

Estate Planning

◆ CHECKLIST ◆

Give Your Family
the Benefit of
Peace of Mind.



Everyone needs to do some kind of estate plan. Regardless of who you are, whether you are single or married, have kids or not, are young or old, and no matter your level of assets, a good estate plan is important for you. How you plan your estate can **significantly impact** your life and the lives of those around you.



What This Checklist Can Do For You

You're probably reading this Checklist because you are thinking about putting your estate plan together. You are trying to figure out what needs to

be done, how to go about doing it, and how to find the right attorney to help you. We've written this guide to give you the information you need to know so you can make informed decisions before you sit down in an attorney's office to begin the process. It will show you what steps you need to take in order to put the best estate plan together for you and your loved ones. Some of the steps in the checklist may not apply to you, but for the most part they are things that everyone should look at in making their estate plan.

Of course, every situation is different, and every estate plan needs to be customized for your particular family's dynamic, asset structure and goals. Nothing in this guide should be construed as specific legal advice. If you do want our legal opinion on how you should plan your estate, we would be glad to talk with you about that. You can call our office at (305) 477-1111 to schedule your comprehensive estate planning consultation.

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The 10 Steps to an Effective Estate Plan

Our Checklist is split into three sections: BEFORE, DURING, and AFTER to make sure you have all the knowledge you need to get this done and to keep your plan up to date and as effective as the day you signed your legal documents!

BEFORE

- ☐ Step 1: Inventory Your Assets
- ☐ Step 2: Gather Important Paperwork / Documentation
- ☐ Step 3: Identify Your Goals
- ☐ Step 4: Find the Right Estate Planning Attorney

DURING

- ☐ Step 5: Answer Some Tough Questions
- ☐ Step 6: Create Your Plan
- ☐ Step 7: Communication with Family / Friends
- ☐ Step 8: Pre-Plan your Funeral / Burial / Cremation / Memorial Service
- ☐ Step 9: Consider Life Insurance

AFTER

- ☐ Step 10: Update Your Plan Regularly

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BEFORE

Step 1: Inventory Your Assets

Knowing what you have and how these assets are titled is a vital part of creating an effective estate plan. There is no “one-size fits all” plan, so your plan will be tailored not only to your family’s dynamic and goals, but to the assets you currently own and intend to own in the future.

Below is a worksheet to help you get started in organizing what you own. Although there is a column for values, don’t worry about getting the values exact at this point. Just having round approximations will be very helpful to you as you begin to think about your estate planning needs.

Tangible Personal Property:

Description	Location	Approximate Value

Safe Deposit Boxes:

Financial Institution	Name(s) on Account	Contents

Business Interests:

Name of Owner	Description (Partnership, LLC, Corporation, etc)	Approximate Market Value

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Bank Accounts:

Financial Institution	Name(s) on Account	Payable on Death? (Y/N)	If POD, Named Beneficiary	Approximate Balance

Stocks, Bonds, Treasury Notes, Other Investments (Not Real Property):

Name on Certificate or Book Entry	Payable on Death? (Y/N)	No. of Shares	Approximate Value

Real Estate:

Description (Residence, Investment, and etc.)	Address (Street, City, State Zip Code)	Name on Deed	Approximate Value

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Life Insurance, IRA's, Pensions, 401(k)s, Annuities:

Type	Financial Institution	Account/ Policy Holder No.	Current Beneficiary	Approximate Face Value

Mortgages, Notes, and Other Receivables (Payable/Owed to you):

Name of Debtor	Description of Debt	Current Balance Owed to YOU

Motor Vehicles:

Name of Owner	Description (Make, Model, Year, Vin)	Approximate Market Value

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Other Assets (Trusts, Investment Interests, Anticipated Inheritances or Gifts, Lawsuits:

Description	Name of Owner	Approximate Value

Step 2: Gather Important Paperwork / Information

Make sure to have copies of:

- ☐ Real estate titles and deeds
- ☐ Share certificates
- ☐ Proof of ownership for vehicles and other high-valued assets
- ☐ Marriage, divorce, and separation documents (pre/post nuptial agreement, marital settlement agreement, parenting plan, etc)
- ☐ Adoption and/or birth certificates (for all of your children)
- ☐ Any prior estate planning documents prepared (Last Will and Testament, Trusts, Power of Attorney, Healthcare Surrogate/Proxy, Living Will)

Don't forget your digital assets!

- ☐ List of your social media accounts or important sites
- ☐ Up-to-date Usernames and Passwords for these accounts/sites
- ☐ Online business or real estate portfolios

Contact Information:

- ☐ Gather updated contact information for those individuals you will be naming in your documents (full legal name, current address, telephone number, email address)
- ☐ This includes beneficiaries and individuals you will name as decision-makers

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Step 3: Identify your Goals

Knowing your main reasons for creating an estate plan will assist your estate planning attorney in giving you all of the options available. Just as there is no one right way to get from Miami to California, there is no one **RIGHT** estate plan... just the right estate plan **FOR YOU**... and this means meeting ALL of your goals, including caring for minor children, aging parents, avoiding probate etc..

This Worksheet is a starting point. What's important to you right now, may not be as important as life changes. Don't worry too much about that... estate planning isn't a static thing. It **SHOULD** change. So, for now, mark "yes" next to each statement you agree with and mark "no" next to the statements that do not apply to you. If you aren't sure whether a particular statement applies to you or your family, mark the "IDK" box (this stands for "I Don't Know"). As you proceed through the estate planning process, you'll learn more about how these issues impact you and your loved ones. In addition, your estate planning attorney will be able to explain how these concepts can affect your planning.

ISSUE	YES	NO	IDK
Making sure I'll be taken care of if I become incapacitated			
Naming the right individuals to make medical/financial decisions for me in the event of an incapacity			
Qualifying for Government Assistance			
Avoiding Probate			
Making sure my beneficiaries don't squander their inheritance			
Making sure younger beneficiaries (children or grandchildren) get a good education			
Minimizing estate taxes			

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ISSUE	YES	NO	IDK
Making sure my beneficiaries' inheritance is protected from possible lawsuits, divorces, bankruptcy, etc.			
Delaying distributions to my beneficiaries until they reach a more mature age			
Planning for a beneficiary with a disability or special needs			
Provide for the care of my pet(s) or animals			
Leaving a gift for a charity or charities			
Making sure my elderly relatives are taken care of if I am the first named agent under a power of attorney or surrogate under a healthcare surrogate			

Step 4: Find the Right Estate Planning Attorney

Would you hire a dentist for your heart surgery? Probably not. They may both be in the medical field, but neither is experienced in the other's vocation enough (or at all) to be effective. The attorney who helped you with your car accident case, handled a foreclosure defense for your neighbor, or helped your cousin avoid jailtime may not be the best choice to guide you through the estate planning process.

An experienced estate planning attorney will know the questions to ask you that will uncover your planning needs, will be able to make suggestions with the best ways to approach specific concerns, and will be able to draft the most up-to-date comprehensive documents for your estate plan that meet all of your goals.

So, what should you look for?

- **An attorney who concentrates primarily on Estate Planning**
 - If they also handle probate and guardianship litigation, this is a bonus. Knowing how poorly drafted estate plans can go wrong (or situations where families that did not have a plan) is a great way to make sure all angles are covered.
- **Flat Fee Arrangements**
 - There is NO need to charge hourly for an estate plan, and if that's what you're being quoted, seek assistance elsewhere.
 - Estate planning may be stressful enough... not knowing how much this is going to cost only adds to the stress.

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- The fee shouldn't depend on how long the attorney spends with you designing the plan, drafting the documents and explaining and delivering the plan to you.
- Be sure to ask what follow-up costs are involved, especially when you're going to be preparing a trust (For example, anyone that chooses one of our Estate Planning Levels has the ability to modify each document once per year for the following three years, free of charge. Thereafter, the cost for amending a Will or Trust is laid out in our Fee Schedule. There are **NO SURPRISES.**)

□ **Availability**

- Some attorneys don't have availability for *MONTHS*. Estate Planning isn't something that should be put off that long. (Our office blocks off time each week to meet with estate planning clients to make sure you don't have to wait to get this done.)
- Some individuals can't make it to our office because of a physical impairment. The attorney you hire should be able to make a house call for both the initial consultation and the estate planning signing conference.

□ **Comfort**

- Estate planning is a very personal experience. You should feel very comfortable sharing intimate details of your life and your concerns with your estate planning attorney so your estate plan doesn't fall short of your expectations and needs.

□ **Reputation**

- There's nothing more powerful than the written word and with information readily available at our fingertips, the right estate planning attorney will have good reviews online at sources such as: Avvo.com, Google, Facebook.
- Once you've chosen a few estate planning attorneys, consider asking around. Word of mouth referrals hold their weight in gold.

□ **Communication**

- There's nothing more frustrating than someone who ignores your calls or emails. Your estate planning attorney should be available to answer any and all questions within a reasonable amount of time (*not weeks, as we have heard some clients complain*).

- **Tip:** A first impression is a lasting impression. **Trust your gut.**

DURING

Step 5: Answer Some Tough Questions

In the estate planning documents you will be creating, you will need to answer some pretty tough questions, but answering these is a necessary step in making sure your plan is tailored to your family's dynamic and goals.

These questions will help you get those brain juices flowing:

- ☐ Who would you choose to make **medical** decisions for you if you become incapacitated?
 - ☐ If that person cannot serve, who would be his/her backup?
- ☐ Who would you choose to make **financial** decisions for you if you become incapacitated?
 - ☐ If that person cannot serve, who would be his/her backup?
- ☐ Will you be allowing the person you choose to make financial decisions to be able to make gifts of your assets while you're alive?
- ☐ Do you want to be resuscitated if you are in an irreversible coma, terminal condition or persistent vegetative state?
 - ☐ What about being kept alive by the use of artificial means (food, fluids, oxygen)?
- ☐ Do you want to donate your organs?
- ☐ How would you like your loved ones to dispose of your body after you pass?
- ☐ Who do you want to leave in charge of your estate after you pass?
 - ☐ Is there more than one person that should be in charge?
 - ☐ At the same time?
 - ☐ If that person cannot serve, who would be his/her backup?
- ☐ Who do you want to leave your assets to?
 - ☐ What if they are minors? At what age do you think they should receive assets?
 - ☐ What if those beneficiaries pass away before or after you?
- ☐ Do you want to make completion of post-high school education a prerequisite to receiving money?
- ☐ If you have minor children, who do you want taking care of them if you pass before they turn 18?
- ☐ If that person/those individuals cannot service, who would be his/her/their backup?

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Step 6: Create Your Plan

There are several estate planning documents that can be prepared to ensure you and your family are taken care of, and each document does a different thing. Here are a list of the most common estate planning documents, a list of the items you'll need to consider, including the types of individuals you'll need to consider naming in each document.

Durable Power of Attorney

This is a document authorizing another person to control your assets on your behalf and for your benefit. This document takes effect immediately upon execution (i.e., this is not simply just effective if and when you become incapacitated). It is important that you choose an individual that you feel will always act in your best interest and manage your assets in the same manner you would. The person you name is known as your "agent."

☐ First-Named Agent:

☐ Alternate Agent:

☐ Second Alternate Agent:

Designation of Healthcare Surrogate

This is a document authorizing another person to carry out your wishes in the event you are unable to communicate your decisions concerning extending, withholding or withdrawing life-prolonging procedures under certain legally-permissible circumstances. The person you name is known as your "surrogate."

☐ First-Named Healthcare Surrogate

☐ Alternate Healthcare Surrogate:

☐ Second Alternate Healthcare Surrogate:

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If you are designating more than one person to act as your health care surrogate, choose one of the following:

- ☐ If one of my surrogates is unwilling or unable to perform his or her duties, the remaining surrogate may act alone.
- ☐ Both surrogates must act together in all decisions.

Living Will

This is a document which reflects your decision regarding the withholding or withdrawal of life prolonging procedures in the event you should have a terminal condition. It also specifies instructions for your surrogate with regard to end-of-life decisions. If you desire to have a Living Will, this can be prepared as a separate document, or together with your Designation of Healthcare Surrogate.

- Many of the choices you will need to make in this Living Will are questions asked in Step 5 above.

Last Will and Testament

This is document by which you identify those individuals (or charities) that are to receive your property and possessions on your death. A Personal Representative is the individual(s) you name to manage your affairs and probate your Will after you pass. Please note that under Florida law, if the personal representative is not related to you, or the spouse of someone related to you, he or she must be a Florida resident. You may also select “joint” personal representatives or a “corporate” personal representative (e.g., bank or trust company).

Name a Personal Representative:

- ☐ First-Named Personal Representative:

- ☐ Successor Personal Representative:

- ☐ Second Successor Personal Representative:

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Name Your Beneficiary(ies):

1st set of beneficiaries: _____

Contingent beneficiaries (if something happens to the beneficiary(ies) in the 1st set:

Name a Guardian for Minor Children:

If you have any children who are minors, a guardian should be named in your will to care for their person and to manage their property until they attain 18 years of age in the event of the death of both parents. You may nominate “joint” guardians. You may also nominate separate guardians for a child, that is, a “guardian of the person” and a “guardian of the property” especially if a proposed guardian may not be suitable for handling a child's property and finances. A guardian of the property could include a “corporate” guardian or corporate co-guardian. Please note that under Florida law, if the person you nominate as guardian is not related to the child, he or she must be a Florida resident to be appointed.

☐ First-Named Guardian:

☐ Alternate Guardian:

☐ Second Alternate Guardian:

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How to Choose a Guardian for your kids?

It's difficult to imagine a world where your kids don't have you to protect and care for them, but these things happen from time to time. It is much better if you name the individual(s) you know will care for your children than to leave it up to the Court to decide. But HOW do you choose? We have found this method to be a good starting place:

1. What factors or characteristics in parenting style are important to you?
2. Identify some potential candidates.
3. Which of your potential candidates exhibit the characteristics in number 1 above you find important?
4. Discuss this important role with the top candidates and get their feedback about stepping into your shoes as a parent.

Consider a Revocable Trust

What is a Trust? A trust is a legal entity that can own assets. A trust acts much like a will, and, like a will, a trust includes instructions for who you want to handle your final affairs and who you want to receive your assets after you die. The most common kind of trust that people use in estate planning is known as the Revocable Trust. It is created during your lifetime and can be changed while you are alive and have capacity.

Why do people use Revocable Living Trusts? Some people believe that a Revocable Trust (Rev. T) is only needed for very wealthy people, but in fact the use of a Rev. T is determined by a number of factors (not just estate size), and a Rev. T meets many planning needs and goals. For example,

- It avoids the need for a Probate case to be opened at death and avoids court interference (guardianship) upon incapacity. This saves a lot of money in administrative costs and fees (Probate attorney fees are usually hourly and have no statutory cap in Florida). Many people find a Rev. T to be the most efficient and cost-effective estate plan.
- A Rev. T allows you to provide necessary protections for your beneficiaries who are younger and financially inexperienced, or who are incapacitated, are receiving governmental benefits, have creditor or marital problems, or any other needs for protection.
- The Rev. T allows you to maintain control over yourself and your assets. As long as you are alive and have capacity, you can change the trust document, control what is done with your property, add or remove assets, and even revoke the trust in its entirety.

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Who are the people involved in a Trust?

Grantor: the individual who created the trust. In this case, it would be you, and if you are married, you and your spouse.

Trustee: the individual(s) who manages the assets in the trust. Most people choose to be their own initial trustee, which allows them to continue managing their financial affairs while they remain capable. Married couples are often co-trustees, so that when one dies or becomes incapacitated, the other spouse continues to handle the finances without the need for a guardianship.

Successor Trustee: the individual(s) named to step in and manage the trust when the grantor(s)/initial trustee(s) is no longer able to continue serving as trustee (due to incapacity or death).

Beneficiaries: the individual(s) or organization(s) who receive the benefit of the trust. While the grantor is alive, he/she is the beneficiary of the Trust. The grantor usually names beneficiaries for after he/she passes away, and more importantly, the grantor can control how and when the assets are distributed to the beneficiaries.

Who do you want to name?

☐ Trustee: _____

☐ Successor Trustee: _____

☐ Beneficiaries: _____

☐ Do you want your Trustee to be compensated? _____

☐ What age do you want beneficiaries to reach before they can receive their inheritance? _____

☐ Is there someone you want to disinherit? _____

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Step 7: Communication with Family / Friends

Once you've chosen the individuals, communicate with them to make sure they know the role you want them to play in your life, whether whilst you are incapacitated or after you pass. You may also consider providing them with a copy of the documents after they are executed. Some of these documents are accepted in copy form, others are required to be originals.

Step 8: Pre-Plan your Funeral / Burial / Cremation / Memorial Service

The last thing your loved ones want to do when you pass is plan a funeral, decide on whether you wanted to be cremated or buried, or whether you wanted a service at all. If you create a Living Will, you can lay out exactly how you want your body disposed of after you pass. This will make things much easier for your family when the time comes.

You can also look into pre-paying for the funeral expenses, which not only simplifies the process, but also locks in the cost of your services at today's prices. Consult with your funeral director for details on how to pre-plan your funeral and the advantages of pre-paying.

Step 9: Consider Life Insurance

Many people believe that they don't need life insurance. They feel that they have enough assets without the insurance, so they feel it's not necessary. However, there are many uses for life insurance in estate planning besides the traditional "income replacement" or the "pay my final expenses" uses. Here are some great uses for life insurance:

- ☐ Income Replacement (*if you have individuals that are dependent on your income for survival, purchasing life insurance will help them remain living within the same standard as when you were alive*)
- ☐ Avoid fighting among the children
- ☐ Avoid fighting within "blended" families
- ☐ Reimburse the estate for losses (*taxes, poor market returns, etc.*)
- ☐ Protection for unmarried couples
- ☐ Capital Gains Tax Avoidance
- ☐ Funding care for a Special Needs Beneficiary
- ☐ Funding special gifts (*to grandchildren or charities, for example*)

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- ☐ Estate Tax Payment
- ☐ Life Insurance with a Long-Term Care Insurance rider
- ☐ Funding a Business Buy-Sell Agreement (*a tool in business succession planning*)
- ☐ Business Key Employee Life Insurance (*if you have a business and there is an individual or a set of individuals that, if they pass, your business' production would suffer*)
- ☐ Paying off Debt

Working with an experienced insurance agent can help open up the possibilities for integrating life insurance in your planning. Your estate planning attorney can most likely refer you to a trustworthy insurance agent.

AFTER

Step 10: Update Your Plan Regularly

Some people view their estate planning as a one-time event, something that they do once and never have to think about again. However, one of the only consistent things in life is that **life is constantly changing**. As things change in our lives, our estate plans must be updated and maintained to keep up with the changes. **Here are some common reasons to update your estate plan:**

- ☐ Changes in the law
- ☐ Get married, divorced, separated
- ☐ One of your representatives passes away
- ☐ One of your beneficiaries passes away
- ☐ Purchase or sell assets
- ☐ Lose or acquire debt
- ☐ Have any biological or adopted children (*or if you are a grandparent, you have new grandchildren born into the family*)
- ☐ Changes in the people you named as your Trustees, Executors or Agents (*due to death of previously named individuals, divorce, discord, etc.*)

If you make sure that you're keeping your estate plan well-maintained, it will continue to accomplish the goals you have set for it.

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consultation from the comfort of your
own home!

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planning-questionnaire/](https://www.probatelawmiami.com/estate-planning-questionnaire/)

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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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Estate Planning is not just for wealthy people. Although estate planning does impact the very wealthy, it can also dramatically impact those of moderate means. This is not an easy task you are embarking on, but you have taken the first step to ensuring your loved ones are cared for after you pass away. By creating your estate plans early and talking to the people you designate to handle matters about their roles, you can give yourself, and your family, the benefit of peace of mind.



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