4 Reasons to Hire an Estate Planning Attorney in Massachusetts

Estate planning is one of the most important things you can do to protect yourself and your family. Massachusetts laws are complex. Unless you're an attorney, preparing an estate plan is not something you should do on your own. Here are 4 reasons to hire an estate planning attorney.

1 – Legal Jargon Is Confusing

Legal documents aren't the easiest to read. In fact, many things are worded a certain way for a certain reason. Unless you're an attorney, you may not know this. More importantly, you may not spot an issue. The fact is, you're unlikely to have the experience and skills to properly prepare a legal document. Whether it's an estate plan or any other legal document, it's best to hire an attorney that specializes in the particular field of law.

2 – Plans Should Be Personalized

Many people mistakenly assume that legal documents are all the same, so you should be able to purchase a template online and fill in the blanks. Unfortunately, it's not quite that simple. Although estate plans may have certain things in common, like a power of attorney and a health care proxy, most plans are customized.

For instance, if you're thinking about creating a trust, there are many types to choose from. Each have different pros and cons. Even two people wanting similar trusts will have different provisions within them. Estate plans must be personalized, so one template cannot possibly work for everyone. Trust your estate planning attorney to explain your options and help you prepare a plan that meets your specific needs.

3 – Mistakes Lead to Major Issues

Issues in estate plans can have devastating effects for your heirs. It can open doors to unknown and unintended heirs. It can result in taxes and other reductions to the value of the estate. It can lead to a lengthy and expensive court battle that dwindles assets. Given what's at stake, this is one of the most important reasons to hire an estate planning attorney in Massachusetts.

4 – Protect Your Best Interests

Estate planning is emotional, and we don't always make the best decisions under those circumstances. By hiring an attorney, you'll also receive objective advice on important matters. Your estate planning attorney will protect your best interests and help you avoid common mistakes. Sometimes we need input from an outsider to gain perspective. This can help you finalize important decisions and select the best path forward.

More Reasons to Hire an Estate Planning Attorney in Massachusetts

These are just a few of the many reasons to hire an estate planning attorney in Massachusetts. Just as you wouldn't submit to a medical procedure without consulting a medical expert, you shouldn't prepare an estate plan without consulting an attorney. Contact our team to schedule an estate planning consultation. We'll work with you to protect your interests and achieve your goals.

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3 Ways to Transfer a Home to Children

If you intend to transfer ownership of a family home to your children, there are several ways to do so as part of estate planning.

Each option has pros and cons. It's important to understand them before selecting an option. Here's a quick overview of 3 ways to transfer a home to children.

1 – Upon Your Death

The option you're likely most familiar with is to transfer ownership upon your death. You can bequeath assets in your will. After the probate process, which can take months or even years (depending on the circumstances), your children will take ownership of the home. They may then decide what to do with it, whether it be to live in or sell it. Capital gains taxes are calculated based on the value of the home when you became deceased.

2 – Through a Trust

Another option is to transfer the home into a trust. Trusts can vary depending on the type and the terms outlined within them. A home is typically placed in the trust while you are living. The tax basis and capital gains exclusions available depend on whether it's a revocable or irrevocable trust. Certain trusts bypass the probate process, which is a huge benefit. It is extremely important to consult with an estate planning professional before creating any type of trust. Weigh the tax implications and advantages to both you and your heirs.

3 – Gradually While You Are Living

One of the least known ways to transfer a home to children is the gradual method. In general, you may gift up to $15,000 per person each year, tax-free. If you are married, both you and your spouse can make a gift to the same child, totaling $30,000 per year. You can use the gift tax exclusion to gift the equity in your home.

As an example, let's assume you are married and have 3 kids. This allows you to gift $90,000 in total equity to your children each year. The advantage of this approach is the transfer of your home could ultimately be tax-free if you manage to gift the entire equity over time. The downside is, you must file a new deed every year indicating the ownership percentage change (based on the gifted equity and current market value of the home). There are two

additional concerns potential negatives. When your kids go to sell the home, capital gains are calculated based on the value of the home when you made the first equity gift. Secondly, you will lose some or all control over this asset while you are living.

Summary of Ways to Transfer a Home to Children

As you evaluate these different ways to transfer a home to children, consider a few things. Do you wish to retain control over your home (and the right to live in it)? How will your estate tax amounts change with each option? What capital gains might your children encounter? The best option for you depends on your overall estate value, relationship with your children, and personal preferences. This is one of many topics that your estate planning attorney will discuss with you. Becoming educated on the full pros and cons of each will help you make an educated decision for your estate plan.

Contact our team of Massachusetts estate planning attorneys to schedule a consultation.

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5 Qualities of a Good Guardian

When you think of guardians for your children, you probably think about specific people in your life. Sometimes it's helpful to start with a different approach. Consider the qualities of a good guardian and *then* identify individuals with matching attributes. Here are a few that you might consider.

1 – Patience

Every parent knows that children will test your patience. It's tough enough with your own children,.. it can be more challenging with others. Add to that the trauma of losing parents, and your children will need as much patience and understanding as possible. Someone who is generally patient is likely to apply that to interactions with

your children.

2 – Empathy & Kindness

Empathy and kindness go hand-in-hand. Your children will benefit from a guardian who can empathize with their experience and offer kindness during the most difficult of times. Sometimes we mistakenly focus only on whether someone can physically care for our children and not whether they will be kind to them. Emotional well-being is just as important as physical well-being.

3 – Core Values and Beliefs

What are your core values and beliefs? Is it important to you that a guardian share those views? It’s difficult to find people who share in every value we hold, but some will be more important than others. List which are essential versus “nice to have.”

4 – Financial Stability

Financial stability is among the most important qualities of a good guardian. Someone who already struggles with money might have difficulty with the added burden of caring for your children. Additionally, if a guardian receives assets on behalf of your children, how well might he/she manage those funds? Their own financial well-being is probably the best indicator.

5 – Parenting Style

Parenting is something you learn from experience, yet every parent is also different. For potential guardians who are already parents, you have insight into their parenting style. For those without children, you’ll need to infer that from interactions they have with your children and other children they’ve interacted with. Regardless of how you make the assessment, understanding parenting style and how that compares to your own can help.

More Qualities of a Good Parent

These are just a few examples of qualities of a good guardian for children. Start with this list and add to it. What personal characteristics are important to you? What might be beneficial for your children? If you prepare this list first, your selection of a guardian may be more straight-forward. Guardianship is never an easy decision, but these factors to help guide you through it. Be sure to also read our article on considerations when selecting guardians for children.

Contact our team to prepare your estate plan. Special provisions can be added for guardianship and financial support. Remember that you can also change your mind at any time and change guardianship selection. Our Massachusetts estate planning team can assist with that as well.

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4 Considerations When Selecting Guardians for Children

Guardianship is one of the most difficult estate planning decisions. It's one that many parents procrastinate making, often because there's no clear choice. However, failing to designate a guardian can leave the decision up to a court. It's far better to state your preference than to rely on a judge to do so. Additionally, you can update your will at any time if you change your mind. Here are some considerations when selecting guardians for children.

1 – Existing Relationship

It's always best to start out with a list of people who have existing relationships with you and your children. This is why family members and close friends typically top the list. During times of emotional distress, children find comfort in familiar faces and settings. Being around people they know and love will be extremely important after

losing their parents.

2 – Quality of Life

Quality of life is another consideration when selecting guardians for children. Think about the person's lifestyle and circumstances. How might your children fit in to his/her daily routine? What sacrifices might he/she be willing to make for the sake of your children? If there are other members of that household, do your children get along with them? What activities do they participate in (i.e. sports, exercise, vacations)? A guardian's lifestyle needs not match your current lifestyle, but it should be one that you feel comfortable with.

3 – Personal Values

Today's political and social climate highlights the importance of personal beliefs and values. Most people want their children to be brought up a certain way. Finding a guardian with similar perspectives can provide comfort and peace of mind. There are actually many ways to look at personal values. It can include parenting style, political beliefs, religious practices, social affiliations, personal habits (such as smoking and drinking), or thoughts on social/economic topics. Again, a guardian's values need not exactly match your own. You may simply want to avoid glaring differences.

4 – Physical Location

The physical location of potential guardians is worth evaluating as well. If someone is out-of-state or in another country, how will moving impact your children. For some, it could be traumatic to lose parents and be taken away from their friends and home. For others, a new home can eliminate constant reminders of what was lost. Think about your children and what might be best for them.

Other Considerations When Selecting

Guardians for Children

These are just a few key considerations when selecting guardians for children. There are countless other factors and qualities of a good guardian, depending on your personal circumstances. If you have children with special needs, you might lean towards someone with medical knowledge or time to tend to those needs. Likewise, the age and health of potential guardians may be important too. Also consider whether someone actually wants to be a guardian. Ultimately, remember that there may be no perfect person to take on such a huge responsibility. Your goal should be to select the best available option and to know that your children will be cared for by someone that you have chosen.

Types of Trusts for Estate Planning

A trust is an estate planning instrument that takes effect while you are living and survives your death. It can provide valuable protections to both you and your beneficiaries. There are many types of trusts for estate planning, depending on your needs and ultimate goals. The key is selecting the right type. Here's a look at some of the most used types.

Revocable Trusts

Revocable trusts are extremely popular because they can be changed, and they help avoid probate. Assets can be added to or removed from the trust at any time. The trust itself can be revised as well. You, as the trustee, maintain full control during your lifetime. Upon your death, the designated backup trustee becomes responsible. You can name your children as beneficiaries but allow the trustee to maintain oversight until your children reach a certain age, at which point they receive the full proceeds from the trust. This is one of the most popular types of trusts for estate planning for families with

children.

Irrevocable Trusts

As the name implies, irrevocable trusts cannot be changed regardless of whether you are living or deceased. Once assets are placed in the trust, they permanently belong to the trust. Upon your death, the terms of the trust are activated for the benefit of your designated heirs. Irrevocable trusts are often used to shield assets (since those assets no longer belong to you as an individual), but they have limitations that should be well understood in advance.

Charitable Trusts

If you plan to leave your assets to charity, a charitable trust can be set up in advance. Charitable trusts can provide tax benefits during your lifetime. They can also provide estate tax savings upon your death since you will have a lower estate value given the prior contributions made to the charitable trust.

Special Needs Trusts

If you have dependents with special needs, you may be concerned about whether assets you bequeath upon your death will disqualify them from government benefits. A special needs trust is designed specifically to address this. It is created for the benefit of your dependents but they neither control distributions nor can revoke the trust. It allows your dependents to receive financial support from the trust and from government programs.

Tax By-Pass Trust

For married couples, a tax-bypass trust can provide tax savings to their children and other heirs. Typically, when one spouse dies, assets may be transferred to the other spouse without much tax obligation. However, when the second spouse dies, significant taxes may apply when assets are transferred to the surviving spouse’s heirs. A tax-bypass trust can help mitigate that burden and lead to significant savings.

Additional Types of Trusts for Estate Planning

The above are just a few examples of the different types of trusts for estate planning. Gun trusts, totten trusts, spendthrift trusts, constructive trusts, and asset protection trusts are a few others that you might consider.

Contact our team for assistance with creating trusts for your estate plan. We'll help you understand your options and achieve your estate planning goals.

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4 Benefits of Revocable Trusts in Estate Planning

There are many benefits to revocable trusts in estate planning, making it one of the most popular options. If you're looking to create a new estate plan and aren't sure whether a revocable trust is a good fit, here are a few key benefits to consider. You can weigh these against the features of other options you are evaluating.

1 – Can Be Changed

One of the biggest benefits of revocable trusts is the ability to change it. At any time, you can alter the terms through an addendum or replace it with a newer version. Thus, it easily adapts to changes in your life. For instance, you may have certain preferences while your children are young versus when they become young adults. You can change trustees, beneficiaries, or any other specific terms as needed. It's truly a flexible document.

2 – Avoids Probate

Avoiding a lengthy and costly probate process is a primary goal for most estate plans. Revocable trusts do precisely this. Assets are

transferred into the trust in advance rather than going through probate. Additionally, a pour-over will can transfer any remaining assets upon your death. Although those residual assets may require probate, the process is usually less complicated.

3 – Simplifies Transfer of Assets

Transferring of assets to heirs is easier in estates with revocable trusts. Since assets already belong to the trust, they can be quickly liquidated or transferred. As for monetary distributions, that can be done as soon as debts are settled and the remaining value is determined. There are no court proceedings or other such delays.

4 – Takes Effect Immediately

Trusts become active as soon as the legal documents are prepared and signed, so they can be helpful in cases of disability or incapacitation. While you are living and fully capable, you are the trustee and control the assets in the trust. In cases where you cannot perform this duty, the individual(s) that you name as backup(s) have the ability to act on your behalf. This, along with a power of attorney, can ensure that your finances are properly managed under those circumstances.

More Benefits of Revocable Trusts

These are just 4 of the key benefits of revocable trusts in estate planning. Based on your personal circumstances, there are many other protections available. For example, if you have minor children, revocable trusts can provide financial assistance to cover living expenses, medical care, and education expenses until they reach a certain age, after which they receive the balance of the trust. If you own real estate in multiple states, in can simplify the sale and transfer. Since the terms of a trust can vary based on your needs, it’s important to consult with an attorney to discuss your goals and how revocable or other trusts can help you accomplish them. Contact us to schedule a consultation with our team of Massachusetts estate planning attorneys.

4 Reasons to Avoid Probate in Massachusetts



Probate is the court process to settle estates upon someone's death. In the estate planning world, there's a lot of focus on it (or rather, on avoiding it). There are several reasons to avoid probate in Massachusetts. Here are 4 that top the list.

1 – Probate Is Time Consuming

All court processes, in general, can be time consuming. Case lengths can vary depending on the circumstances, but it's not unusual for it to extend 9 to 18 months. For complex matters, it can even take years. The longest running case in history was that of Myra Clark Gaines, which began in 1834 and lasted 57 years! That was certainly unusual, but you can see why people are so wary of probate and work to avoid it whenever possible.

2 – Probate Is Costly

The average person doesn't have in-depth knowledge of the court

process or comfort with reviewing and drafting legal documents. Thus, most hire an attorney to assist with probate. Legal expenses can quickly add up as your heirs work to settle your estate. That cost ultimately reduces the value of their inheritance. The money you spend now to prepare an estate plan will be significantly less than what your heirs might spend later to probate your estate. By avoiding probate, you allow your heirs to receive a larger financial benefit from your estate.

3 – Unintended Heirs May Make Claims

One of the biggest reasons to avoid probate in Massachusetts is to eliminate unintended heirs. If you don't have a valid will, intestate succession laws will be used to determine your heirs. Previously unknown or unintended heirs may submit claims. You've probably heard about celebrity estates where children and other relatives come out of the woodwork. Probate may open the door to many relatives such as unknown children, long-lost relatives, or even disowned family members. Potential heirs need not prove that they have a quality relationship with you, but only that they are indeed related.

4 – Your Will May Be Contested

Probate also gives relatives the opportunity to contest the terms of your will. When money is involved, fighting will undoubtedly ensue. Whether someone has a valid claim or not, the process to litigate those disputes are still time consuming and costly.

Summary of Reasons to Avoid Probate in Massachusetts

The above are just a few reasons to avoid probate in Massachusetts, but they are big enough reasons for most people to put in measures to bypass it altogether. Estate planning instruments, such as trusts, can achieve that. They can make it easy for beneficiaries to inherit assets, access financial resources, and avoid messy court battles. If you have minor children, it ensures they are cared for by guardians that you choose and immediately receive financial support for their everyday needs.

Schedule a consultation with our team to prepare an estate plan that avoids the court probate process.

Massachusetts Intestate Succession Laws In Lieu of a Valid Will

When you die without a valid will, Massachusetts Intestate Succession Laws determine your heirs. Marital status, children, and living relatives are all important factors. Understanding what the law dictates is essential, as is having an estate plan to select alternative heirs. Below are some of the most common scenarios and resulting heirs.

Single/Unmarried Person

For a single/unmarried person, the first factor is whether there are any living children. If so, children equally inherit everything. Thus, 2 children would each inherit 50% or 4 children would each inherit 25%. If there are no children but one or more parent is living, then they are next in line as heirs. Without living parents, the estate would pass to siblings.

Married Person Without Children

Most people expect that a surviving spouse would inherit everything when the other spouse dies, but this is not necessarily the case. When a married person has no children but does have living parents, both the spouse and parents are heirs. According to MA Intestate Succession Laws, the spouse receives the first $200k of the estate and then 3/4 of remaining assets. The rest is inherited by the parents.

For example, let’s assume an estate is worth $800k. A surviving

spouse would receive $200k and $400k (2/3 of $600k). So, the spouse receives $600k total; the remaining $200k goes to the parents. Only if there are no living parents and no direct descendants would a spouse inherit all assets.

Married Person and With Children

When a person is married and has children, the spouse receives the entire inheritance if the children are from the same marriage. If children are from a different marriage, then both the spouse and children receive an inheritance.

Bypassing Massachusetts Intestate Succession Laws

The above examples are actually fairly straight forward. As you can imagine, family relationships can get much more complex. There's also the possibility of previously unknown heirs making claims against an estate. Ultimately, the only way to bypass Massachusetts intestate succession laws is to create a proper will.

It's important to note that merely having a will is not enough. There have been cases where a drafted will was not enforceable or was missing key elements that provided opportunities for unintended heirs. With something as important as your estate, be sure to consult with a Massachusetts estate planning attorney. Your attorney will evaluate your goals, explain your options, and prepare any necessary estate planning documents. Contact our team to learn more about creating an estate plan to protect your assets and your intended heirs.

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4 Reasons Why Estate Planning Is

Important For Everyone, Not Just the Wealthy

A common misconception is that only the wealthy need an estate plan. Although minimizing taxes for high value estates is one aspect of estate planning, there are many more benefits. Here’s why estate planning is important for everyone, not just the wealthy.

1 – Eliminate Unnecessary Expenses

A lengthy probate process can be expensive. Unless your heirs are attorneys, they will likely need to hire one to assist with filing paperwork and attending court proceedings. Most attorneys will charge hourly for such services. As you can imagine, this can quickly add up and reduce the value of the remaining assets. For heirs that may not have funds to hire an attorney to begin with, it can be an added hardship. Creating an estate plan that avoids probate is one of the main reasons why estate planning is important for everyone.

2 – Provide Immediate Financial Support

Could your dependents survive for months before receiving any financial support? For most people, their dependents rely on their immediate and continual support for everyday needs. A delay of months or even years, while the probate process completes, could be detrimental. An estate plan is the only way to eliminate the delay caused by probate.

3 – Avoid Unintended Heirs

You may assume that your assets will go to your spouse and/or children, but that may not necessarily be the case. Massachusetts follows succession laws which determine heirs based on your marital status, living parents, children from current and/or previous marriages, siblings, etc. Heirs are identified during the probate process, but potential heirs are also given an opportunity to come forward. Regardless of the value of your estate, unintended heirs will dilute that value and leave less for your intended heirs. This

is another reason why estate planning is important for everyone.

4 – Control Asset Distribution

If your heirs are not accustomed to having large sums of cash, you may be concerned about how they might manage a lump sum inheritance? Spreading distribution of funds over several years and/or until your heirs reach a certain age can help prolong the benefit of their inheritance. This is particularly important for young adults. You can even condition disbursements on milestones such as completing college.

More on Why Estate Planning Is For Everyone

When you consult with an estate planning attorney, you'll notice the focus is on your estate planning goals rather than solely on the total value of your estate. Sure, assets are a consideration, but it is one of many factors. Every estate plan is different and is designed to fit the unique circumstances of the individual. The important thing to know is that regardless of whether your estate is worth $100 million or $100,000, you can protect your assets, maximize value, and avoid unwanted outcomes with a well-prepared estate plan. Everyone can benefit from the protections available in estate plans,… which is why estate planning is important for everyone.

Contact our team to schedule a free consultation and to learn more about the benefits of estate planning.

Common Estate Planning Documents

Although every estate plan is technically unique and designed to fit your specific needs, there are some documents that appear in most plans. Below is a quick overview of what those are. Should you include these common estate planning documents in your own estate plan?

Will

A will allows you to list desired beneficiaries for your assets and who should care for your children. Without it, courts will designate heirs based on intestate succession laws and guardians based on information available to them. Although it sounds like a straight forward document, an improperly created will is much like having no will at all. The best way to ensure your wishes are honored and disputes among family members is to have a will formally prepared by a Massachusetts estate planning attorney.

Healthcare Proxy

A healthcare proxy allows someone you trust to make medical decisions on your behalf when you are unable to do so yourself due to incapacitation or disability. By making it clear who has this power, it can avoid disputes among family members and delays in medical care. The person you select need not be a relative, but it should be someone familiar with your preferences regarding life saving measures.

Power of Attorney

Financials are another important consideration. If you are incapacitated or disabled, who will manage your financial affairs? This may include paying your mortgage, rent, utilities and other bills. By assigning power of attorney ahead of time, the person of your choosing can instantly step in when needed. Again, be sure to select someone that you thoroughly trust. Additionally, it may be best to select someone who is not also your healthcare proxy.

Trusts

Another of the most common estate planning documents are trusts. There are many types of trusts, each with different goals and benefits. Many people use trusts to avoid a lengthy and expensive court probate process. Trusts can also enable more detailed instructions on how your assets should be managed and disbursed. Selecting the right type(s) of trusts is key to achieving your

intended outcomes.

What Common Estate Planning Documents Do You Need?

So, which of these common estate planning documents will you need? It truly depends on your personal requirements and goals. The plan for a single person will vary from that of a married couple with children, a divorced person, or someone with children from previous marriages.

Additionally, special circumstances such as providing for long-term care of a disabled dependent, minimizing estate taxes, gifting strategies, and anonymity must be taken into consideration. Every estate plan is unique to the individual and must be reviewed and changed as one’s life circumstances change. If you’re interested in creating an estate plan, contact our team to schedule a free consultation.