



# BARLAY LAW GROUP LLC

ESTATE PLANNING | REAL ESTATE | BUSINESS

GUIDING CLIENTS IN PROTECTING THEIR MOST IMPORTANT ASSETS: FAMILY, PROPERTY & BUSINESS

## THE 11 BASIC STEPS OF ESTATE PLANNING

### 1. Write Down Everything You Own

The first step in developing an estate plan is to determine what are all of your assets. This means making a list of everything you own. This may sound easy, however, there may be things that you may have forgotten or you think have little value. It is important to include everything in your list, whatever the value. Sometimes the little things that mean the most to your heirs. In certain circumstances, some of the items may "grow legs" and disappear if not properly identified. When you list your property, you should also make a note of whether the property is owned by you alone or jointly with someone else, such as your spouse. Joint property is usually not affected by your will or trust.

### 2. Make a Wish List

Make a wish list of everything you would like to do if you had the chance. What organizations have special meaning for you? What causes would you love to support? In what ways could you best help your family? What special keepsakes do you have that would mean a great deal to a person you love? Take some time to explore all the possibilities, and feel good about it.

### 3. Determine charitable or church giving

You want to make sure that family members are taken care of, but you may also be moved by wider feelings of personal stewardship. By giving generously in your estate plan, you may free family members from the concern that they should be making charitable gifts on your behalf. You should tell family members what charities you are including in your will.

### 4. Structure your Gifts

A gift under your will or trust is called a bequest. When it comes to bequests, you basically have three choices. You can give a specified amount of money (ex. \$10,000), or an amount to be determined once the debts of the estate are paid (ex. 20 percent), or a specific asset (ex. the Elvis clock that shakes every hour). It is important to decide how your personal keepsakes will be divided, since it will be more difficult for your executor and/or family to decide. When the debts of the estate and specific bequests are paid, the amount left over is called the "residue" or "remainder."

### 5. Choose Your Executor or Trustee

The executor or trustee named in your will or trust, respectively, steps into your shoes upon your death to make sure that your instructions are followed. If you have a will, your executor will locate all your assets, pay your funeral expenses and debts, sell what's necessary, and then divide everything according to your will. With a trust, your assets should already be in your trust, so the trustee will have to pay expenses and debts, and depending on the structure of your trust, restructure your assets. It's an important job, so you want to pick the right person or persons. When you appoint your executor or trustee, it is a good idea to name at least three alternative executors or successor trustees as well to allow for unforeseen circumstances.

### 6. Choose Guardians and/or Conservators for Your Loved Ones

If you have young children, you will want to name or nominate someone in your will to act as their guardian and/or conservator. A guardian's duty typically involves taking care of the person, while a Conservator's duty is to take care of the person's property and business affairs. Depending on your personal preferences, these may be the same individual. The Probate Court in your county will have the authority to name a guardian and/or conservator, however the court will usually select who you name, unless there are other outstanding circumstances. As with naming an executor or trustee, you will also want to name at least three alternative guardians and/or conservators. This way you will be sure that you have chosen someone who will love and cherish your children.



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## 7. Establish an "Underage Beneficiary Trust" Where Necessary

Whether you have a will or a trust, you may want to create an underage beneficiary trust if you have young children and need someone to manage their money until they're old enough to make their own decisions. You may want the trustee of this trust to be separate from a nominated Guardian, so that there will be a checks and balance system.

## 8. Plan for Your Funeral

A funeral is a very important part of the grieving process for family and friends. Going about the business of planning a funeral brings families together, but too many decisions can sometimes cause stress.

## 9. Create Powers of Attorney

Estate planning is not only for death. It's also for life. That's why you should think about powers of attorney at the same time you're making a will or trust. As people are now living longer, there is a chance we may live to a time where we have difficulty looking after our affairs. There are generally two kinds of powers of attorney, one that looks after making financial decisions ("*Durable Power of Attorney*") and another for managing health care ("*Durable Health Care Power of Attorney*" or DHCPOA).

## 10. Choosing the Right Attorney

There is no such thing as a "simple" will. Your will or trust is a legal document that lets you choose what happens to your property on your death and who carries out your instructions. When a person dies without a will (or "*intestate*"), these decisions are made by law, and estate costs are higher. It is helpful to read will preparation guides and books about estate planning, but don't under any circumstances try to prepare a will with the advice of an attorney. Your will is too important a document for mistakes.

## 11. Revise Your Will or Trust from Time to Time

Your will evolves throughout your lifetime, and should be reviewed with your attorney every three to five years, or even more often if there are changes in circumstances, such as a birth, marriage, or death in the family. It is also important to revise your estate plan when laws change.