

# ESSENTIAL ELEMENTS OF ESTATE PLANNING IN ARIZONA

*A Look at Some Key Pieces that Every Estate Plan  
Will Include, and the Important Issues that  
Your Estate Plan Will Need to Cover*



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*Deason Garner Law Firm*  
ESTATE PLANNING...IT'S WHAT WE DO!

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If you read our first paper on estate planning in Arizona, you now have a better understanding of what an estate is and why you need to make plans for it. In our second discussion in the series, we are going to look more closely at some key pieces that every estate plan will include. These pieces, though they might be different from person-to-person, will allow you to address the important issues that your estate plan will need to cover. As with any legal advice or topic, it's always important to first speak to your attorney before you make any decisions that might affect you or your estate.

## Choosing How to Leave Inheritances

Most people realize that after they die, their property will have to go to others.

Fortunately, when you choose to create an estate plan, you get to exert control over



who inherits your property.

There are a variety of estate planning devices you can use to make inheritance choices. One of the most popular, and common, is the last will and testament, or as it is more simply known, a will. Through your will you can choose to leave almost any kind of inheritance you like. While you

can never disinherit a spouse, you can choose to leave inheritances in almost any other way.

For example, there is no legal requirement that forces you to give your children, grandchildren, or other family members any kind of inheritance. If you wish, you can distribute your property entirely amongst friends, strangers, or even charitable organizations.

Further, there's a lot more to making inheritance choices than simply creating will. Other estate planning devices, such as a revocable living trust, will actually be more important in your



inheritance plan. Additional tools, such as joint property ownership and transfer-on-death accounts, can also play a significant role in deciding how you want to leave your property after you die.

## **Probate**

Since we are talking about inheritances, it's useful to bring up the idea of probate.

Probate is a legal process that will apply to the estate property you leave behind. It is simply a collection of rules and procedures that make sure that estate property is transferred to the rightful inheritors.

Most modern estate plans focus on avoiding or minimizing probate as much as possible.

Even though probate isn't as difficult as many people believe it to be, it can be a needless, and time-consuming, expense. To minimize these expenses, most modern estate plans include tools such as revocable living trusts, joint property ownership, and transfer-on-death accounts that allow you to pass property outside of probate.

## Addressing Your Possible Incapacitation

You don't only leave an estate after you die, but also after you become incapacitated. Unlike deaths, incapacitation will not happen to everyone. There's no guarantee that you might one day lose your ability to make decisions or communicate your wishes, but



it is a distinct possibility. It's also something that, even though it mostly happens to elderly people, can happen to anyone at any time.

As a capable adult, you have the ability to make decisions now that will take effect if and only if you lose your capacity. The

development of an incapacity plan is one of the more important pieces that anyone can include in their overall estate planning efforts.

Incapacity plans include a variety of tools that not only allow you to make choices, but also allow you to appoint representatives who can make choices on your behalf. For example, one of the more popular incapacity planning tools is the living will, also known as an advance medical directive. Through your living will you get to detail your medical choices. If you ever become incapacitated, your living will serves as your voice when your doctors and health care providers want to know your wishes. The choices you express through your living will carry the same legal authority as if you communicated them to your doctors yourself.

Another key component of your incapacity plan will be your durable power of attorney. Through your power of attorney you will appoint an agent, also known as an attorney in fact. That agent will have the legal authority to make decisions for you. If you include other incapacity planning tools, such as advance directives, not only will your agent have to abide by your decisions, but he or she will have the ability to make decisions only when your other tools are silent.

### **Tailoring a Plan to Fit You**

If there is one thing that people new to the estate planning process need to understand, it's this; your plan needs to be individually tailored to fit you and your circumstances.

Even though the tools and elements that people used to create a comprehensive estate plan are mostly the same, the devil is always in the details. The plan a single person will create will look nothing like the plan an elderly couple will create, nor will it look like the plan that a parent might need. Your

family situation, financial circumstances, and individual choices and values will all play a role in dictating the kind of plan you need to develop.

At the Deason Garner Law Firm, we have a lot of experience helping our clients tailor individually crafted plans. We know how to guide you through the process, advise you about the issues you face, and give you practical steps you can take to make sure that you and your family are adequately protected.



Unfortunately, what we are unable to do is help you create a plan if you do not first make the decision to contact us. Even though we have experience and expertise, none of that will do you any good until you decide that creating an estate plan something you need to do, and something you need to start doing immediately.

## About the Authors



Larry Deason



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Larry Deason and his staff have been providing quality legal services for clients since 1971. Their mission is to assist people who are concerned about protecting their families from the devastating legal and financial impacts of disability, death, and taxes.

Because he believes in the importance of an informed public, Deason spends considerable time educating consumers about Estate Planning issues. He writes a monthly Estate Planning column in *The Sun*, and the firm he regularly conducts Free monthly seminars on various Estate Planning topics.

Deason and Garner, along with their staff, that in many instances, Living Trusts offer clients a proven and powerful tool for protecting their families from the expense and delay of probate, as well as a strategy for eliminating or minimizing federal taxes.

Deason's firm is staffed with paralegals and consultants who are experienced and trained in a variety of Estate Planning areas. The aim of each member of the firm is to help clients accomplish their Estate Planning goals while taking the mystery out of the whole process. We take pride in knowing that our clients feel "peace of mind" once the planning process is completed.

The firm is always available for both Arizona residents and visitors alike to offer additional information about options with available with estate planning.

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