



# ESTATE PLANNING FOR THE BEGINNER

What Should Be in Your Plan?

# WHY DO SO MANY AMERICANS NOT HAVE AN ESTATE PLAN?



Surveys tell us that although most Americans understand how important it is to have an estate plan in place, over half of them do not have one.

# Why?

**When asked, one of the most common reasons given for failing to have an estate plan in place is not knowing where to start or what to include in a plan.**





**KNOWLEDGE IS POWER**

**The old adage “knowledge is power” is applicable to estate planning.**

**Once you learn a bit more about the various tools and components that you might include in your estate plan you will likely feel better prepared and ready to finally get started on your plan.**

A close-up photograph of a family of three. On the left, a woman with short blonde hair and blue eyes is smiling broadly, wearing a light blue button-down shirt. In the center, a young boy with dark hair is also smiling, wearing a striped shirt. On the right, a woman with long brown hair and blue eyes is smiling, wearing a yellow top. The background is softly blurred, suggesting an indoor setting with light coming from a window.

# THE INDIVIDUAL NATURE OF ESTATE PLANNING

**Your estate plan should be as individual and unique as you are.**

**With that in mind, it cannot be stressed enough that working with an experienced estate planning attorney is the best way to help you decide which of the following components you need in your estate plan.**



A photograph of two young women sitting on a wooden bench outdoors. The woman on the left has long reddish-brown hair and is wearing a white cardigan over a black top and a red skirt. She is holding a white document and a blue pen. The woman on the right has long brown hair and is wearing a yellow top with white ruffles. She is pointing at the document. The background consists of green foliage. A blue horizontal banner is overlaid across the middle of the image, containing the text 'YOUR LAST WILL AND TESTAMENT' in white, serif, all-caps font.

# YOUR LAST WILL AND TESTAMENT

Typically serves as the foundation of your estate plan

Allows you to appoint an Executor who will oversee the administration of your estate during the probate process following your death

Allows you to make general and specific gifts of estate assets

Provides the only opportunity you will have to nominate a Guardian for your minor children in the event one is ever needed



**Without at least a Will in place  
your estate will be considered  
an “intestate” estate and  
will be distributed according  
to the intestate succession laws  
of the state in which you reside  
upon your death.**

A close-up photograph of a hand holding a blue pen, poised to sign a document. The document is out of focus, but the word 'SIGNATURE' is clearly visible on a line. A semi-transparent blue banner is overlaid across the middle of the image, containing the text 'DO YOU NEED A TRUST?'.

## DO YOU NEED A TRUST?

SIGNATURE

**Very common addition to the average estate plan**

**A relationship whereby property is held by one party for the benefit of another. Created by a Settlor, who transfers property to a Trustee. The trustee holds that property for the trust's beneficiaries**

**Trusts can be testamentary (activates upon your death) or living (activates while you are alive)**

## Living trusts can be revocable or irrevocable

Can help with numerous estate planning goals,  
including:

- o Asset protection
- o Incapacity planning
- o Medicaid planning
- o Tax and probate avoidance
- o Special needs planning
- o Pet planning



# POWER OF ATTORNEY

**A power of attorney is a legal agreement that allows you (the “Principal”) to grant another person (your “Agent”) the legal authority to act on your behalf in legal matters or transactions.**

# There are several different types of POA, including:

**General** - a general POA grants almost unlimited authority to the Agent, allowing the Agent to do things such as make withdrawals from the Principal's accounts or enter into contracts in the Principal's name.

**Limited** – only grants an Agent the authority specifically enumerated in the POA agreement.



# There are several different types of POA, including:

**Durable** – traditionally a POA would terminate upon the death or incapacity of the Principal. A durable POA survives the incapacity of the Principal.

**Springing** – a POA that activates upon the occurrence of a specific event

A pair of ornate metal scales of justice, likely made of brass or silver, sits on a polished wooden surface. The scales are balanced, with both pans hanging at the same level. The background is a blurred, warm-toned interior, possibly a courtroom or library, with wooden paneling and bookshelves. A semi-transparent blue horizontal band is overlaid across the middle of the image, containing the text.

## WHAT IS PROBATE?

**Probate is the legal process that follows the death of an individual.**

**Estate assets are identified,  
located, valued, and eventually  
transferred during probate.**

**Most estates must go through formal probate; however, North Carolina offers a small estate alternative for estate valued at less than \$20,000-\$30,000.**

**Because probate can be costly, both in terms of time and money, people often include probate avoidance techniques in their estate plan.**





## JOINTLY HELD PROPERTY

**North Carolina recognizes several ways in which two or more people can jointly own property. The right type of jointly owned property will bypass probate.**



# Joint tenants with rights of survivorship (JTWROS)

Offers “rights of survivorship,” meaning when one owner dies his/her interest is immediately transferred to the remaining owner(s) without going through probate.

## TENANTS IN COMMON

Ownership of an asset by two or more individuals together, but without the rights of survivorship. Therefore, when one owner dies, his or her interest in the asset must go through probate.

## TENANTS BY THE ENTIRETY

A type of joint ownership reserved for married couples. Offers rights of survivorship, meaning an interest in the property will bypass probate if the owner dies.

A roll of US dollar bills is secured with a black padlock. The roll is positioned horizontally across the center of the image. The padlock is attached to the roll with a metal shackle. The background consists of several US dollar bills scattered on a dark surface, with some bills partially overlapping. The lighting is dramatic, highlighting the texture of the paper and the metallic sheen of the padlock.

## OTHER NON-PROBATE ASSETS

Because avoiding probate is such a common estate planning goal, you should be aware of other common non-probate assets.

**Assets held in a trust**

**Proceeds of a life insurance policy**

**Assets held in an account designated as “Payable on death (POD)” or “Transfer on death (TOD)”**

**Assets held in certain types of retirement or pension accounts**

A man and a woman are sitting at a table, looking at documents. The man is on the left, wearing a dark blue shirt, with his hand to his chin in a thoughtful pose. The woman is on the right, wearing a white blouse and a grey blazer, looking down at a document. A blue horizontal band is overlaid across the middle of the image, containing the title text.

## ADDITIONAL ESTATE PLANNING COMPONENTS

**The distribution of estate assets may be the primary purpose of your estate plan; however, as you mature, and your estate grows, you may decide to include additional components in your estate plan, such as:**



**Incapacity planning**

**Long-term care and Medicaid planning**

**Special needs planning**

**Retirement planning**

**Business succession planning**

**Funeral planning**



## GETTING STARTED ON YOUR ESTATE PLAN

Every adult should have an estate plan in place.

**Now that you know some estate planning basics it is time to contact an estate planning attorney in your area and get started on your estate plan!**

Click to visit:

[www.cheryldavid.com](http://www.cheryldavid.com)



Or call us at (336) 547-9999 today!