

MICHIGAN ESTATE PLANNING DOCUMENTS

1. **Revocable Living Trust.** The Revocable Living Trust is a legacy building device that allows you to control Trust assets during your lifetime, and protect your assets for your heirs after your death. Assets transferred into the Trust during your lifetime avoid probate and are kept private. Your Trust specifies your beneficiaries and when the beneficiaries receive their inheritance.

You are the Grantor/Settlor of your Revocable Living Trust, meaning that you are the one granting property into the name of your Trust. You are also the Trustee of your Revocable Living Trust, meaning that you are the decision maker of your Trust as to what to do with your Trust assets. In addition, you are the beneficiary of your Revocable Living Trust for so long as you are alive.

While you are alive, the Trust is revocable and amendable. It is revocable in the sense that at any time you wish to transfer assets back into your name individually, you may do so. You may also cancel or "revoke" the document at any time. Additionally, you may amend your Trust at any time. However, at your death, the Revocable Living Trust becomes irrevocable and un-amendable in order to protect your family and to ensure that your wishes are followed.

Upon your death, your Revocable Living Trust assets are divided according to the terms of your Trust. Your Successor Trustee is the person/entity that you have named in the document to succeed you and to follow your wishes after death.

The Trust, if properly drafted, can reduce or avoid estate taxes.

As long as assets are in the name of your Revocable Living Trust after your death, your beneficiaries are protected from divorce proceedings, lawsuits and creditors. Once money is transferred from your Revocable Living Trust to your beneficiaries, that money is no longer in your Trust and is no longer protected in that manner.

2. **Last Will and Testament.** If you have chosen a "will-based plan" your will is the document that controls the amounts and distributions to beneficiaries; names one or more Personal Representatives to act to administer your estate through the probate process; and can also designate one or more guardians or conservators for minor children.

If, on the other hand, you have implemented a "Trust-based plan", you still need a Last Will and Testament to ensure that several basic tasks occur at your death. First, your Last Will and Testament makes certain that your debts, funeral expenses and other expenses are paid at your death. Second, your Last Will and Testament provides that tangible personal property passes to the persons that you choose. Third, your Last Will and Testament appoints a Personal Representative to manage probate affairs in connection with the administration of your estate. Finally, your Last Will and Testament has a "pour-over" function. This simply means that any items that remain in your name individually at your death are to be "poured-over" or transferred into your Trust in the name of your Trustee at your death.

3. **Durable Power of Attorney-Financial.** Your Durable Power of Attorney-Financial appoints an agent ("attorney-in-fact") to assist you with your personal, financial and legal affairs. It may be designed to take effect immediately or at the time of your incapacity. You can provide that the Power of Attorney retains its full force and effect even after you become incapacitated. Your Agent has authority to act on your behalf to accomplish many things, including: signing checks, entering into contracts, filing tax returns, representing you in legal matters, applying for governmental benefits, on your behalf. This is a very thorough and powerful document and should be kept in a safe place at all times.

4. **Durable Power of Attorney for Health Care.** With your Durable Power of Attorney for Health Care you can designate one or more persons ("Patient Advocates") to make medical decisions, on your behalf. The Durable Power of Attorney for Health Care primarily does two things. First, it is a medical power of attorney which authorizes your Patient Advocate to act and to make medical decisions on your behalf in the event that you are unable to participate in your own medical decisions. This general medical power of attorney is broadly stated to authorize your Patient Advocate to deal with your medical records, sign releases, move you to alternative facilities and to do any other actions necessary to make medical decisions on your behalf. Second, in the event that two doctors examine you and agree in writing that you are in a "terminal medical condition" or an "irreversible coma/persistent vegetative state," as defined in that document, you may specify your preferences regarding the application of certain life-prolonging procedures.