

YOUR GUIDE TO

# ESTATE PLANNING



## INSIDE WILLS vs. TRUSTS

WHY YOU NEED A PLAN  
& WHAT IS RIGHT FOR YOU

**5** COMMON ESTATE  
PLANNING QUESTIONS



**RINKE NOONAN**

*attorneys at law*

# *All you really need to get started is* **YOUR STORY.**

The most common question I get when I tell people I'm an estate planner is, "how can you talk about death EVERY. SINGLE. DAY?" Here's how our approach to Estate Planning is different: I don't want to talk about your death, I want to talk about your life. Everyone has things they hold dear, plans for the future, a reason they've worked so hard. Our goal is to understand what is important to you and customize a plan that prioritizes those values in the same way you do. With just a conversation, we can get you on your way to being better organized, decrease stress and administration for your loved ones, and protect your vision.

I understand that often people put off planning because the process can be daunting. When we start, they don't know their options and they don't know why they would choose one option over another. Well, that's our role. Almost every

week, a client tells me that the process was so easy that they wish they had done it sooner. The experience and expertise of our team means we can offer options, give suggestions, point out potential pitfalls, implement the latest planning tools, and develop solutions to even the most complex problems.

So, while I encourage you to look through this brochure and become a little more familiar with the concepts of estate planning, please keep in mind that all you really need to get started is your story. We would love to meet with you and put together a plan based on your life - because one of the best parts of being an estate planner for me is the opportunity to meet with clients and talk about their amazing and interesting lives EVERY. SINGLE. DAY.



**Stefanie Brown**  
Estate Planning & Business Law  
Attorney



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*Learn how to leave detailed instructions for your loved ones*

# 5 TRUSTS

*Advantages of this legal structure designed to hold some or all of your assets*

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# WILLS

*Wills* allow you to set out your wishes to protect the people you care for and the assets you have accumulated during your life. A will contains the instructions for a probate and does not prevent a probate.

If you die without a will, your estate will be subject to state law regarding who inherits your property. While your assets may still be subject to a probate, you will not be in control of the decisions regarding your estate.

Many provisions of a will are designed to provide the personal representative flexibility and simplicity, and to avoid unnecessary work and expense.

***protect the people  
you care for***

## ***A will allows you to:***

- Select guardians for your minor children;
- Choose fiduciaries, such as personal representative (also known as the executor), trustee, or custodian;
- List who receives your property;
- Control the timing of distributions by incorporating trust provisions (for example, distributing property to your children over time); and
- Capitalize on tax advantages.



## ***PROBATE: Truths vs. Myths***

### ***Truths About Probate:***

- Probate is required even with a will;
- The public can see my probate documents (including inventory lists with values);
- I can use a revocable trust to avoid probate;
- My personal representative may need to appear in court;
- It may take weeks to get the personal representative appointed;
- A probate may cost \$5,000-\$7,000.

# TRUSTS

A **Revocable Trust** is a document that contains many of the provisions of a will. It is designed to hold some or all of your assets. The Trust can generally be changed or amended at any time.

Initially, you will be the trustee of your revocable trust. Typically, you will notice little difference in your assets from a control or tax standpoint. The Trust allows for easy administration and control without a probate.



## **Myths About Probate:**

- The court gets a percentage of my assets;
- There will be a formal reading of the will;
- If you die without a will, the state gets everything;
- A Trust is the only way to avoid probate;
- A probate usually takes years;
- The probate will control ALL of my assets.

## **Key Advantages of a Trust:**

- Assets may be transferred upon death without delays, expenses, and public notices;
- The back-up trustee can immediately take over management of the trust assets if you are unable due to death, injury or illness. This can be especially vital for business or land owners who need to ensure that someone will have authority to keep their operations running;
- A trust may incorporate tax planning to maximize available tax exemptions and minimize the taxes upon death; and
- The distributions may be subject to certain age or purpose restrictions, such as distributions for college expenses and/or distribution when the child reaches age 30.

***“I would highly recommend Stefanie and her team. They helped us sort through the complexities of our situation and found a way to save our estate thousands of dollars in taxes.”***  
**– Bob Sexton**

# HEALTH CARE DIRECTIVE

A *Health Care Directive* is a legal document which combines the elements of the living will and the durable health care power of attorney. It is designed to allow you to choose the individual(s) who will make your health care decisions if you are unable to speak for yourself.

## *A Health Care Directive can include your thoughts on health care decisions such as:*

- Where you would like to receive health care/ preferred doctor;
- Your thoughts on pain relief;
- Goals, fears, and/or concerns regarding health care;
- Your wishes about final arrangements (burial or cremation);
- Religious or spiritual beliefs;
- Organ donation.

## *Making your Health Care Directive effective:*

- Ensure your agents can access your document. You may even consider giving them a copy.
- Put your Health Care Directive on file with your clinic or local hospital.
- Communicate your wishes, both within the document and narratively to your agent.
- Take your Health Care Directive with you if you are admitted for care.

## ***What does a Health Care Directive actually do?***

Includes a designation of legal agents to make important health care decisions.

Contains contact information to assist emergency personnel or medical professionals to contact your loved ones.

Contains HIPAA release for ease of administration regarding your medical records.

Provides direction to assure loved ones of their decisions regarding your health care in a difficult time.

# HOW IS PROPERTY TRANSFERRED AT DEATH?

## WILL

A will requires a probate in which the court appoints a personal representative and oversees the payment of your expenses and the distribution of your assets.

## BENEFICIARY DESIGNATION

Designations made directly on assets, including financial assets, like life insurance or retirement accounts, will control the disposition of those assets. Your named beneficiary claims those assets directly from the administrator or institution.

## OPERATION OF LAW

Assets that are not jointly owned and do not contain a beneficiary will be subject to Minnesota law on administration and distribution. The law dictates who receives your assets when you die if no plan is in place, and, in many cases, requires a probate.

## TRUST

A trust designates a successor trustee to handle the assets. The authority of the trustee and the distribution from the trust begin upon your death without the need for a probate or any third-party authority. The trustee collects the assets and distributes them according to the trust.

## JOINT OWNERSHIP

Joint owners are vested with the ownership of the joint asset by operation of law immediately upon your death, although some filing may be necessary to document their sole ownership after your passing.

## OTHER TOOLS

See our “Other Tools” section for additional transfer options, such as transfer on death deed.

# COMMON ESTATE PLANNING QUESTIONS

## 1 *Why do I need a plan?*

A plan allows you to select the important aspects of what happens after your death. Without estate planning documents, Minnesota law will control and dictate who gets your property. Important jobs, like the executor or guardian, may go to those who volunteer rather than to the people who you would select to fulfill those jobs.



## 2 *Do I have enough money to need a plan?*

While some estate plans do include tax planning, a properly-drafted plan can direct all assets you have to your select beneficiaries and can ease administration, even for items of less value. It is also vital with any minor children so that you get the opportunity to designate your chosen guardian.

## 3 *Can't I just use an online service?*

Yes, but we recommend against it. Many of our clients have tried these services in the past and then found out later they didn't need everything they purchased or, alternately, needed something much different. One of the most important parts of a planning meeting is determining the right tools for you. There may be less expensive or complex options available, depending on your goals and assets. You can also gain valuable education and peace of mind through the opportunity to discuss your specific situation with a professional and get your questions answered.

## Can I name the same person for multiple jobs in my plan?

It is important to choose people with the skill sets to match the job duties in your documents. The skills to care and nurture for your children are different from those needed to manage your money and pay bills; however, one person may possess both sets of skills. Part of the planning process will include discussing these roles and how to select the people best suited to fill them.

## 5 Will I be subject to “death tax”?

## *Will I be subject to “death tax”?*

Any assets left to your spouse will generally not be subject to estate tax (commonly called “death tax”). Assets that go to an individual other than your spouse, including kids or grandkids, are exempt from an estate tax up to the exemption amount each state allows. Property of Minnesota residents, which are over the exemption amount, will be subject to the Minnesota estate tax. Larger estates may also be subject to the federal estate tax. Proper planning can effectively minimize taxes.

# NOTES

[illegible]

# HOT TRENDS<sup>IN</sup> ESTATE PLANNING

*Contact us to find out more information about these current trends!*

GRANDCHILDREN'S  
TRUST

STRETCH  
IRAS

FAMILY  
LLC  
(FOR CABINS AND  
HUNTING PROPERTY)

"BUNCHING"  
CHARITABLE  
GIFTS

**LET'S GET STARTED**

Call 320.251.6700 or email us at  
[estateplanning@rinkenoonan.com](mailto:estateplanning@rinkenoonan.com)

# POWER OF ATTORNEY

A **Power of Attorney** is a document in which you give another person(s) the authority to act on your behalf regarding financial matters.

If you were to be seriously injured or ill and become unable to make your own financial decisions, your agent could pay your bills and manage your assets.

Without a Power of Attorney, it may be necessary for someone to obtain a conservatorship from the court. This process is much more time consuming and costly than preparing a Power of Attorney. Also, when you draft a Power of Attorney, you choose the person(s) who handles your affairs.

*The authority given to another through the Power of Attorney will depend on its specific terms. A few potential uses of Power of Attorney would include:*

- Pay real estate taxes and utility bills;
- Gain access to funds for children;
- Manage financial accounts;
- Handle real estate matters;
- Sign legal documents.

***should  
something  
unexpected  
happen, who  
will handle  
your affairs?***

***“Had I known this was going to be  
so easy I would have completed my  
estate plan a long time ago.”  
-Teresa W.***



# SUCCESSION PLANNING

For many of our entrepreneurial clients, the most important asset they own is their business. Developing a path for the continuation of your business and ensuring that you receive the value you built over the years requires careful planning and expertise. We have the experience and knowledge of all the latest planning tools to customize a succession process for your personal needs and expectations.



# OTHER TOOLS

## ***Transfer on Death Deed (TODD):***

A Transfer on Death Deed operates much like a beneficiary designation for real estate; it is an actual deed recorded with the county recorder, which specifies who will inherit title to the real estate upon your death. It does not transfer any ownership in the property during your life, so the property can be sold and you will continue to receive all of the proceeds. The Transfer on Death designation can be removed or changed at any time during your lifetime. Upon your passing, those listed to inherit the real estate need only file an Affidavit with the County to obtain full legal title.

## ***Family Entities:***

Entities, such as partnerships or LLCs, can assist a family in the joint ownership of property. Certain entities not only create an effective way to manage property by centralizing management, but can also have significant tax benefits and liability protection for real estate, such as family cabins or hunting property.

## ***Quit Claim Deed:***

There may be benefits in some circumstances to gifting property during your lifetime to your heirs by deed. Transferring property during your life in this manner may protect it from future estate taxes or Medical Assistance claims should you need nursing home care. While it is important to understand the consequences of such a transfer, it can be highly effective in protecting assets and continuing your legacy property.

## ***IRA and Retirement Accounts:***

Qualified, tax deferred assets, such as IRAs or similar retirement accounts, generally utilize beneficiary designations to determine inheritance upon the owner's death. Proper designations can provide significant tax advantages for heirs or charities. It is important to understand how these beneficiary designations can impact the accounts you leave to the beneficiaries.



*What if I move out of*  
**MINNESOTA?**

Minnesota is one of only a few states that imposes a “state estate tax” on its residents. For 2020, Minnesota’s exclusion amount is \$3,000,000, under which an estate will not be subject to any estate tax. Minnesota’s estate tax applies to nearly all the assets of its residents, except for those property items located outside of the state. For non-residents, the estate tax generally applies

only to real estate or other select items located within the state of Minnesota. The Minnesota Department of Revenue considers many factors in determining whether or not someone is a resident of Minnesota, including things such as where you spend the majority of your time, where you are registered to vote, where you receive your mail, and what you list as your primary address on other important documents.

### ***Residency Factors:***

- 183 days/year;
- State that issued your driver’s license;
- Location of employment;
- Location of memberships;
- Where you attend church;
- Size and value of residences;
- Filing of income taxes;
- Location of bank accounts.



# WHEN TO REVIEW/ UPDATE YOUR PLAN

- You change your mind;
- Death of a loved one;
- You no longer believe your fiduciaries can serve or you no longer like your choices for fiduciaries;
- Your financial situation changes significantly;
- You have your 1st child;
- You get married or divorced.

*Please contact us to set up an appointment and put these tools to work for you.  
Call 320.251.6700 or email us at [estateplanning@rinkenoonan.com](mailto:estateplanning@rinkenoonan.com)*

*“Ensuring our family business will be here for generations was top priority for us. Stefanie’s knowledge and experience in business succession has been invaluable.”*

*-Tom Schlough,  
Park Industries*



**Rinke Noonan also assists in  
a broad range of matters including:**

**AGRIBUSINESS**

Business Succession  
Business Transition  
Estate Planning  
Acquisitions and Eminent Domain  
Land Use  
Litigation Representation  
Real Estate  
Commercial Transactions  
General Business  
Tax Plannings

**BUSINESS**

Law and Litigation  
Banking and Lending  
Construction Law  
Employment Law  
Real Estate  
Contracts  
Tax Planning  
Operations and Planning  
Mergers and Acquisitions

**INDIVIDUAL**

Eminent Domain  
Criminal Law  
Estate Planning  
Family Law  
Personal Injury  
Real Estate  
Child Support and Custody  
Guardianship and Conservatorship  
Probate and Trust



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