

ESTATE-PLANNING: YOUR TOP 50 QUESTIONS ANSWERED

A free resource from Thienel Law, LLC



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INTRODUCTION

While most of us would prefer to avoid thinking about our inevitable death, advanced estate planning can alleviate a lot of the stress and confusion your loved ones may face when you die.

This is a comprehensive list of estate planning questions and answers. It is designed to answer the most common questions people have so that you may start on your own estate-planning journey with all of the information you need.

This eBook does not have to be read cover-to-cover, though if you do read it in its entirety, you will find yourself light-years ahead of your peers when it comes to estate-planning. If you have specific questions you want answers to, go back to the Table of Contents and skip directly to the questions that are most important to you.

If you still have questions when you're done, or would like to schedule a time to talk about your estate-planning needs, please [contact me](#) and schedule a time to talk.

Steve Thienel

1. What Does Estate-Planning Mean?

Estate planning consists of much more than drafting a simple will. Estate planning is the process of developing an advance plan for the management and distribution of your assets after your death. With an estate plan, you can ensure that your final wishes are carried out after your death.

However, estate planning also has several other benefits. With an estate plan, you can protect your property from your creditors and the creditors of your heirs. You can also provide income for your heirs during and after your death. You may also reduce or avoid estate and gift taxes through proper estate planning. An estate plan can also provide for unforeseen health-related emergencies and incapacitation.



3. Is Estate Planning Important?

Yes, estate planning is important for everyone. Without an estate plan, the intestate laws of Maryland decide who inherits your property and in what amounts. You have no say in what happens to your assets after your death. If you had no spouse and no children, but wanted to leave your assets to your favorite charity, you would need a will or trust.

Without an estate plan, your assets would pass to your closest relative, which might be the cousin you do not like if you have no living siblings, parents, aunts, or uncles.

Estate planning is also important to avoid a situation in which the state appoints someone to make decisions for you if you become incapacitated. Estate planning can keep important financial and health care decisions under your control by allowing you to appoint someone you trust to make financial and health care decisions for you if you cannot do so for yourself.



5. Questions to Ask When Estate Planning

One purpose of meeting with an estate planning lawyer is to get answers to your questions about probate matters and estates. It can help to write down a list of questions you want to ask before your first meeting. Some of the estate planning questions you may want to add to your list include:

- *Do I need a joint will with my husband?*
- *Should I consider establishing a living trust?*
- *How much experience do you have with estate planning and probate?*
- *What are your credentials and experience?*
- *Do I need a power of attorney?*
- *If everything is titled jointly with another person, do I still need a will?*
- *Will the new federal tax law affect my estate plan?*
- *How can I reduce or avoid estate taxes?*
- *Do I need a trust agreement to protect my assets?*
- *How long will it take to complete the estate planning process?*
- *Do I file the originals of my estate planning documents with the court, leave them with you, or keep them myself?*
- *How much do you charge for estate planning services?*
- *I have a will. Need I review my will and estate plan?*
- *Are there ways to avoid probate?*
- *How do I protect my children if I die or become incapacitated?*
- *What happens to my online accounts, such as social media accounts, online financial accounts, bitcoin accounts, and other digital assets when I die?*



7. What Estate-Planning Documents Should I Have?

The following is a checklist of the estate-planning documents most people should use as part of a comprehensive estate plan:

- *Last Will and Testament. Everyone should have a will to distribute assets after death.*
- *Durable General Power of Attorney to appoint an agent to manage financial matters if you cannot do so.*
- *Durable General Healthcare Power of Attorney gives another person the authority to make medical decisions for you.*
- *Revocable Living Trust to protect assets from creditors, avoid probate, and reduce estate taxes.*
- *Beneficiary Designations for any assets that pass outside of the probate court.*
- *Living Will and Health Care Directive to ensure that your wishes related to end-of-life care are respected.*
- *HIPAA Releases allow family members to obtain medical information they may need if you are incapacitated.*
- *Provisions for Digital Assets allows you to decide what you want to do with your information stored online, digital photos, social media accounts, email accounts, computer hard drive, bitcoin accounts, and any other accounts or information maintained online.*
- *Letter of Intent to attach to your will with special personal and financial information that may not belong in a will, but that can be very helpful for the estate administrator and your heirs. Information may include how you want your memorial or funeral service performed and login/password information for online accounts.*
- *Appointment of Guardian and Trust for Minor Children, which may be accomplished as a testamentary trust within your will.*



8. What Do Estate Planning Attorney's Do?

Estate planning attorneys assist clients as they decide how they want to manage their final affairs. The attorneys draft legal documents to ensure that the client's needs, goals, and wishes are met. However, estate planning attorneys do so much more.

Estate attorneys help individuals develop plans that can:

- *Avoid probate*
- *Eliminate or reduce estate taxes*
- *Protect assets from creditors*
- *Provide income for spouses and children*
- *Plan for incapacitation*
- *Develop a plan for long-term personal care (Medicaid Planning)*
- *Set up a Guardianship and Trustee for minor children*
- *Develop an End of Life plan to incorporate within the estate plan*
- *Develop various trust agreements for individuals with special needs, charities, minors, and other individuals*

Two of the most important things that an estate attorney does is to provide support and guidance for an individual as he or she is making some of the most important decisions of their life. The second thing an attorney does is ensure that all legal documents are valid according to Maryland's estate laws. DIY estate plans may not meet the legal requirements and, therefore, could be ruled void.



9. How Do I Handle Estate Planning When I Own A Business?

A business owner needs a Business Succession Plan to ensure that the company is transferred or sold according to the owner's wishes. A succession plan allows you to choose your successor and create a detailed plan for training your successor and transferring the company to your successor upon your retirement, incapacitation, or death. You may also sell the business and distribute the proceeds to your heirs. The key is to invest the necessary time to consider what you want to happen to your business upon your exit from the company now rather than later.

Key elements of a Business Succession Plan include:

- *Establish Objectives & Goals*
- *Create a Process for Decision Making and Communication*
- *Choose Successors, Identify Their Roles, and Develop a Strategy for Training*
- *Incorporate the Business Succession Plan into Your Estate Plan*
- *Consider Selling the Business or Closing the Business*
- *Address Tax Implications and Strategies*
- *Obtain a Business Valuation*
- *Determine Your Exit Strategy for Retirement*

An estate planning attorney can help you develop a Business Succession Plan that meets your goals and needs. The process for developing a succession plan may sound difficult, but an attorney can simplify the process, facilitate discussions, and draft all necessary documents.



10. Is DIY Estate Planning Risky?

A DIY or do-it-yourself estate plan can be very risky. Using templates you find online or purchase from a company are broad, general templates that rarely cover all matters required for a comprehensive estate plan. In some states, those forms may not be valid or legal. Instead of a simple probate estate, your heirs may need to file a costly, time-consuming intestate estate because your DIY will did not meet all legal requirements under Maryland's probate laws.

A will is just one estate planning document you may need in your estate plan to protect yourself, your property, and your family. Other estate planning documents can be complex and must be drafted with very specific legal language to be valid. Some estate planning documents may not be undone once you execute them, such as an Irrevocable Living Trust. Unless you have an extensive understanding of gifting, trusts, and estate taxes, your DIY estate plan may cause significant tax liabilities for your heirs and your estates.

Some instances in which you may want to contact an estate planning attorney include:

- *Business Owners*
- *High Net Value Individuals*
- *Blended Families*
- *Special Needs Planning*
- *Medicaid Planning*
- *Incapacitation Planning*
- *Same-Sex Couples and Other Relationships*
- *Planning for Minors*
- *Property or Assets Located in Another State or Country*

11. Are Estate-Planning Fees Tax Deductible?

In the past, you could deduct the fees you paid for estate planning on your personal income tax return under some circumstances. The reason you were engaging in estate planning determined whether the estate planning fees were tax deductible.

However, under the new Tax Cuts & Jobs Act (TCJA), the deduction for estate planning fees was eliminated entirely. Most personal legal fees are no longer deductible under the TCJA. However, the TCJA only eliminated these deductions for tax years 2018 through 2025.

Unfortunately, that does not help you right now if you need estate planning services.

Estate planning services are an essential legal service that helps protect you, your family, and your property. Therefore, we urge you to contact an estate planning attorney to discuss services even though you cannot deduct the fees on your personal income tax return.

12. How Much Does Estate-Planning Cost?

One of the common reasons people avoid estate planning is because of the cost to hire an estate planning attorney. All clients benefit when attorneys provide transparent information regarding the cost of legal services. However, a one-size-fits-all approach to estate planning does not work. Estate plans depend on many factors, including a person's unique goals and desires. The fee also depends on the complexity of the person's situation and the legal documents required to accomplish the person's goals.

Therefore, ask the estate planning attorney if he or she offers a free or reduced-fee consultation to discuss your needs before quoting a price for estate planning. Usually a basic estate plan is less costly because it may not involve complex trust agreements or complicated legal issues. However, law firms may define "basic" estate plans differently. Therefore, always ask the attorney what documents are included in a basic estate plan and how much the fee is for that plan.

Remember that while estate planning may cost money up front, you are saving money, time, and stress. Your comprehensive estate plan protects your assets for your heirs, but the estate plan also offers many benefits during your lifetime, including remaining in control of important decisions related to your finances, property, health care, and long-term personal care. The fee you pay now for estate planning may save you and your family thousands of dollars.



13. How do you do Estate-Planning?

The easiest way to do estate planning is to work with an estate-planning attorney. Estate planning attorneys have extensive knowledge of the laws governing matters related to probate, estates, trusts, taxes, and other areas that relate to estate planning. Their knowledge and expertise can help you avoid pitfalls and mistakes that could be prove costly.

The process of developing an estate plan varies depending on the person or the family. No two plans are identical. You may use the same legal forms, but the information is tailored to your unique goals and needs.

Some individuals need complex plans that include various trust agreements while other individuals may only need a few basic documents. Because you may not know what you need, the safest way to do estate planning is to work with an experienced estate planning attorney.



14. How do you Start Estate-Planning?

If you are ready to start estate planning, the first step is to meet with an estate planning attorney. To help your attorney understand your needs and to obtain the best value from your consultation, it helps to prepare for the meeting. Below is an estate planning checklist for meeting with an attorney for the first time:

- *List of questions you want to ask the estate planning attorney*
- *Copies of current estate planning documents, including wills, trust agreements, powers of attorney, living wills, etc.*
- *Information about your estimated net worth, including real estate, annuities, financial accounts, life insurance, business interests, vehicles, jewelry, retirement accounts, jointly owned property, stock accounts, and other assets with significant value*
- *List of heirs and family members, including relationship and age*
- *List of accounts with beneficiaries*
- *Interests in trust agreements, including ownership and beneficiary interests*
- *Information related to anticipated inheritances*
- *List of liabilities, individual, business, and joint*
- *List of personal estate planning objectives (i.e. the distribution of assets, avoid probate, eliminate estate taxes, provide for minors or persons with special needs, Medicaid planning, etc.)*
- *Names and contact information for guardians, trustees, and executors*

You do not have to provide each item on the list, and you may bring additional information and documentation you believe is relevant for estate planning. The important thing is that you are ready to begin estate planning and have chosen an estate planning attorney to help you.

A photograph of a sunset scene with palm trees and a road. The sun is low on the horizon, casting a warm orange glow. Several tall palm trees are silhouetted against the sky. A road with a yellow center line leads towards the horizon.

15. How Do I Choose an Estate-Planning Attorney?

Often, hiring an estate planning attorney within driving distance is helpful because you may need to make at least two or three trips to the office to discuss, develop, and execute your estate plan. You can search for an estate planning attorney by asking family members, friends, and other attorneys for recommendations. Receiving a recommendation from someone you trust is more valuable than an online review.

However, if you have no recommendations, online reviews are a source for evaluating an attorney too, but nothing compares with meeting with an attorney. You may begin by requesting a telephone conference to get an idea of who the attorney is and how the attorney plans to help you. If you feel comfortable, you can schedule a consultation to discuss estate planning in detail.

Because estate planning involves very specific areas of law, it is best to choose an attorney with several years' experience in estate planning. You may also want to search for an estate planning attorney who limits their practice to probate-related matters and has obtained additional certifications related to estate planning services.

SEE WHAT MY CLIENTS SAY ABOUT ME

16. Is Estate-Planning for Business Tax Deductible?

Before the passage of the Tax Cuts and Jobs Act (TCJA), legal expenses related to estate planning qualified as a tax deduction under certain circumstances. However, that is not true now. For tax years 2018 through 2025, you cannot deduct legal expenses related to estate planning.

Because a Business Succession Plan may be a separate legal expense, you should discuss with your tax preparer if you can deduct the legal expense for developing a Business Succession Plan on Schedule C of your personal income tax return. The estate planning attorney would have to bill you separately for preparing the Business Succession Plan.

Your tax professional may need to research the matter to determine if the fee for a Business Succession Plan can be included as a business expense instead of a personal estate planning expense since the IRS is continuing to issue guidelines regarding some areas of the new tax law.

Talk to a Tax Professional

A serene landscape featuring a calm lake in the foreground with a single white swan swimming. In the background, there are dark, forested mountains under a cloudy sky. The overall tone is peaceful and natural.

17. Is Estate-Planning Considered a Business Expense?

Some aspects of estate planning may be related to your business. A Business Succession Plan is often included in an estate plan. Therefore, your tax professional may advise you that you can deduct the legal expense for preparing a Business Succession Plan. Likewise, if you set up a Family Limited Partnership (FLP) as part of your estate plan, the FLP may be considered a business.

A company that offers to pay legal expenses for estate planning services for employees may be able to deduct that expense as an employee benefit. However, the reimbursement may be considered taxable income for the employee. These areas of the tax code are complex, and it is easy to make a mistake. A tax professional who has extensively studied the new tax laws should be consulted before assuming an estate planning expense may be tax deductible if it relates to a specific business or company.

Talk to a Tax Professional

An elephant stands in a sunlit forest, with light rays filtering through the trees. The elephant is facing forward, slightly to the left.

18. When Should You Start Estate-Planning?

Ideally, it is best to begin estate-planning right after your eighteenth birthday. Young adults may not believe they need to engage in estate planning; however, estate planning can benefit everyone.

For instance, a young adult may not have a spouse or children or own many assets, but having a Durable Power of Attorney, Living Will, and Health Care Power of attorney can be very beneficial if the young adult was to become incapacitated. A parent or agent could act on behalf of the young adult to make financial and medical decisions.

If you have no estate plan, the time to begin estate planning is right now. The most valuable benefit of an estate plan is that it allows you to be prepared for unexpected events. While some people may know they will pass away soon, accidents and sudden illnesses can take your life or result in incapacitation within a few seconds. If you have no estate plan in place before that time, it is too late, and your family members are the ones left to deal with the aftermath.

19. When Should I Update My Estate Plan?

Ideally, review your estate plan annually or at least once every two to three years. However, some life events should automatically trigger a review of your estate plan.

Some events that should prompt you to contact your estate planning attorney include:

- *Marriage*
- *Separation and Divorce*
- *Death of a spouse*
- *Birth or death of a child*
- *Death of an heir*
- *Purchase of a business*
- *Retirement*
- *Acquisition of a substantial asset*
- *Sale or transfer of a substantial asset*
- *Receiving a large inheritance*
- *Moving to a new state*

If you are in doubt about whether you need to review your estate plan after a major life event, it is always best to err on the side of caution and contact your estate planning attorney.



20. Can I Leave Family Members Out of My Will?

It depends on the state in which you reside. Most states do not require you to leave property to distant relatives, siblings, or parents. However, some states may have an automatic spousal share and a share for minor children.

Maryland only provides for a statutory claim for the surviving spouse. Children may be disinherited.

Under Maryland law, a surviving spouse may claim a share of the probate estate. If the individual died with no descendants, the surviving spouse can claim up to one-half of the estate. If the individual has descendants, the spousal claim is limited to one-third of the estate.

By working with an experienced estate planning attorney, you may be able to draft your will in such a way that your surviving spouse is limited to the spousal share afforded to him or her by law. In this way, you may limit how much your spouse may receive through your estate.



21. What Is Probate?

Probate is the legal process in which a deceased person's final debts are paid, and property is distributed to heirs. Unless an individual successfully challenges a will, the decedent's property is distributed according to the terms of the will.

However, if someone dies without a will, the estate is subject to Maryland Intestacy Laws.

Intestate succession determines who inherits from a person's estate and in what proportion. In general, the intestate laws provide for property to be distributed to a decedent's closest living relatives.

For example, a spouse and children would inherit the estate before parents and siblings.

In Maryland, the Orphans' Court supervises estates subject to probate.



22. Can I Avoid Probate?

Depending on your situation, you can avoid probate or greatly reduce the number of assets that pass through probate. Some ways to avoid probate include:

- *Holding title jointly with the right of survivorship. When you pass away, the property automatically passes to the joint owner.*
- *Payable on Death (POD) accounts and financial accounts with beneficiaries pass directly to the beneficiary upon death. Most retirement accounts have beneficiaries.*
- *Life insurance policies and annuities with beneficiaries pass to the beneficiary outside of probate.*
- *Assets held in a trust are distributed to the trust beneficiaries according to the terms of the trust agreement unless the estate is named as the beneficiary.*

Many different types of trust agreements can avoid probate, including irrevocable, charitable, special needs, QPRTs, and life insurance trusts.

However, some assets may not be held in a trust or have a beneficiary designation. It may not be beneficial to hold joint title for all property and in all circumstances.

An estate-planning attorney will help you devise the best strategy for avoiding probate or eliminating most assets from probate while protecting your property and other interests.



23. How Long Does Probate Take?

Many typical estates can be closed within one year if the estate need not sell real estate, file a U.S. Estate Tax Return, or, litigate estate disputes. An estate must remain open for at least six months from the date of death to allow the period for filing creditor claims to expire. When a will or codicil exist, the estate cannot be closed until after the time to challenge the will or codicil expires, which is six months from the date the Personal Representative was appointed.

If the value of the Maryland estate is \$30,000 (\$50,000 if the surviving spouse is inheriting the entire state), the estate may qualify for a Maryland statutory small estate.

Small estates may close within two months. A modified estate administration may also be available for some Maryland estates. The modified estate administration is a streamlined procedure that closes the estate within ten months of the appointment of the Personal Representative. A modified estate administration does not involve the Orphan's Court.



24. How Much Does Probate Cost?

The cost to probate an estate in Maryland depends on the estate. Every estate must pay some standard probate costs. However, other costs apply only if an estate is large or complex.

Some of the probate costs for Maryland estates include:

- *Probate Attorney Fees – If you need to hire a probate attorney for the estate, Maryland statutes set the maximum allowable fees an attorney can charge. Any fees above the statutory limit require approval from the Orphan's Court and such approval is seldom granted. The maximum allowable attorney fee is calculated on a sliding scale based on a percentage of the value of the estate. An attorney may charge by the hour, but the total fee cannot exceed the statutory rate determined by the size of the estate.*
- *Probate Administration Fees – Probate administration fees are based on the total gross value of the estate. The fee is a sliding scale with higher value estates paying a fee higher than estates with lower values.*
- *Other Administrative Fees – Some services are not included in attorney fees or probate administration fees. Therefore, you may have costs associated with requesting certified or exemplified copies; entering claims; certified mail fees; copies; filing a will for safekeeping; bond premiums; court filing fees; printing expenses; and messenger services.*
- *Extraordinary Services – An estate's assets may require the Personal Representative or the attorney to perform other services or obtain services from other professionals. The estate also pays the costs for these extraordinary services. Examples of extraordinary costs include hiring a tax professional; selling or leasing real estate; recovering assets held by another party; and, defending challenges to the will or objections to claims.*

This is not an exhaustive list of all potential costs, but it covers most of the typical probate costs you may pay when you probate an estate.



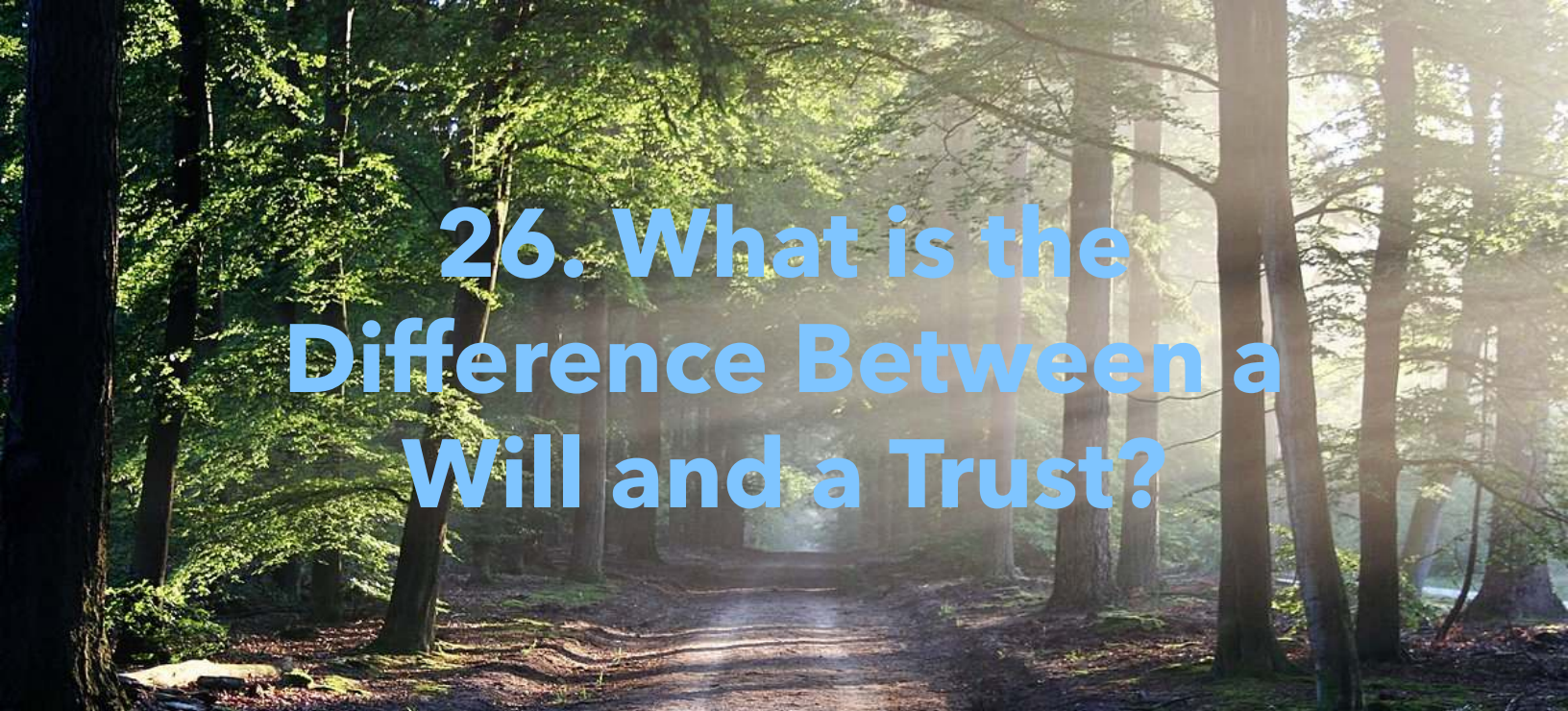
25. Are There Benefits to Going Through Probate?

Many people try to avoid probate because of the time and cost involved in probate estates. High-value estates may also be subject to estate taxes. However, there are instances in which going through probate may be beneficial.

The probate process limits creditor claims against the estate assets. Creditors who fail to file claims before the deadline have their claims denied. The probate process also allows you to challenge the validity of a claim by objecting to the claim. The creditor must provide proof of the debt owed to receive payment from the estate.

Probate allows the Personal Representative to legally transfer title to property to heirs or to third parties who purchase the property. It also provides a forum to settle disagreements by family members and challenges to the will.

There is no absolute rule that dictates whether an estate should go through probate. An estate attorney can help you determine if probate is right for your case or if you can avoid probate or opt for the streamlined probate process.



26. What is the Difference Between a Will and a Trust?

A will is a finite document that serves one purpose – to finalize your affairs after your death. However, a trust agreement is extremely flexible and may serve many purposes.

A will does not become effective until your death. Upon your death, all assets titled solely in your name become property of the estate. Your will appoints a Personal Representative to administer your estate. The Personal Representative secures your property, pays just debts, and distributes property according to the terms of the will. The terms of your will and your estate are a matter of public record and subject to the supervision of the court.

A trust agreement creates a fiduciary relationship between the settlor, the trustee, and the beneficiaries.

As the settlor, you transfer title to assets to the trustee to be held by the trustee for the benefit of the trust's beneficiaries. The trustee manages the trust, according to the trust terms. A trust may be in effect during your lifetime or after your death. You may also serve as the trustee to maintain control of the assets during your lifetime.

27. What is the Difference Between a Will and a Living Will?

A will identifies your heirs, appoints a Personal Representative, and directs how your assets are distributed. The document allows you to control how your final affairs are managed. A will does not become effective until your death.

A living will becomes effective during your lifetime under specific circumstances. If you are terminally ill, in a persistent vegetative state, or may die within a short period if you are not placed on life support, your living will becomes effective at the moment you cannot communicate your choice for medical care.

Through a living will, you can direct physicians to provide or withhold life support under specific circumstances. You may also dictate your preferences related to life-sustaining treatments, including artificial hydration and feeding tubes. To ensure that your decisions are enforced, you may also appoint an agent with the authority to direct doctors to follow your wishes as outlined in your living will.

28. Do I Need a Trust?

Your specific needs, goals, and financial situation dictate whether you need one or more trust agreements as part of your comprehensive estate plan. Trusts are flexible agreements that allow you to accomplish many goals.

Some goals that a trust agreement may accomplish include:

- *Avoiding probate*
- *Reducing or eliminating estate and gift taxes*
- *Protecting property from your creditors and the beneficiaries' creditors*
- *Creating income for a surviving spouse or other heirs*
- *Providing for the care and needs of an individual with special needs*
- *Providing for a charity*
- *Providing for a minor child after your death*
- *Assist with Medicaid planning*

Because there are many different types of trusts, the trust you choose may have benefits in addition to the benefits listed above.

29. What Kinds of Trusts are Available?

Some of the most common types of trusts include:

- *Revocable Living Trust – A Revocable Living Trust holds title to property during your lifetime for your benefit. Upon your death, the trust becomes irrevocable, and the assets must be used or distributed to the beneficiaries you name in the trust according to the terms of the trust. Revocable Trusts are useful for avoiding probate and planning for incapacitation.*
- *Irrevocable Life Insurance Trust – This type of trust is the owner and beneficiary of your life insurance policy. Upon your death, the life insurance proceeds are managed or distributed according to the terms of the trust agreement.*
- *Special Needs Trust – There are several types of Special Needs Trusts that you can use to provide for an individual with special needs. These trusts are useful when protecting eligibility for Medicaid and other government benefits.*
- *Testamentary Trust – A Testamentary Trust is created through your will to hold a child's inheritance until he or she reaches a specific age or to fund activities such as attending college.*
- *Charitable Trusts – Provide money and support for a charity or charities during and/or after your lifetime.*
- *Qualified Personal Residence Trusts – A QPRT holds title to your real estate while allowing you to live in the home for a specific period. At the end of the period, the home is transferred to the beneficiaries. You must move out of the home or pay rent to the beneficiaries.*

There is a trust that can accomplish almost any goal you desire, but this space is too limited to list them all. An estate planning attorney can help you draft the trust right for you.

30. What is a Durable Power of Attorney?



A Durable Power of Attorney is a legal document that creates a fiduciary relationship between you and your chosen agent. With a Durable Power of Attorney, your agent can act on your behalf in a wide variety of business and financial situations. Usually, your agent can perform any financial transaction you can perform legally in your name.

The benefit of a Durable General Power of Attorney is that it is not affected by your incapacitation. Should you become incapacitated, your agent retains the authority to act on your behalf regarding matters covered by the power of attorney.

A Durable General Power of Attorney can avoid the need for the court to appoint a conservator to handle your financial affairs if you become incapacitated.

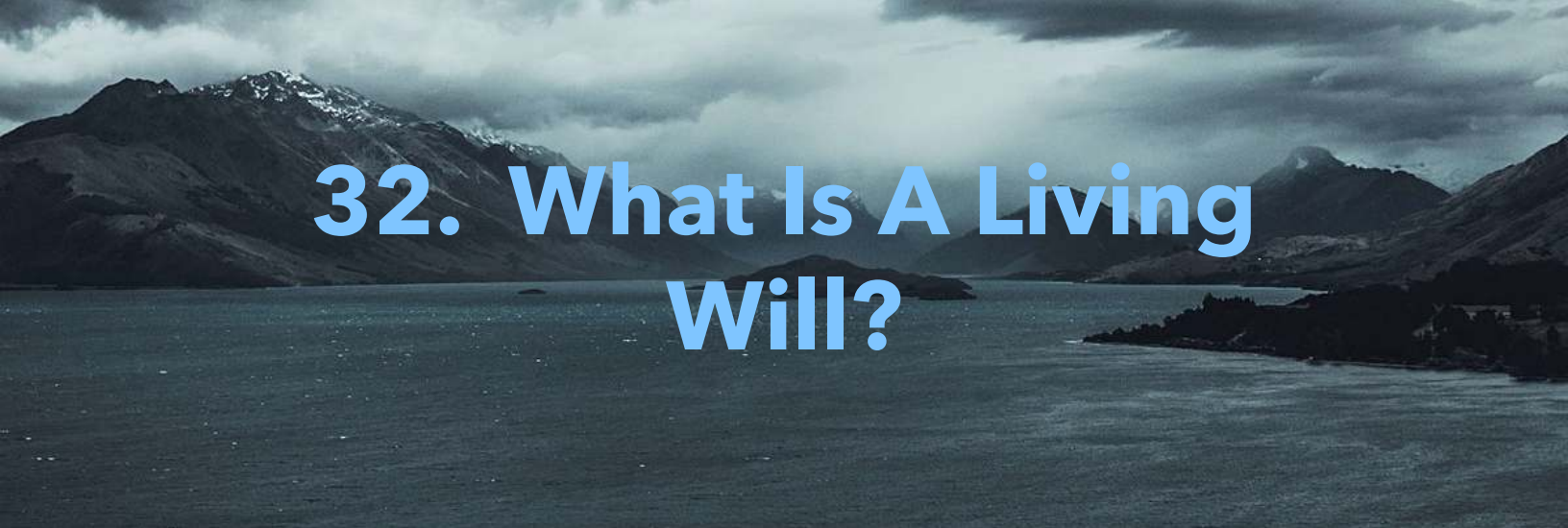


31. What is a Health Care Power of Attorney?

A Health Care Power of Attorney is similar to a General Power of Attorney, but it covers medical decisions instead of financial matters. Through your Health Care Power of Attorney, you designate an agent to act on your behalf to make medical and health care decisions. You can grant your agent the power to refuse, consent, or withdraw consent for any treatment, procedure, service, or medical care.

The powers granted in a Health Care Power of Attorney become effective when you cannot make your own decisions related to your health care, or you cannot communicate your desires or wishes related to your health care.

Your Health Care Power of Attorney may be revoked before it becomes effective or after you regain the ability to make health decisions and communicate those decisions for yourself.



32. What Is A Living Will?

A Living Will is a legal document that allows you to choose the medical care and treatments you will receive if you become terminally ill or lapse into a vegetative state. Many people view Living Wills as a way to avoid life support and life-prolonging treatments.

Within your Living Will, you state whether you consent to be placed on life support or you refuse life support options. If you refuse to be placed on life support, you can specify under what circumstances your refusal would apply. You may also consent or refuse to receive artificial hydration and a food tube under certain circumstances.

To ensure your wishes are carried out, you may appoint an agent and give the agent authority to direct medical providers to abide by your wishes and desires outlined in the Living Will.



33. What is an Advance Directive?

Advance Directives are written documents that provide doctors with information about your health care decisions in the event you cannot communicate your wishes for yourself.

Examples of circumstances in which Advance Directives are beneficial include situations in which patients are in the final stages of dementia, in a coma, terminally ill, seriously injured, near the end of life, in a vegetative state, or in the later stages of Alzheimer's disease.

By executing Advance Directives now, you can ensure that you receive the medical care you desire and avoid unnecessary suffering by refusing certain life-prolonging medical care.

Advance Directives include:

- *Living Will*
- *Health Care Power of Attorney*
- *DNR Orders (Do Not Resuscitate)*
- *Medical Power of Attorney*



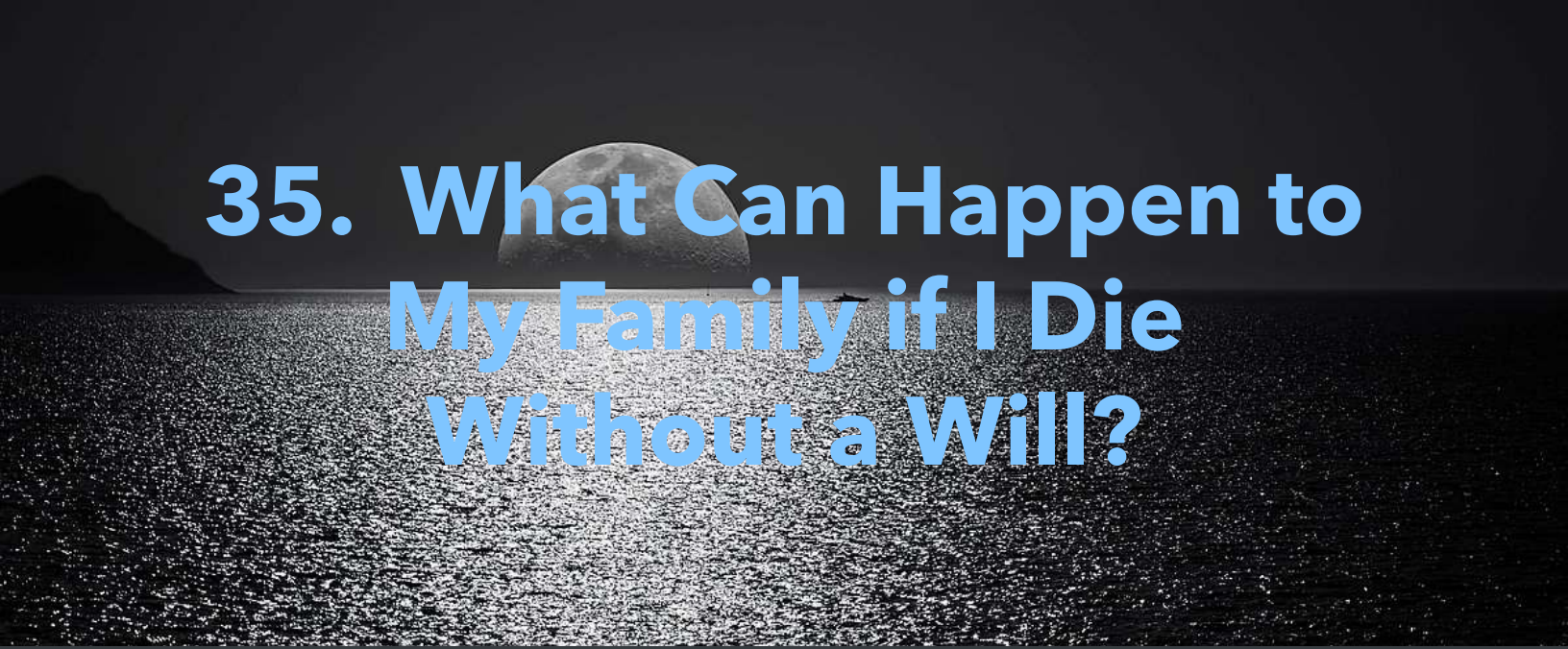
34. How Do I Handle Estate Planning with Minor Children?

Many parents worry about what will happen to their children if they should pass away. If you have minor children, you have several options for estate planning. At the very least, you need a will that creates a testamentary trust and appoints a guardian.

A guardian has physical custody of your child and raises your child. The trustee manages your child's inheritance until your child reaches the age you choose for your child to receive his or her inheritance.

You may also want to consider creating a trust for your child. Sometimes, it may be better to use a trust agreement to manage the bulk of your child's inheritance.

A trust is more flexible than a testamentary trust, and it is private. The key is to work with an estate planning attorney now to draft and execute the legal documents needed to protect your child should you and your child's other parent pass away.



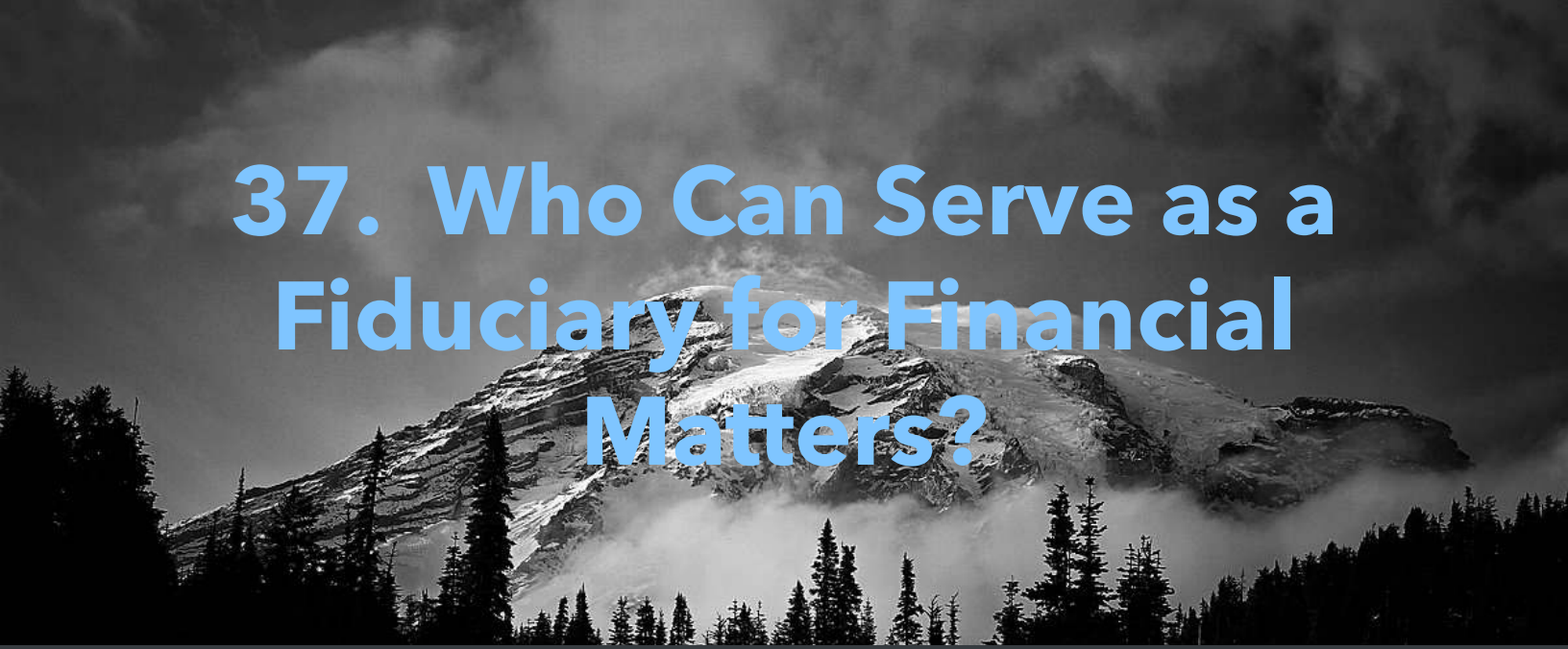
35. What Can Happen to My Family if I Die Without a Will?

If you die without a will, your estate is subject to Maryland Intestacy Laws.

The intestacy laws dictate who may inherit from your estate and the amount they are entitled to receive from the estate. In most cases, a surviving spouse and children inherit the estate. If you had no spouse or children at the time of your death, your estate is distributed to the closest surviving family members.

An intestate estate can be costly and more time-consuming than an estate with a will. Because you did not leave a will, your family may worry they are not following your wishes to finalize your estate. Your family may also not have access to money and assets they need right after your death to pay living expenses.

Drafting and executing a will can avoid these problems for your family. Everyone should have a basic will to protect themselves, their family, and their property.

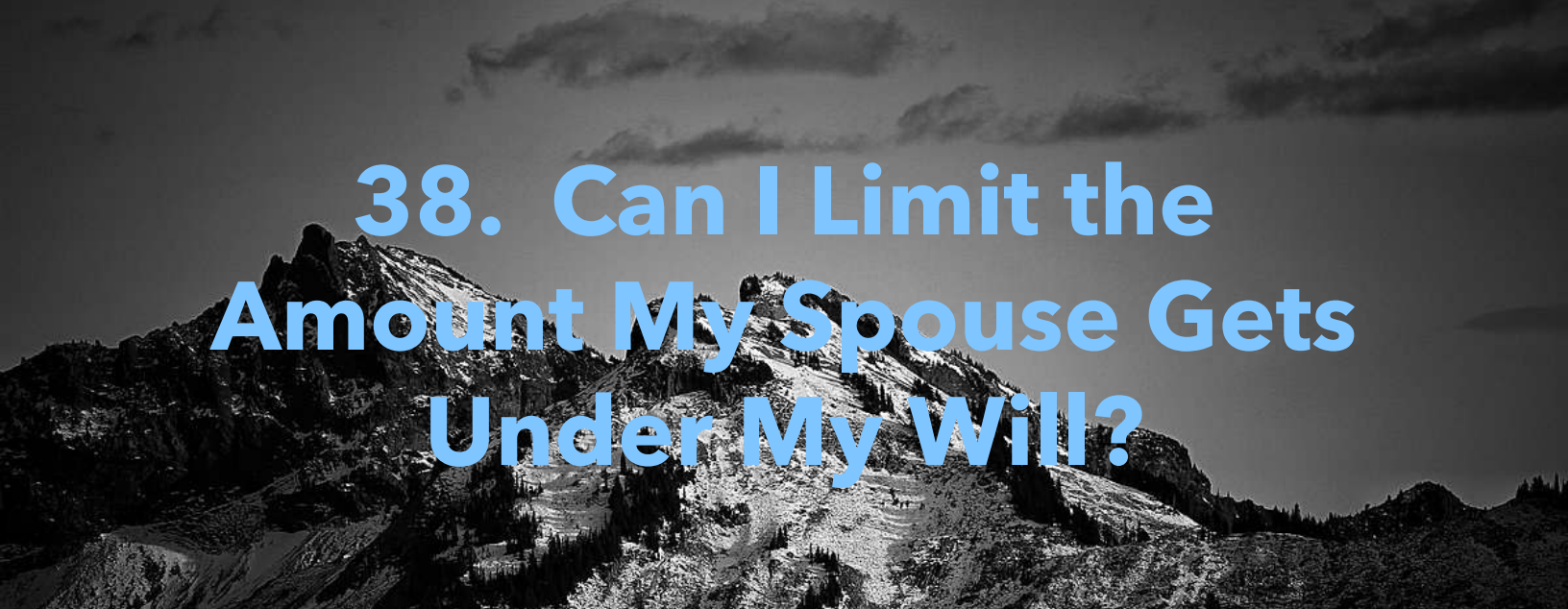


37. Who Can Serve as a Fiduciary for Financial Matters?

A fiduciary can be an individual at least 18 years of age or older or a corporate entity. Often, a person appoints a family member or friend to serve as a fiduciary to handle financial matters on their behalf. The fiduciary relationship is a “trust” relationship in which you trust your fiduciary to act in your best interest.

However, you may also appoint a professional fiduciary to handle financial matters. Many professional fiduciaries are attorneys, accountants, or trust company officers.

One of the most common reasons a person might choose a professional fiduciary over a family member, friend, or spouse is to avoid family conflict. A professional fiduciary also provides a level of objectivity and financial expertise that a family member may not have while serving in that role.



38. Can I Limit the Amount My Spouse Gets Under My Will?

You can choose who inherits your property by creating a will. You can leave as much or as little to each heir, or you can leave nothing to an heir. However, Maryland law does not allow you to disinherit your spouse completely.

In Maryland, a surviving spouse may claim part of your estate even if you do not name your spouse as an heir in your will. If you died with no descendants, your surviving spouse can claim up to one-half of your estate. If you have descendants, your surviving spouse can claim one-third of the estate.

However, removing property from your estate may be a way to limit the property your spouse receives when you die. By creating a trust and transferring property to the trust, the property does not become part of your estate upon your death. Therefore, any property in a trust is not subject to the statutory spousal share.

An estate planning attorney can review your options for creating trusts to limit the amount your spouse receives from your estate.



39. How Can I Protect My Child Who Has a Mental Health or Addiction Issue?

A special needs trust allows you to place money or property in a trust to benefit your child. Your child does not have direct access to the trust property, but the trustee can use the money or property within the trust to benefit the beneficiary.

You can serve as the trustee to maintain control over the assets.

Upon your death or incapacitation, a successor trustee assumes the management of the trust to benefit your child. For a child eligible for Medicaid and other government benefits, a special needs trust can help protect eligibility while providing supplemental income and resources for your child.



40. Do I Need a Business Succession Plan?

A Business Succession Plan provides an orderly exit plan for your retirement, death, or incapacitation. These plans are important for small business owners and family-owned and operated businesses. Suddenly losing a key member of the business or the sole business owner can create problems and chaos that could cause closing the business.

With a Business Succession Plan, you can provide the steps and resources for a successful business hand-off when you exit. The plan allows you to choose your successor, develop a training program, set timetables, and develop a management, ownership, and tax strategy that benefits your family.

A Business Succession Plan can also outline the process to sell the business if you have no family member or other person who would want to operate the business after your death or incapacitation.



41. What Happens to My Social Media Accounts When I Die?

Your “digital estate” comprises everything online, including your social media accounts, musical library, backup accounts, photos & videos, and all other assets in digital form. Include your digital assets in your estate plan.

For social media accounts, you need to research how each account addresses deceased users. For example, can a Personal Representative submit proof of appointment and request deactivation of the account?

Some platforms, like Facebook and Instagram, offer to memorialize the account by locking the account and removing it from public places. Some social media platforms allow you to appoint a legacy account so the person you appoint can update your profile and respond to condolences.

During the estate planning process, list all digital assets and online accounts so you can research the options available for deactivating or memorializing each account after your death. If the account permits a legacy appointment, consider appointing your Personal Representative for that role. You may also want to address how the accounts should be managed or closed in your will and arrange for a list of logins and passwords to be held in a safe place with other estate documents for your Personal Representative to access.

42. Who Will Take Care of My Minor Children If Both My Spouse and I Die?

If both you and your spouse die, a family member or friend must petition the court to be appointed as guardian of your child.

The appointment of the guardian is at the sole discretion of the judge who decides based on the best interest of the child. The person that the judge approves may or may not be the person you would want to care for your child after your death.

However, through estate planning, you can choose a guardian to care for your child, and you can choose the same person or another person to manage your child's inheritance. You remain in control of this decision instead of leaving it up to the court.

You may appoint a guardian in your will and create a testamentary trust in your will to protect your child's inheritance. You may also use a trust agreement to further protect your child's inheritance.

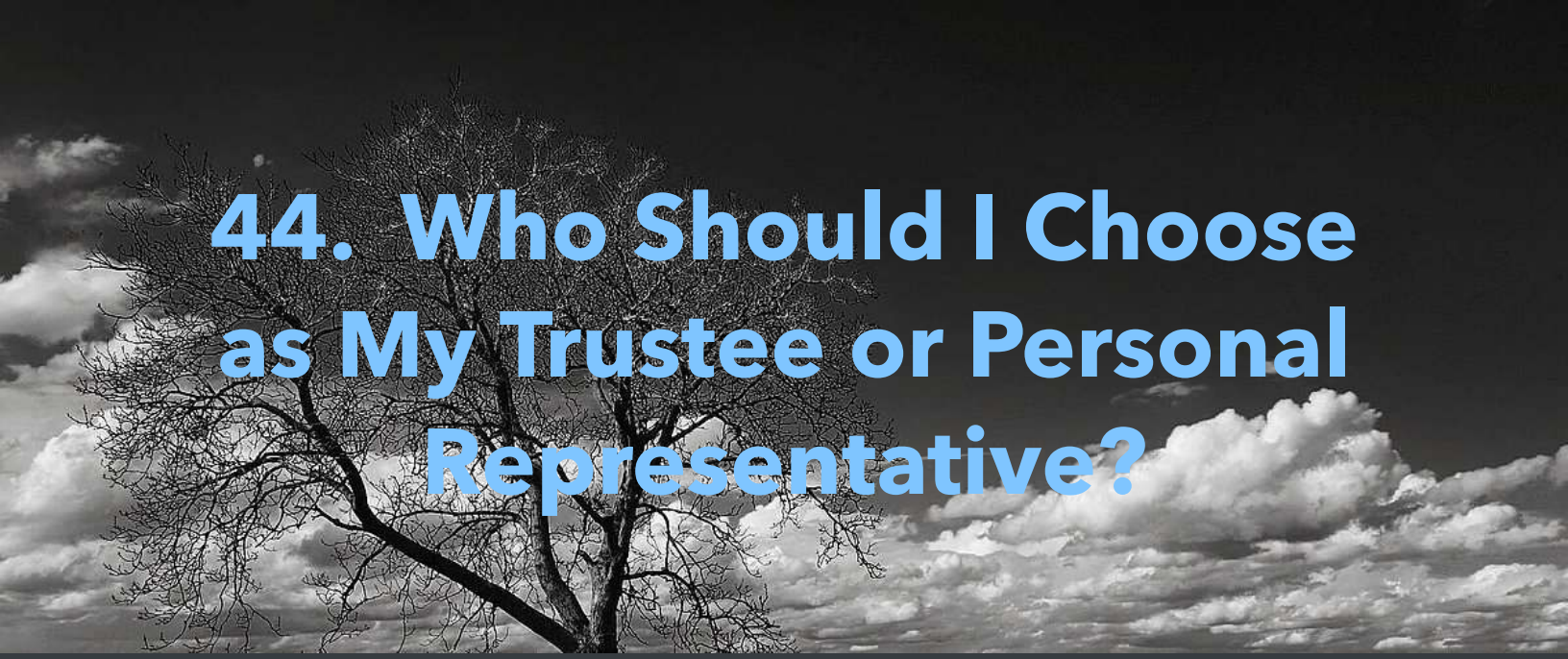


43. How Can I Make Sure No One Contests My Will?

You cannot control what someone might do after your death. A person of interest can contest your will for many reasons. You can reduce the chance of an heir contesting your will by meeting with your family members after your will is finalized and signed to discuss why you made the decisions you did regarding your estate.

A family member may still contest your will after your death. Working with an experienced estate planning attorney ensures that your will is valid and legal so contests are less likely to succeed.

If you are worried about an heir contesting your will, you might place your property in a trust so the property is not subject to your will and never passes through your estate.



44. Who Should I Choose as My Trustee or Personal Representative?

Choosing a trustee or personal representative is a crucial step in the estate planning process. This person holds a position of trust to manage your trust or administer your estate according to the terms of the trust agreement and will. The person you choose should be willing to perform the duties and responsibilities required when serving in these roles.

You should also choose a person who understands your goals and desires and who will take steps to ensure your wishes are carried out after your death.

Trustees and personal representatives may be family members or close friends. However, you may also choose an attorney or professional fiduciary if you anticipate your heirs may contest the trust or will; you have no one willing to serve or is competent to serve in these roles; or, you do not believe family members or friends will carry out your wishes because they disagree with your choices.



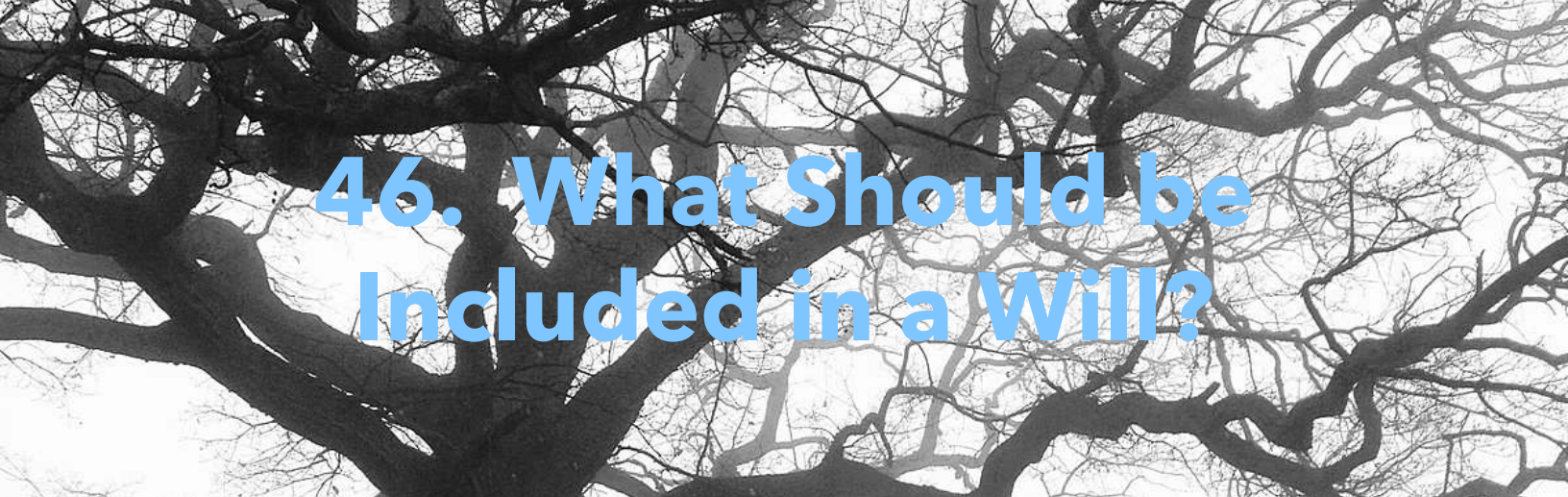
45. Should I Include Pre-Death Gifts in My Estate Plan?

Pre-death gifts are one way you can reduce the value of your taxable estate to avoid or reduce estate taxes. Gifts you make during your lifetime are not included in your estate.

Depending on the size of your estate, you may want to include annual gifts to heirs just under the Annual Exclusion to avoid paying gift taxes. However, you need to be aware of gifts given within three years of your death because these gifts could be taxed under certain circumstances.

An estate planning attorney can help you devise a gifting strategy that provides the maximum benefits with the least risk of taxes.

Once you maximize your gifting strategy, you may utilize living trusts and other estate planning tools to continue to reduce the taxable value of your estate while transferring property to your heirs with minimal tax liability.



46. What Should be Included in a Will?

A will can be as simple or complex as you desire. Your needs and goals dictate the complexity of your will. However, some basic elements are included in most wills.

Most wills include clauses related to:

- *Payment of just debts and funeral expenses.*
- *Appointment of a Personal Representative to administer the estate.*
- *Survival clause that leaves property to one person if that person survives you. If the person does not survive you, then the property is to be divided among your named heirs.*
- *Specific bequeaths of property identified by name and description to certain heirs.*
- *Guardianship clause to name a guardian for minor children.*
- *Testamentary trust to hold a minor child's inheritance and name a trustee to manage the inheritance for the child.*
- *A residuary clause that dictates how property not named anywhere in your will is to be distributed.*
- *A fiduciary powers clause that outlines the duties and responsibilities of your Personal Representative.*

You may want to include other items in your will. An estate planning attorney can help you determine if your will is sufficient or if you need a trust agreement or other estate planning document to accomplish your goals.



47. Can I Include My Pets in My Will?

You cannot name your pet as an heir in your will. Pets may not inherit money or property.

However, you can create a trust to care for your pet after your death. You can transfer money or property to a trust to be used for the upkeep and care of your pet during your pet's lifetime.

Upon the death of your pet, the remaining money or property in the trust may be distributed to a charity in your pet's name or other beneficiaries. Often, the person who cares for your pet serves as the trustee.

Need Help Drafting Your Pet Trust?

49. Will My Heirs Inherit My Debts?

When you pass away, your estate is responsible for paying your final debts. But, your heirs are not personally liable for your debts. However, if a piece of property was collateral for a loan, the loan remains in effect and must be paid, or the lender can repossess or foreclose.

For instance, if you leave your home to your children, your children must continue to pay the mortgage payments to avoid losing the home in a foreclosure.

There are ways to protect your property from your creditors. You can purchase insurance to pay mortgages or loans in full upon your death. You may also transfer property to a trust so it does not become part of your estate that is subject to your creditors.

Want to Maximize the Amount Your Heirs Receive?



50. What Estate-Planning Documents Does My 18-Year Old Need?

It may not be a subject you want to think about, but before you send your young adult into the world, you need to help your 18-year old obtain basic estate planning documents.

Even though your child may not own substantial assets at this time, the future is unknown, and the law views your child as an adult now.

If your child became incapacitated, even temporarily, you might not have the authority to make medical or financial decisions for your child without court intervention.

A basic estate plan for an 18-year old should include:

- Will
- Living Will
- Health Care Power of Attorney
- Durable General Power of Attorney
- HIPAA Authorization
- Life Insurance and other financial account beneficiary designations

An estate planning attorney can help you determine if your child needs or would benefit from a more comprehensive estate plan.



Get started with your estate-plan!

You've got the knowledge, now it's time to put it to good use. Schedule a time to discuss your estate-plan with an experienced estate-planning attorney.

[Schedule a Consultation](#)

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