

# WHAT IS ESTATE PLANNING IN PENNSYLVANIA?

*Estate Planning is a Holistic, Ongoing Process; You Should Put a Plan in Place as soon as You Become a Responsible Adult*





When you plan your estate, you execute legal documents that facilitate asset transfers to your heirs. A well constructed, comprehensive estate plan will also address the eventualities of aging.

In this paper we will look at the anatomy of a typical estate plan from an overview.

## LAST WILLS

Everyone has heard of the document called a last will. You could state your final wishes regarding the transfer of your property through the execution of a last

will.

If you were to use a last will as a vehicle of asset transfer, you would nominate an executor or personal representative.

This is the individual who would handle the estate administration tasks.

After your passing, the executor would admit the will to probate for a proving of the will. During this process the court would determine the validity of

the will. The administration of the estate would be supervised by the court.



This process can be time-consuming and expensive. As a result, many people look for ways to transfer assets outside of probate.

## TRUSTS

There are a number of different ways that you can avoid probate. Revocable living trusts are commonly used by those who would like to get assets into the hands of their loved ones in a direct manner outside of probate.

Some people are exposed to the federal estate tax. This tax carries an exclusion or credit of \$5.34 million in 2014. Any portion of your estate that exceeds this amount is potentially subject to the estate tax.

If your estate is exposed to the death tax, there are advanced techniques that can be used to reduce the tax burden. Irrevocable trusts of various kinds are used to

provide estate tax efficiency.

Trusts can be used to satisfy other objectives. A special needs trust would be beneficial if you want to provide for a loved one with a disability who is enrolled in government benefit programs.



You could create an asset protection trust if you were concerned about lawsuits.

Spendthrift trusts can be created to protect heirs who are poor money managers.

These are just a handful of the various different circumstances that can exist.

There is an asset transfer strategy that is appropriate for every situation.

## INCAPACITY PLANNING

When you are planning your estate, you should address the contingencies that you may face during the latter portion of your life. It is not the most pleasant subject to consider, but a significant percentage of elders become incapacitated at some point in time.

There are those who suffer from physical incapacitation, and mental incapacitation is also a looming threat. According to the Alzheimer's Association, 40 to 45 percent of people who are 85 years of age or older have Alzheimer's disease.

If you don't do anything in advance to prepare for incapacitation, the state could be petitioned to appoint a guardian to act on your behalf, and you would become a ward.



You can prevent a guardianship through the creation of durable powers of attorney. With these documents you name decision-makers who would be empowered to act on your behalf in the event of your incapacitation. When you have durable powers of attorney in place, there would be no need for a guardianship.

Your incapacity plan should also include a living will. With this type of will you record your preferences with regard to the use of life-sustaining measures like mechanical respiration, artificial nutrition, and artificial hydration.

## SUMMARY

Estate planning is a holistic, ongoing process. You should put a plan in place as soon as you become a responsible adult. A comprehensive estate plan will facilitate asset transfers to your loved ones, and it will also address the eventualities of aging.

As life progresses, changes inevitably come down the pike. You may experience changes in marital status, and it is likely that there will be additions and subtractions to your family. Your existing estate plan will need revisions as your family evolves over the years.

Changes in financial status can also trigger the need for an estate plan update.

If you want to put a plan in place or update your existing plan, schedule a consultation with a licensed estate planning attorney. Your lawyer will become apprised of your objectives, answer your questions, and make the appropriate recommendations.

## REFERENCES

Forbes

<http://www.forbes.com/sites/janetnovack/2012/10/14/the-forbes-guide-to-estate-planning/>

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[http://www.americanbar.org/groups/real\\_property\\_trust\\_estate/resources/estate\\_planning.html](http://www.americanbar.org/groups/real_property_trust_estate/resources/estate_planning.html)

## About Flood & Masiuk, LLC



### **Marianne Flood**

As the founder and managing partner of the Southampton, Pennsylvania law firm of Flood & Masiuk, LLC, Marianne Flood oversees a practice devoted to providing clients with personalized service and counsel in all aspects of estate planning.

Because of Ms. Flood's deep commitment to the specialty of estate planning, she became a member of the American Academy of Estate Planning Attorneys in April, 2000. Her entire private practice has been devoted to helping families of

all ages and backgrounds.

### **Joe Masiuk**

As a partner in the law firm of Flood & Masiuk, LLC, Joseph Masiuk is committed to, a practice which provides people of all ages and walks of life with thoughtful and comprehensive solutions in Estate Planning, which includes Elder Care, Medicaid and Special Needs Planning.

Today, Mr. Masiuk is a widely noted speaker, author and seminar leader on topics ranging from estate and Medicaid planning to asset protection for traditional and GLBT couples and families.

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