



# ESTATE & GIFT PLANNING: WHY IT IS IMPORTANT FOR EVERYONE

Prepared for Bowdoin College Office of Gift Planning | Brunswick, Maine

**DrummondWoodsum**

800.727.1941 | [dwmlaw.com](http://dwmlaw.com)



**Jessica M. Scherb**  
[jscherb@dwmlaw.com](mailto:jscherb@dwmlaw.com)

[www.bowdoin.edu](http://www.bowdoin.edu)

**Bowdoin**

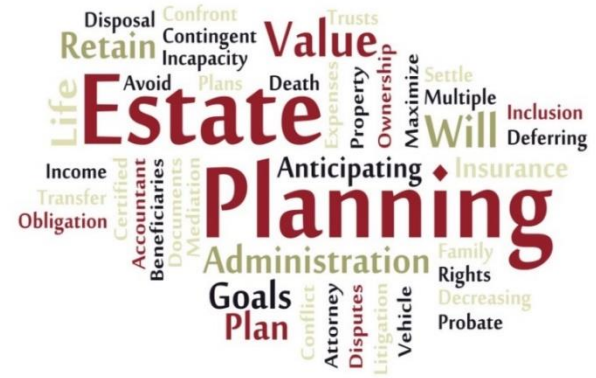
# Agenda

- ❑ What is “estate planning”?
- ❑ Wills and Trusts: What’s the difference and what do I need?
- ❑ The “Ancillary Documents”
- ❑ What Happens Without a Plan?
- ❑ Tax Issues
- ❑ Overcoming Planning Hurdles
- ❑ Getting Started



# Estate Planning: What Is It?

- General: An estate plan allows you to designate who will receive your assets following your death
- But it's more than that:
  - Provides instructions for your care if you become disabled
  - Names a guardian for minor children
  - Provides for family members with special needs
  - Minimizes taxes
  - Preserves your legacy (see [Bowdoin.edu/alumni-families/pdf/memoir-maker](https://bowdoin.edu/alumni-families/pdf/memoir-maker))



# Wills vs Trusts

4

- Will-based plans vs. trust-based plans
  - Both can get you to the same place
  - No tax benefit to one over the other
  - Difference is really during your lifetime
    - Trusts are created and funded during life
    - Wills do nothing until death
- My friend/neighbor/cousin's ex-mother-in-law's nephew has a Trust. Do I need one?



# Wills

5

## ■ Pros

- No action needed during lifetime...other than creating one and signing it
- Can include all the “intricacies” of a trust-based plan

## ■ Cons

- Requires probate – and only controls “probate assets”
- Public record



# Revocable Living Trusts

6

## ■ Pros

- Probate avoidance (resident state and other states)
- Privacy

## ■ Cons

- It's only as good as what you put in it → administrative burden initially, and must be maintained during lifetime
- You still need a Will!



# So....Which Is Best For Me?

7

## ■ It depends...

- What are your goals?
- Where do you have property?
- Are you going to keep up with a trust during your lifetime?

It's not one-size-fits-all!



# Financial Power of Attorney

8

## ■ What is it?

- Designates and authorizes an Agent to make financial decisions for you and deal with your assets during your lifetime
- General vs. Limited

## ■ Why do I need one?

- Disability planning
- Convenience planning





# Medical Power of Attorney

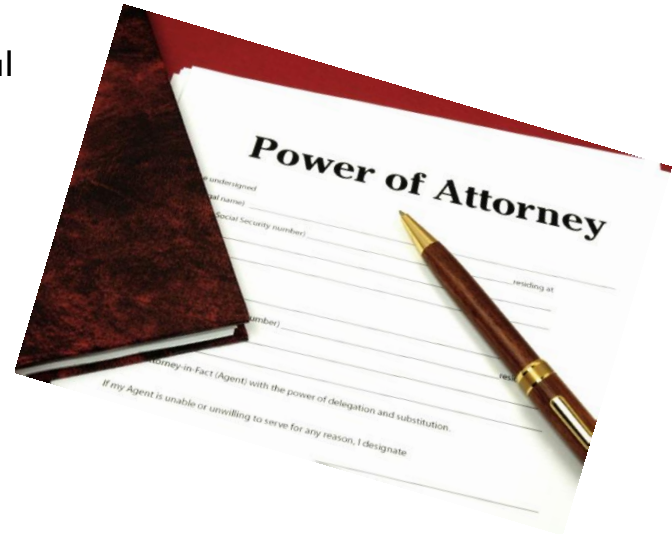
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## ■ What is it?

- Designates and authorizes an Agent to make medical decisions for you during your lifetime
- Medical versus Financial
- “Living Will”

## ■ Why do I need one?

- Disability planning
- Rarely have advance notice!



# Beneficiary Designations

- ❑ What do they control?
  - ❑ Life Insurance
  - ❑ Retirement Plans
- ❑ Also...jointly owned assets
- ❑ And also...Transfer-on-Death or Pay-on-Death Assets
  - ❑ Brokerage, bank accounts
  - ❑ Real Estate?
  - ❑ Securities?
- ❑ Why does it matter?
  - ❑ Your Will or Trust doesn't control these assets!



# Other Documents

- Information about online accounts (bank accounts, social media accounts, etc.)
  - Authorization and Consent for Release of Electronically Stored Information
  - List of logins (user names, passwords)
- Memorial instructions
- “Road Map” for your Agents/Administrators/Loved Ones



# What Happens Without a Plan?

- ❑ No Will? No problem - your state of residency will provide one for you!
  - What State-provided Wills say: State laws generally provide some automatic protections for certain relatives, but...
  - **RARELY** what you want or need (Minors? Maturity issues? Creditor issues? Special needs? (See, e.g., [Bowdoin.edu/alumni-families/pdf/special-needs-trust.pdf](https://bowdoin.edu/alumni-families/pdf/special-needs-trust.pdf))
  - They will **NOT** provide for others (ex: Nonprofits)



# What Happens Without a Plan? (cont'd)

- ❑ No Financial Power of Attorney? **CONSERVATORSHIP**
- ❑ No Medical Power of Attorney? **GUARDIANSHIP**
- ❑ Incomplete Beneficiary Designations? **DEFAULT RULES**
  - ❑ Estate? Spouse outright?
  - ❑ Naming your Estate can be very, very bad



# Taxes: General

## ■ Gift Taxes

- Federal
- Annual Exclusion vs Lifetime Exemption
- Return required?

## ■ Income Taxes

- Responsibility of your Personal Representative
- Returns required: One? Or two??
- Consequences for your beneficiaries

## ■ Estate Taxes

- Federal. State?
- Return required?



# Estate Taxes: A Deeper Dive

## ■ Federal Estate Tax

- 40% on estates over \$11.6 million (2020, then indexed for inflation)
- Portable

## ■ State Estate Tax (?)

- 12 states + D.C. have an estate tax – do you live in one of them?
  - ME, VT, MA, RI, CT, NY, MD, IL, MN, WA, OR, HI
- 6 states have an inheritance tax – do you live in one of them?
  - PA, NJ, MD, KY, IA, NE
- Is it portable? If not → use it or lose it

### So what's in my "Estate"?

- ☐ Life insurance proceeds
- ☐ Retirement accounts
- ☐ Real estate
- ☐ Tangible items
- ☐ Bank/brokerage accounts
- ☐ Interests in JT assets

# Taxes: Planning for the Inevitable

- Lifetime Planning – Minimize your “Estate”
  - Gifts during lifetime (Use annual exclusion! Leverage lifetime exemption!)
  - Charitable giving (outright vs DAF/Gift Fund/Charitable Fund)
  
- Post-Death Tax Planning
  - No tax on transfers to a surviving spouse: tax planning is focused on minimizing taxes at the 2<sup>nd</sup> death
  - Disclaimers
  - Charitable giving (outright vs DAF/Gift Fund/Charitable Fund)





# Taxes: Planning for the Inevitable (cont'd)

## ■ Income Tax Planning

- What assets will be subject to tax in your beneficiaries' hands?
  - Life insurance proceeds - NO
  - Retirement accounts – MOST LIKELY
  - SECURE Act overview
  - Naming your Estate?
- What assets will receive a step-up in basis?
  - Ex. Real Estate, Stocks



# Overcoming Hurdles

- “I don’t know how to pick an Agent/Executor/Guardian/Trustee”
  - ▣ Snap shot planning
  - ▣ If you don’t, the court will pick them for you!
- “I don’t want to think about it”
  - ▣ Who does? But consider...it’s empowering!
- “My situation is messy”
  - ▣ So clean it up! Don’t leave it for your family!
- “I don’t have the time”
  - ▣ Who does? But...it’ll be more time-consuming for your loved ones when you’re gone



# How Do I Get Started?

- Contact an attorney
  - ▣ Ask for recommendations (family, friends, insurance agent, financial advisor, gift planner)
  - ▣ Contacts in another state? Ask them for a recommendation.
- Gather information
  - ▣ See [Bowdoin.edu/alumni-families/pdf/meeting-with-your-estate-lawyer.pdf](https://bowdoin.edu/alumni-families/pdf/meeting-with-your-estate-lawyer.pdf)
- Make the time!



# Thank you



**Jessica M. Scherb** | [jscherb@dwmlaw.com](mailto:jscherb@dwmlaw.com)

Jessica Scherb is a member of Drummond Woodsum's Trust and Estate Planning Group, focusing her practice on the estate planning and estate administration needs of clients, which include both individuals and business entities. She has been recognized by New England Super Lawyers as a Rising Star for her work in these areas.

In her trust and estate practice, she prepares wills, trust instruments, intra-family agreements, pre- and post-nuptial agreements, financial powers of attorney, health care directives, guardianship and conservatorship documents and all types of related documents. In addition to providing these comprehensive estate planning services, Jessica also represents both birth parents and adoptive parents in local and interstate adoptions.



Throughout its history, alumni, parents, and friends have secured the future of Bowdoin College through their philanthropic plans. Those who include the College in their estate plans are welcomed into the Bowdoin Pines Society. We recognize the unique financial situation, personal values, and life goals of each person. There are creative ways to accomplish charitable goals which will help the College, while preserving resources for yourself and those you care about. Bowdoin's Office of Gift Planning has experience working with donors and advisors to meet philanthropic objectives.

Contact the Office of Gift Planning at [giftplanning@bowdoin.edu](mailto:giftplanning@bowdoin.edu) or 207-725-3172 to explore the possibilities.