

- Distribute the remaining property as the will (or state law) directs.

Joint Tenancy

Joint tenancy is a special form of ownership by two or more persons of the same property. It's common practice for couples and business partners to take title to each other's bank accounts, brokerage accounts, real estate and/or personal property as joint tenants with rights of survivorship.

In simple terms, it means that when one partner or spouse dies, the other receives all of the money or property. This is why many married couples and business partners choose this option. All joint tenants, or their creditors, have access to the asset.

Transfer on Death

Transfer on death (TOD) is a form of ownership in which the person(s) hold a title, but upon their death, the property automatically passes to a beneficiary(ies). TOD can apply to accounts, investments or a residence. Parents and children, aunts/uncles and nieces/nephews, etc. often choose TOD so their beneficiaries, or creditors, have no access to the asset during the owners lifetimes.

Estate Taxes

The estate tax is both a federal and Illinois tax on property transferred from deceased persons to their heirs. Estate tax usually applies to very large inheritances, that only pertain to a small group of wealthy heirs whose estate exceeds the current federal tax exemption and Illinois

estate tax per person. Any amount passing to a spouse or charity is exempt.

This transfer can occur through a will, the state laws of intestacy or made as an incident of the owner's death. It can also happen as a transfer of property from an intestate estate or trust, or the payment of certain life insurance benefits or financial accounts to beneficiaries.

Powers of Attorney



If you become ill or injured and you can't take care of your finances, someone else must step in to help. With a financial power of attorney, you name a trusted person to pay bills, make bank deposits, watch over investments, collect insurance or government benefits and handle other money matters on your behalf. Without this important document, your loved ones will have to go to court to get authority over your financial affairs. Powers of attorney are routinely granted to allow the agent to take care of a variety of transactions for the principal.

A power of attorney is generally terminated when the principal dies, but the principal can also revoke the power of attorney at any time. Durable powers of attorney have become popular since they enable the principal to have their affairs handled easily and inexpensively after they become incapacitated.

A power of attorney for health care allows your agent to make medical decisions for you and obtain access to your medical records. This power includes life-sustaining or end of life care that the principal directs in the document.

What is Estate Planning?



Believe it or not, everyone has an estate. A basic estate plan includes a will, a power of attorney and a living will or medical power of attorney. Since you own the property in your estate, it's your right to say what will happen to it when you die. But unless it's written down, there's no assurances your wishes will be respected.

Your estate is comprised of everything you own—retirement accounts, your home, other real estate, checking and savings accounts, investments, life insurance, furniture and personal possessions. To ensure that your wishes are realized, you need to provide instructions on how your estate should be divided.

Ask yourself three questions: Whom do you want to inherit your assets? Whom do you want handling your financial affairs if you're ever incapacitated? Whom do you want making medical decisions for you if you become unable to make them for yourself?

Beneficiaries

A beneficiary is simply the recipient of money or other benefits through a will, insurance policy, retirement plan, annuity, trust or other contract. In other words, if you benefit from something, you are a beneficiary. This word pops up most often when people are creating their wills and trusts—you have to choose beneficiaries as the people who will get what you own when you die.

Wills

A will can help protect your family and your property. A will is used to:

- Leave your property to people or organizations
- Name a personal guardian to care for your minor children
- Name a trusted person to manage property you leave to minor children

- Name an executor; the person who makes sure that the terms of your will are carried out.

To maximize the likelihood that your wishes are realized, you want a will that is set forth in writing and signed by you and your witnesses. If your will does not meet these standards, your instructions may not be accomplished.

What Happens if You Die Without a Will?

In Illinois, if you die without a will, your property will be distributed according to state “intestacy” laws. Illinois’s intestacy law gives your property to your closest relatives, beginning with your spouse and children. If you don’t have a spouse or children, your grandchildren or your parents and siblings will get your property.

This list continues with increasingly distant relatives, including grandparents, aunts and uncles and cousins. If the court exhausts this list to find that you have no living relatives by blood, your county of residence or property’s location will take possession of your property.

Naming an Executor

An executor sorts through the remnants of someone’s life and carries out their final wishes. An executor administers the estate and remains in charge until the estate is legally closed. Before that hap-

pens, the will must be admitted to probate—the system through which a court determines if it’s a legally valid document. After that, creditors and taxes must be paid and then the named beneficiaries are entitled to their share of what is left. Depending on the complexity of the estate and subsequent events, the job of executor might last a couple of years.

Non-Probate Estates

Only about 10% of estates are probated. The decedent may have used forms of ownership (joint tenancy, transfer on death or a trust) to distribute their estate and thereby avoid probate. Also, if the decedent had less than \$100,000 in assets (bank accounts, stocks & bonds, mutual funds, etc) in their name alone, the estate may be distributed by using a Small Estate Affidavit form.

Probate

Probate is the in-court process of administering the estate of a deceased person by resolving all claims and distributing the deceased person’s property under a will. The probate makes it clear who inherits the deceased person’s property within a six-month period when claims against the estate can be filed and ensures that debts and taxes are paid. Probate is handled by the decedent’s executor, who must:

- File the will
- Identify and inventory the deceased person’s assets
- Have those assets appraised
- Pay debts and taxes

