

# ESTATES AND TRUSTS

## Overview

### What is included in an estate?

It includes all of your property, such as:

- Real estate (for example, your home or an investment property)
- Personal property (such as cars, furniture, antiques, coins or art)
- Intangible property (which includes bank and investment accounts, stocks and bonds, Social Security benefits, life insurance policies and loans you made to other people)

### Types of Asset Ownership

- Jointly owned
  - Right of survivorship – surviving owner receives immediately
  - Tenants in common – your share of assets goes to your heirs
- Named beneficiary – for example, life insurance policy
- Solely owned – owned solely by you

### Elements of Estate Planning

- Power of attorney – another person can act on your behalf
- Living will – advance medical directive regarding health care
- Will – specifies how assets are to be distributed on death
- Trusts – legal arrangements to hold assets and property

### Types of wills

- Simple – specifies distribution of assets
- Testamentary-trust – establishes a trust to receive assets
- Pour-over – puts estate in trust before death
- Holographic – handwritten, not witnessed
- Oral – not written
- Joint – one document with two wills (for example, husband and wife)



### Types of trusts

- Testamentary – activated after death
  - Bypass – funded up to “lifetime exemption”
  - Marital power of appointment – assets put in trust for spouse
  - QTIP – qualified terminable interest property, benefits spouse of second marriage and children of first marriage
- Living – all assets placed in trust while person is alive

#### Advantages of trusts

- Reduce or eliminate estate taxes
- Avoid probate
- All assets under one plan
- Can be changed
- Quicker distribution of assets

#### Disadvantages of trusts

- Transfer all assets
- Keep transactions separate
- Cost
- State law
- Conflicts

*Continued*

# Estate Planning Checklist

- Identify your assets
- Decide how assets will be distributed and to whom
- Consider having a power of attorney prepared
- Complete a living will
- Prepare a will
- Update your beneficiaries on life insurance, benefit plans
- Learn about and consider a trust
- Learn about estate taxes
- Consider retaining an attorney to prepare key documents
- Enjoy the peace of mind of a completed estate plan!

## For more information

### Web Resources

- [www.estateplanning.com](http://www.estateplanning.com)
- [www.nolo.com](http://www.nolo.com) (enter “estate planning” in search box)
- [www.elderlawanswers.com](http://www.elderlawanswers.com) (enter “estate planning” in search box)
- *A Guide to Living Trusts*, [www.legalzoom.com](http://www.legalzoom.com)
- *Understanding Trusts*, [www.usa.gov](http://www.usa.gov)
- *Estate Planning*, American Bar Association, <http://tinyurl.com/estate1>

### Software

- Quicken Willmaker Plus: [www.nolo.com](http://www.nolo.com) (enter “Quicken” or “Willmaker” in search box)

### Books

- *Plan Your Estate*, Denis Clifford
- *Kiplinger’s Estate Planning: The Complete Guide to Wills, Trusts, and Maximizing Your Legacy*, John Ventura
- *60-Minute Estate Planner: Fast and easy plans for saving taxes, avoiding probate, and maximizing inheritance*, Sandy Kraemer

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