

# COMMON ESTATE PLANNING DOCUMENTS

## DOCUMENTS FOR YOUR PROTECTION:

- **Healthcare Power of Attorney:** appoints another person to make your medical decisions, but only if you are unable to make them yourself.
- **Healthcare Directive:** states your treatment wishes.
- **General Power of Attorney:** appoints another person to make non-healthcare decisions and to act on your behalf.

## DISTRIBUTION OF YOUR ASSETS AFTER DEATH:

There are many tools available to build an efficient estate plan. Commonly, though, the tools align into either a “Beneficiary/Will Plan” or a “Trust Plan.” The following charts show how the plans generally operate in relation to the Probate process:

| <u>OUTSIDE OF PROBATE</u>  | <u>PROBATE</u>  |
|--|---|
| <p><b><u>Beneficiary/Will Plan:</u></b></p> <p><b><u>Proper Beneficiary Designations:</u></b></p> <ul style="list-style-type: none"> <li>○ <i>Pay-on-death designations</i> for financial accounts (checking, savings, CDs, investment accounts, etc.).</li> <li>○ <i>Transfer-on-death designations</i> for titled assets (cars, trucks, boats, motors, trailers, etc.).</li> <li>○ <i>Beneficiary designations</i> may also be used for insurance policies, stocks, bonds, LLC membership interests and shares of corporations.</li> <li>○ Families must be careful to include beneficiary designations for ALL assets.</li> </ul> <p><b><u>Beneficiary Deed:</u></b> transfers ownership of real estate (home/land) upon death</p> <p><b><u>Personal Property Assignment:</u></b> assigns non-titled personal property (household goods, tools, jewelry, etc.) upon death</p> | <p><b><u>Beneficiary/Will Plan:</u></b></p> <p><b><u>Will:</u></b> A Will does not keep assets outside of Probate; however, having a Will in place typically makes the Probate process smoother and less expensive. It allows for the waiver of a bond by the Personal Representative and provides the Personal Representative with more independence to do their job. A Will directs the Probate Judge as to how to distribute assets.</p> |

| <b><u>OUTSIDE OF PROBATE</u></b>  | <b><u>PROBATE</u></b>   |
|---|---|
| <p><b><u>Trust Plan:</u></b></p> <p><b>Trust:</b> A Trust allows for a more detailed and flexible plan than the “Beneficiary/Will Plan.” In general, a Trust can be thought of as a “container” for assets, where the owner places items into the “container” and sets rules for the maintenance and distribution of those assets.</p> <p>Examples of circumstances lending themselves toward a Trust Plan are as follows:</p> <ul style="list-style-type: none"> <li>- business or farm operations;</li> <li>- first options to buy certain real estate;</li> <li>- dividing up interests into specific, unequal percentages;</li> <li>- a loved one in need of special care;</li> <li>- providing for minors;</li> <li>- providing for a loved one with financial difficulties;</li> <li>- prohibiting changes to the plan after a spouse passes;</li> <li>- for efficient administration in particularly large families; or</li> <li>- where the beneficiaries of the estate are not in a position to easily administer the estate themselves (as in large families).</li> </ul> | <p><b><u>Trust Plan:</u></b></p> <p><b>Pour-Over-Will:</b> A Pour-Over Will does not keep assets outside of Probate; however, having a Will in place typically makes the Probate process smoother and less expensive. It allows for the waiver of a bond by the Personal Representative and provides the Personal Representative with more independence to do their job. A Pour-Over Will directs the Probate Judge to put Estate assets into the associated Trust.</p> |

The above charts provide a broad overview of general information. A conversation is necessary to pinpoint the best estate plan for a given individual. This memo is not sufficient to cover all of the factors that may impact the best given plan. There are other common tools used in estate plans, such as joint ownership, LLC formation and a combination of the “Beneficiary/Will Plan” and a “Trust Plan.” If you would like to learn more about estate planning, please do not hesitate to contact me.