The Law Office of
Skipton Reynolds, LLC
Estate Planning & Elder Law

Who Needs Estate Planning?

The facts...

Estate planning isn't about how much money you have, it's about protecting what you have for you, during your lifetime and for those you love after you're gone. It ensures what you have gets to the people you love, the way you want, when you want.

If you were to die today, are you comfortable everything will be taken care of the way you wanted? Estate planning is legally ensuring things will be handled the way you want by providing sufficient instructions.

Estate Planning really is for everyone. It doesn't matter if you have $40,000 or $400,000. You still have to plan for the future. Whether it's to name a guardian for your minor children or ensure your children don't blow through your assets if you unexpectedly die or become disabled (Terri Schiavo case).

Estate planning can only be done by attorneys, and it can be as simple as a Will, Health Care Documents, Living Will and Power of Attorney. It can also include a revocable, probate-avoidance trust, asset protection trusts, multi-generational tax-saving trusts, tax-saving charitable trusts, private family foundations, and many other fact-specific strategies.

Contact us today at **(720) 440-2774** or skip@skiptonlaw.com, and let us help you determine what amount of estate planning is right for you and your family.

Table of Contents

Keeping your Estate Plan Current...

Once completed, your estate plan should be reviewed and kept current with life events such as the birth, death, marriage or divorce of anyone included in your plan. In addition, you should review your plan if there is a significant increase or decrease in your finances or if the laws related to your estate plan change.

Powers of Attorney

The facts...

If you become sick or disabled, either temporarily or permanently, who will make decisions for you?

A Power of Attorney allows you to appoint someone you trust to handle your affairs if you cannot do so.

Without a Power of Attorney, your family may have to file with the court, seeking guardianship of the disabled person. This process involves the Court, lawyers and usually at least $4,000 to $50,000. Power of Attorney might cost $200.

If you cannot pay bills, get records or make other decisions, your family will be prevented from helping you get treatment, pay doctors or for Medicare.

The Question you have to ask yourself is…It is important that you give your family the tools to help you if you cannot help yourself.

Last Will and Testamant

The facts...

If you own assets in your name alone, they may pass from you to the people you love, as long as you leave a Will. Without a Will, your assets pass according to the State's rules, also known as intestacy. The State may not pass your assets to the people you care about. You should be sure.

Also, you should know that...

- Assets will pass through your Will to your loved ones if the Will is written properly.
- You can reduce your estate tax liability by using a trust in a Will.
- You can protect the ones you love by creating a trust in your Will which can protect that person from creditors.
- You can protect you.
- It is important that you give your family the tools to help you if you cannot help yourself, your children from divorce, or you may protect your children who are not good with money, or those who have other problems, such as addiction or mental illness.
- You can protect disabled beneficiaries by creating a Supplemental Needs Trust for them, which preserves assets for the family, while keeping their eligibility for public benefits.
- Your Will must go through **probate** - using the courts to divide your property.

Do You Need to Avoid Probate?

The facts... What is probate?

It is the legal process of presenting your Will to the Court after your death to authenticate it, appoint your Executor (we call it Personal Representative in Colorado), and determine who the interested parties to your Will are (i.e. the Beneficiaries). Your Personal Representative must be appointed by the Court in order to collect and distribute your assets as stated in your Will. However, because it is a legal process, there are many steps that must be followed before your Personal Representative can be appointed.

#1 The Personal Representative will have to submit a list of those individuals that are named in the Will, filing fees, a petition, a death certificate and the Original of your Will. Upon receipt of all of the appropriate information, the Court will appoint the Personal Representative.

#2 After your Personal Representative is appointed, estate administration begins. It is a period of time the law permits the Personal Representative to accumulate the assets and report to the Court how he or she intends to distribute them. This period is a minimum of 4 months after the Personal Representative is appointed. However, in many cases, it can take a year or more. If you die without a will, the process is similar, but the State decides who gets your assets, not you.

#3 The Personal Representative must notify all known creditors to the deceased person's estate, and must also place a classified type of ad in the newspaper to notify any unknown creditors.

#4 The Personal Representative must also disclose all the assets of the Probate Estate to all the interested parties, as well as an accounting of what expenses have been paid or what has been distributed to those same interested parties. This accounting must also be filed with the court.

#5 Unfortunately, probate is unpredictable. That's why many people chose to avoid it, but if all of your heirs agree and your assets are centralized, it can go smoothly.

Revocable Living Trusts

The facts... What is probate?

A trust is a contract between the Grantor (the person who creates the trust), the Trustee (one who controls the trust) and the beneficiaries (those entitled to benefit from the trust). You, as Grantor, determine how the trust will be operated by the Trustee and who benefits, how and when. You can create a trust that permits you to be Trustee and give yourself the right to receive full benefits from it.

This type of trust is typically referred to as a Revocable Living Trust and is often used as a substitute to your Will. It permits you to keep total control and access to all your assets during your lifetime, and provides for the distribution of your assets to your beneficiaries at your death. We often refer to a revocable living trust as your "Book of Instructions."

A well-established advantage to Revocable Living Trusts is the avoidance of probate, which is required if you use a will to distribute your assets after death. Other advantages of Revocable Trusts, when property drafted, can include:

- Asset protection for your spouse after your death.
- Special needs planning for disabled beneficiaries.
- Asset management and protection for children who are not proficient with handling money.
- Protection of assets from a spouse's subsequent remarriage after your death.
- Disability planning in the event you become disabled prior to death.
- Asset protection for your child if his or her marriage should fail to ensure your assets are not part of a divorce settlement.

Contact us today at **(720) 440-2774** or skip@skiptonlaw.com, and let us help you determine what amount of estate planning is right for you and your family.

- Keeping your affairs private (as opposed to open for public review in probate).
- No court intervention required (handled entirely by the Trustee you name in accordance with your detailed instructions).
- Plan for proper management of your business in your absence.

Very few revocable living trusts provide these benefits. Only a qualified estate planning attorney will know how to incorporate these protections into your plan. While a Revocable Living Trust has many advantages, it does not protect your assets from a nursing home, lawsuits, divorce bankruptcy or other creditors.

Irrevocable Trusts

The facts...

A trust is a contract between the Grantor (the person who creates the trust), the Trustee (one who controls the trust) and the beneficiaries (those entitled to benefit from the trust). You, as Grantor, determine how the trust will be operated by the Trustee and who benefits, how and when.

While a Revocable Trust permits you to maintain full control (as Trustee) and have access to all your assets (as beneficiary), an Irrevocable Trust, once created, may prohibit your right to control the trust (as Trustee) or have access to your assets, but you get to decide to what extent.

It is a common misconception that irrevocable trusts, once created, cannot be changed. While that is true of many irrevocable trusts created to avoid taxes (tax reduction or avoidance trusts), it is not true of all irrevocable trusts. An irrevocable trust is a trust you create for the benefit of yourself or others and once created, you, as Grantor, must give up your right to something.

Debtor/Creditor law provides that whatever you can get, your creditors can get. You can have known creditors (i.e., bank/credit card debt) or unknown potential creditors (unforeseen lawsuits, nursing home, and divorce). A typical income-only irrevocable trust permits you to receive the income on your assets, but you must give up your right to your principal. In some irrevocable trusts, you can retain the right to change who gets your assets during your life and after your death, and maintain 100% control of your assets until your mental disability or death (asset protection trusts).

Tax reduction/avoidance trusts are much more restrictive than asset protection trusts. Typically, you cannot retain any right to control or access any of the assets in an irrevocable tax reduction/avoidance trust. There are many irrevocable trusts available that are quite flexible and grantor-friendly. You should consult a qualified estate planning attorney to get counseled on all your options before creating an irrevocable trust.

Estate Planning Attorneys

The facts...

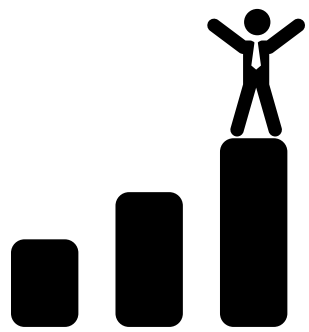
Would you have your regular doctor do your heart surgery? Sounds like a stupid question right? However, the same could be said for choosing the right attorney for your estate planning. Unfortunately, the legal profession does not have specialties like the Medical profession. You have to guess whether your attorney is qualified to guide you on your estate planning options.

It seems every brochure or letter you receive from your bank, financial advisor, or brokerage firm asks if you have done your "estate plan." The fact is, your bank, financial advisor or brokerage firm can only help you with the financial planning aspects of your estate. You need a qualified estate planning attorney to draft the legal documents that create an estate plan for you. A qualified estate planning attorney will work with your financial advisor and accountant to create the best plan for you.

Many attorneys attend a short seminar to learn a certain area of law and then immediately add it to their existing law practice. The intricacies around estate, Medicaid and tax planning are extensive. Not only does the attorney need a thorough knowledge of probate law, estate administration, trust, asset protection and Medicaid laws, they must also have an extensive knowledge of income tax, estate tax, gift tax, generation-skipping tax and excise tax laws. All of these areas intertwine and have a significant impact on your estate plan.

While general attorneys may have some knowledge of the law and be able to guide you through certain parts of the estate or Medicaid planning processes, they will not be aware of the many exceptions and details an attorney who limits his practice to only estate planning will know.

An attorney, who does traffic court one day, divorce on another, business law on the third day and sues for personal injury on the fourth, will not have the experience and knowledge of the loopholes as an attorney who practices exclusively in estate planning. If you're looking for a divorce, find an attorney who focuses on divorce. If you want estate planning, utilize an attorney who focuses on estate planning.



Contacts

Contact us today at **(720) 440-2774**

or skip@skiptonlaw.com, and let us help you determine what amount of estate planning is right for you and your family.

Tel:
(720) 440-2774

Official website:
www.skiptonlaw.com