

Hawai'i
Community
Foundation

Legacy 101: Estate Planning Basics

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Legacy 101: Estate Planning Basics

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Legacy 101: Estate Planning Basics Outline

1. Intro: What exactly is estate planning?
 - a. **Spoiler alert: it's not just deciding who gets what when you die.**
2. Why does estate planning matter?
3. Getting motivated and overcoming hurdles to create your estate plan.
4. Overview of basic estate plans
 - a. **Will-based planning**
 - b. **Trust-based planning**
5. Pros and cons of will-based planning
6. Pros and cons of trust-based planning
7. Wills v. Trusts: comparison chart
8. Conclusion and Next Steps

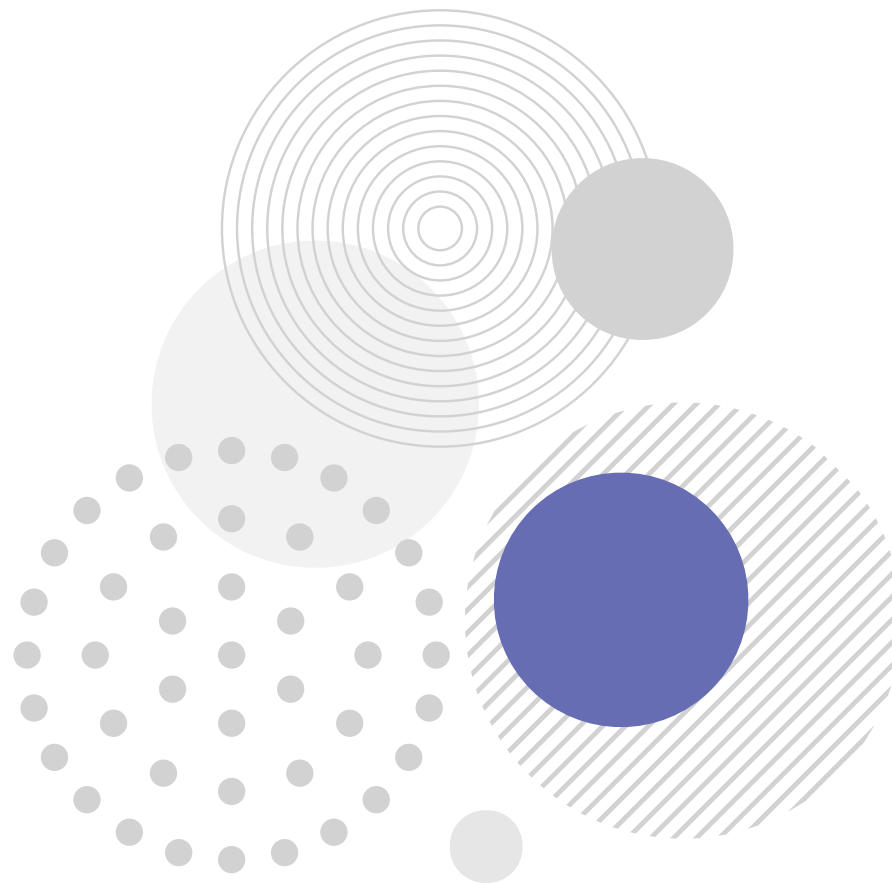




Introduction:

What exactly is estate planning?

- Estate planning is the process of assessing your life circumstances such as (a) family situation, (b) priorities or concerns, and (c) assets and liabilities; and then consulting with professionals to ensure that you and your assets are managed in the best possible way in the event of your incapacity and after your death.
 - If you are married or otherwise in a long-term relationship with a life partner, estate planning includes what you would like to happen if you are the first or second of you and your partner to become incapacitated or die.
- The estate planning process involves creating legal documents like wills, trusts, and powers of attorney to ensure your wishes are carried out.
 - Every document you create will address (at minimum) who is in charge under a particular circumstance and what you would like them to do under that circumstance.





Why Estate Planning Matters?

"Why should I care? I'll be dead anyway."

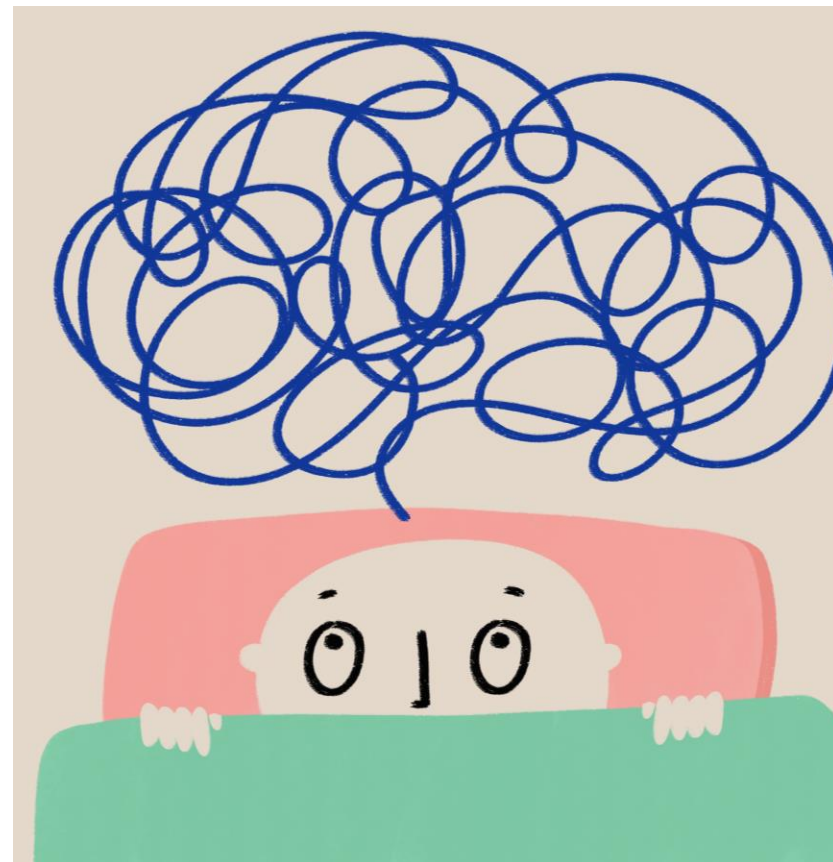
- *Assist and protect your loved ones:* Ensure that your wishes are clear so that your loved ones know they are making the appropriate decisions about your healthcare and ultimately distributing your assets as you wish.
- *Avoid Probate:* Minimize the time and expenses involved in conservatorship or guardianship proceedings if you are alive and require assistance and ultimately in transferring your assets after you pass away.
- *Maintain Control:* Decide who will handle your affairs if you become incapacitated, who will be in charge of your assets when you are gone, and how those assets should be managed and/or distributed.
- *Tax Benefits:* Proper planning can reduce the taxes your estate might owe. Tax laws are always changing!
- *Peace of Mind:* Knowing your wishes are clear and legally binding.





Overcoming Hurdles and Getting Motivated

- ***Procrastination:*** Many people delay planning because they don't want to face mortality or think it's too complicated.
- ***Misconceptions:*** People often assume that only the wealthy need estate plans or that they "don't have much" and so can and should handle their own estate planning
- ***Get started:*** Start by gathering your important documents, writing down your concerns and goals
- ***Focus on the Benefits:*** Estate planning offers security and peace of mind for you and your loved ones.
- ***Seek Professional Help:*** a financial planner or lawyer.
 - **But Legal Zoom is soooooo much cheaper...**
 - Remember a professional's job is to explain your options to help you make informed decisions. That's something that Legal Zoom doesn't do.
 - **DIY-ers**



Overview of Basic Estate Plans





Basic Estate Planning in Hawaii

Will-based planning/Trust-based planning

All Estate Plans: (will or trust-based) in Hawaii:

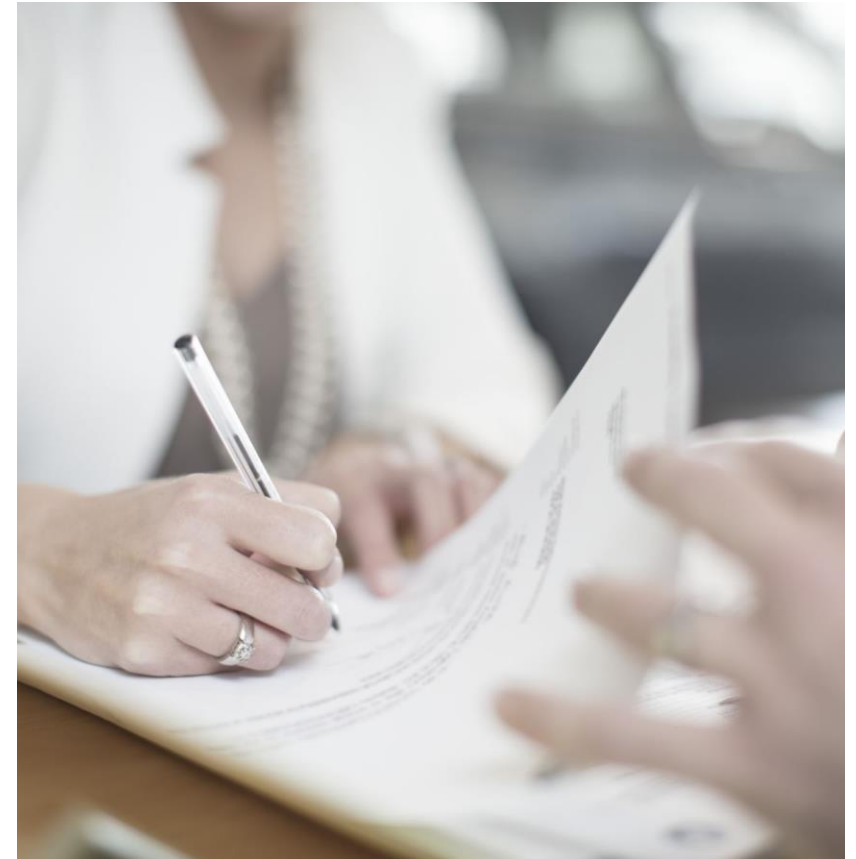
- should include powers of attorney (for healthcare and financial decisions) and an authorization for disposition of remains.
- Should address statutory rights of a surviving spouse (if any).

Will-Based Estate Plan: A will directs the distribution of your probate assets upon your death.

- What are probate assets? What about real estate?
- Can I have a will-based estate plan and avoid probate?

Revocable Living Trust-Based Estate Plan: A trust transfers assets during your lifetime and is managed by a trustee. It avoids probate (while you are alive AND after you pass away) and can provide greater privacy.

- What is a revocable living trust? What's the difference between a revocable living trust and an irrevocable trust?
- Does putting my assets in a revocable living trust protect my assets from creditor claims? NO!





Wills v. Trusts

Pros and Cons

Will-based estate plans

- Pro: Cost less.
- Pro: involves legal concepts that are generally easier for most people (including successors) to understand.
- Pro: Generally, faster to prepare
- Cons: possibility of probate proceeding, litigation and lack of privacy

Trust-based estate plans

- Pro: More room for creativity and customization based upon your and your loved one's specific needs
- Pro: Effective immediately and can include specific provisions concerning how to use your assets in the event of your incapacity.
- Pro: Can be much easier and more cost-effective for your successors to settle your estate
- Con: Costs more.
- Con: involves legal concepts that are generally harder for most people (including successors) to understand



Wills v. Trusts

Key Differences

Feature	Will-Based Plan	Revocable Living Trust-Based Plan
Probate	Requires probate	Avoids probate
Cost	Typically less upfront costs	Higher upfront cost
Privacy	Becomes public during probate	Remains private
Incapacity Planning	No provisions for incapacity	Includes provisions for incapacity
Control Over Assets	Control ends at death	Ongoing control



Taking Action: what now?

Next Steps in Your Estate Planning Journey

- **Assess Your Current Situation:** Start by listing your assets, understanding your family dynamics, and considering (a) who you would like to make important healthcare and financial decisions for you while you are alive and (b) who you would like to administer your assets and what you would like them to do with your assets after you die.
- **Decide What You Need:** Evaluate whether a will, trust, or both are best for your situation. If you have minor children or complex assets, a trust may be ideal.
- **Consult an Estate Planning Attorney:** Working with a lawyer can simplify the process ensure your documents are legally valid and (most importantly) that you understand what's in them and their effect.
- **Review and Update Your Existing Plan:** Life changes—new family members, changes in assets, or changes in your health—so it's important to update your estate plan periodically.
- **Take Action:** Don't wait for a major life event to prompt action.





Common Mistakes & Misconceptions



- . Funding your Trust
- . Power of Attorney
- . Trust protects your assets
- . Special Need Individuals



Power of Legacy Giving

- **Support community causes you care about**
- **Options through HCF**
 - Designated fund
 - Field of interest fund
 - Scholarship Fund
 - Donor Advised Fund
- **Memorandum of Understanding**
 - Memorializes donor's interest & desires
 - Guides Fund administration
 - Revocable – can be changed any time during lifetime w/o attorney expense





Questions?



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