

5 Key Decisions

Completing your Will & Trust documents does not need to be complicated or confusing. To help get you started here are the five main decisions you need to be thinking about.

1- Who will manage my money when I die?

You will need to name a Successor Trustee (in a Trust) or an Executor (for a will) that will handle the business affairs and distribution of the estate after both spouses pass away. This can be one or more persons and is usually a trusted family member or friend.

Who should I choose?

This is usually a trusted family member or friend. You could choose your parents, adult children (over the age of 18), a sibling, close friend or even a bank. There are also Trust companies that you can hire to act as your money manager.

What will my Successor Trustee or Executor do?

A Successor Trustee (or Executor) locates the estate planning documents after both spouses pass away; files an inventory and appraisal of the property; pays any creditors, taxes, and fees; distributes the assets to the beneficiaries. Before selecting a successor Trustee, the responsibilities should be discussed with the individual or couple to see if they are willing and able to perform these duties. It is also a good idea to name an alternate successor Trustee if, for any reason, the first choice cannot serve.

2- Where does my money go?

In a Trust or Will, the beneficiaries (sometimes called devisees in a Will) are the people and/or organizations you leave your assets to.

What are my options and how many people can I choose?

Most people have a pretty good idea of who their direct beneficiaries will be. Beneficiaries may be children, grandchildren, other family members, friends, charities, organizations, etc. In our questionnaire, you will be able to select if you want your assets to be distributed equally or based on a certain percentage. You can also specify if you would like your assets distributed to your children at certain ages etc.

3- Who takes care of my children?

If you have children under the age of eighteen (18), you need to decide who will get custody of your minor children if something happened to you (and your spouse if applicable).

You can choose an individual or a couple. If you choose a couple (e.g. a brother and a sister-in-law), and one of them dies (e.g. brother), the remaining spouse (e.g. sister-in-law) will act alone. If that is not what you want, consider choosing just the brother.

It is always a good idea to name an alternate guardian(s) for minor children in case the first choice is unable to.

If you are divorced and share custody with your child's biological parent, the biological parent will generally get full custody (even if your documents state otherwise).

PLEASE NOTE: the Successor Trustee that you choose will be in charge of the finances for your minor children.

4- Who makes medical decisions for myself if I am incapacitated?

A medical power of attorney is a document that allows someone else to make medical decisions for you if you become incapacitated. This person can be any competent person who is at least 18 years old and not providing paid health care to you. If you are married, this person is usually your spouse first, then a trusted family member or friend as the alternate. The Health Care Directive becomes effective when you are unable to communicate due to any illness or injury.

5- Who makes financial decisions for myself if I am incapacitated?

A durable power of attorney is a document that allows someone else to make legal or financial decisions for you if you become incapacitated. The appointed agent is called the attorney-in-fact (no, it doesn't have to be an actual attorney) and they can be any competent person who is at least 18 years old. If you are married, this person is usually your spouse first, then a trusted family member or friend as the alternate. The durable power of attorney becomes effective when two unrelated physicians have certified in writing that you are unable to manage your own legal or financial affairs. PLEASE NOTE: The Durable Power of Attorney doesn't work after you die.

The Planning you do now will have lasting effects in your life and in the lives of your family