



LEGACY SERIES®: Q & A #1

What is an Estate Plan? Do I need one?

Estate planning is the process of creating a plan to give away your property to who you want, when you want, and provide a soft landing for your loved ones once you die. This is done by working with an estate planning attorney, CPA, and financial planner. A complete estate plan addresses what happens to you and your property if you become incapacitated or in the event of your death. Because incapacity and death often occur without notice, taking this important step is for anyone over 18.

What if I do not have an Estate Plan?

Without a plan, the state steps in as “default executor” and takes over your estate. This is called dying intestate. The intestacy process involves courts, lawyers, judges, and related fees. It can be expensive. It can also be emotionally draining for loved ones as they watch the court make the decision of who will administer the estate. Delays caused by court procedures can cause the estate settlement process to take a considerable amount of time.

What are the two types of estate plans?

Will-based Plan: A will-based estate plan uses the last will and testament (will) as the primary controlling document. A will is a document that takes effect upon your death after it has been proven by a court of law through the process of probate. A will appoints an executor(s) or personal representative to act on your behalf.

Trust-based Plan: A trust-based estate plan uses a revocable living trust (trust) as the primary controlling document. A trust takes effect immediately upon signing, and for this reason, it is the best solution for incapacity. It is called “revocable” because it can be changed at any time. Often, the person or couple that create a trust, also serve as initial trustee(s) to provide for changes in the future and retain control.

What documents are often included in an estate plan?

A will or trust, powers of attorney, living will, HIPPA authorization, pour-over will, trust affidavit, and letter of last instruction.

QUICK GLANCE

	PROS	CONS
WILL	Less cost to setup Easy to create For simple estates	Probate, which takes time Estate frozen until probate Court & lawyer costs All information is public
TRUST	Avoids probate & is private Quick settlement of estate Best solution for incapacity Easy to change	Involved to setup More expensive at start Can be complicated

Notice: This is general information and should not be relied upon as legal advice. For a free consultation, contact **JohnsonLegal.us** or call **910-319-7373**. (Version: 11/21)