. This type of trust is often used for tax planning, asset protection, and Medicaid planning.
<b>Irrevocable Grantor Trusts (IGTs)</b>	A critical tool for estate planning and effectively achieving tax minimization on asset transfer, providing the tools necessary to avoid probate, transfer assets, conduct legacy planning, and ensure the minimization of federal estate taxes.
<b>Testamentary Trust</b>	Created through a will and comes into effect upon the trustor's death. It can be used to manage assets for minors, individuals with special needs, or for specific purposes outlined in the will.
<b>Charitable Remainder Trust (CRT)</b>	Provides an income stream to the donor or beneficiaries for a specified period. After the trust term ends, the remaining assets go to a charitable organization.
<b>Charitable Lead Trust (CLT)</b>	Provides income to a charitable organization for a set period. After that period, the remaining assets go to non-charitable beneficiaries, such as family members.
<b>Qualified Personal Residence Trust (QPRT)</b>	Allows the trustor to transfer their primary residence or vacation home to an irrevocable trust while retaining the right to live there for a specified period. It can be used for estate tax planning.
<b>Special Needs Trust (SNT)</b>	Created to provide for individuals with disabilities without jeopardizing their eligibility for government benefits. Funds can supplement, but not replace, government assistance programs.



<b>Generation-Skipping Trust (GST)</b>	Skips one or more generations to distribute assets to grandchildren or later descendants. It can be used for estate tax planning.
<b>Qualified Terminable Interest Property (QTIP) Trust</b>	The trustor can provide income for a surviving spouse while preserving the principal for other beneficiaries, such as children.
<b>Credit Shelter Trust (CST) or Bypass Trust</b>	Used to maximize the use of each spouse's estate tax exemption by sheltering assets up to the exemption amount.
<b>Revocable Grantor Trust</b>	A revocable grantor trust can be valuable when you have a taxable estate or anticipate having one. The current income generated by the trust assets is included in your income tax return, as you retain control over the trust and have beneficiary powers while alive. When you pass away, the assets in the trust are considered part of your estate, and the value is included in your taxable estate. Any income generated by the trust assets after your passing becomes taxable to the trust.
<b>Spousal Lifetime Access Trust (SLAT)</b>	Assets (stocks, cash, or other investments) are given as a gift to your spouse so that they're not counted as part of the estate.
<b>Grantor Retained Annuity Trust (GRAT)</b>	Allowed regular payments from the trust for several years to the beneficiaries up until you pass when the full trust goes to your heirs.

## Death and Taxes

Ben Franklin said, "...nothing can be said to be certain, except death and taxes," but he failed to add that the two aren't mutually exclusive. There are taxes involved while you're busy building your estate and after it passes on. Getting a jump on estate taxes and planning accordingly can save your beneficiaries money and headaches.

### Federal Estate Tax

The federal estate tax is not a tax on the estate, but, rather on the estate transfer to heirs and beneficiaries. It applies to the total value of the estate, which includes assets such as real estate, cash, investments, and other possessions.

Not everyone's estate is subject to this tax. There's a certain threshold called the "exemption limit," which is the value up to which an estate can pass tax-free. For estates exceeding the exemption limit, the federal government applies a tax rate to the taxable portion. The estate's executor or administrator is typically responsible for filing an estate tax return if the estate value exceeds the exemption limit.

The tax rates are progressive, meaning higher-value estates are subject to higher tax rates. Some assets and transfers may be exempt from the estate tax, and certain deductions can be applied, reducing the taxable amount.

In addition to federal estate taxes, some states impose their own estate or inheritance taxes. These state-level taxes can have different exemption limits and rates.

It's important to note that tax laws can change, and exemptions and rates may be adjusted by legislation. Our tax professionals can explain the most up-to-date and accurate information based on the current rules and regulations.

### The Generation-Skipping Transfer Tax

The Generation-Skipping Transfer Tax (GSTT) is a federal tax designed to prevent individuals from avoiding estate taxes by passing wealth directly to their grandchildren or others who are two or more generations below them. Essentially, it aims to ensure that each generation in a family pays its fair share of taxes on inherited wealth.

The GSTT is applied in addition to estate and gift taxes, and it kicks in when assets skip a generation, moving from grandparents to grandchildren, for example. To mitigate the impact of this tax, a lifetime exemption amount allows individuals to transfer a certain amount of wealth without incurring the GSTT. Understanding and planning for this tax is crucial for families with substantial assets to ensure a smooth transfer of wealth across generations.

### Capital Gains Tax

The Capital Gains Tax (CGT) in the context of estate planning refers to the tax imposed on the increase in the value of certain assets when they are transferred, typically as part of an inheritance. When an individual passes away and leaves assets to heirs, such as stocks, real estate, or other investments, the heirs may face capital gains tax when they decide to sell or transfer these assets.

However, it's important to note that in many jurisdictions, the tax basis of the inherited assets is "stepped up" to their fair market value at the time of the original owner's death. This step-up in basis can significantly reduce the capital gains tax liability for heirs, as they are only taxed on the appreciation that occurs after the date of inheritance. Proper estate planning can help minimize the impact of capital gains tax, ensuring that beneficiaries can maximize the value of their inherited assets when they sell or transfer them.

Each situation is different. That's why it's important to talk with an estate planning tax advisor who can explain how these, or other applicable taxes, may affect your estate.

## One and Done?

Life changes, and so should your estate plan. Reviewing and updating it whenever you go through major life events like getting married, having kids, or changing jobs is a good idea.

Reviewing your estate plan every few years is also a good idea, even if there haven't been any major life changes. Your priorities and circumstances may evolve over time. Plus, changes in laws and regulations may impact your estate plan's legal and financial aspects, making it essential to stay informed and adjust as needed.





Here are some key milestones and events that may trigger a need to review and update your estate plan:

#### **LIFE CHANGES**

**Marriage or divorce**

**Birth or adoption of children or grandchildren**

**Death of a family member or beneficiary**

**Moving to a new city, state, or country**

#### **CHANGES IN FINANCES**

**Significant changes in your assets  
or liabilities**

**Purchase or sale of real estate or other  
substantial assets**

**Changes in your income or expenses**

#### **CHANGES IN GOALS OR WISHES**

**Changes in your philanthropic goals**

**Changes in your distribution preferences  
among beneficiaries**

**Changes in your views on healthcare and  
end-of-life decisions**

#### **CHANGES IN LAWS AND REGULATIONS**

**Changes in tax laws that may affect  
your estate**

**Changes in probate or trust laws**

**Changes in healthcare laws and regulations**

## **We Can Help**

Regular reviews of your estate plan with an estate planning professional help ensure it remains current and effective in achieving your goals and we're here to help.

We believe in building long-term relationships with our clients—that means staying with you as your circumstances change. We can review your plan with other professional advisors to determine whether changes are needed. We can also tell you more about the estate planning strategies we've discussed here and how you can use them to care for your loved ones now and in the future.



**Contact us  
today for a free  
consultation.**