



Webinar Workbook

This Workbook is designed to accompany our On-Demand and Live Estate Planning Webinars. Use this book to take notes and write down questions, so that it can be used as a discussion guide for talking to an attorney about creating your family's individualized estate plan.

You're On Your Way to Ensuring Your Family's Future is Protected.

Representing Individuals and Families in the Matters the Matter Most

My name is Chris Mays and I have been helping clients as an attorney in Northern Virginia for the past 18 years. I believe that access to experienced and cost effective legal advice is critically important. Whether it is protecting your life's savings, preparing for your children's future or caring for loved ones, client's trust me to help them with some of the most important issues they may ever face.

Because of this, my goal is to ensure that clients receive experienced and accessible guidance to help navigate their family's future.

As an attorney, my practice includes working with clients in matters relating to estate planning and administration; guardianship and conservatorship; as well as preparation of marital agreements. I also serve as guardian *ad litem* for incapacitated adults and represent clients in involuntary hospital commitment hearings.

If you would like to speak more about working together to prepare an estate plan that is individually tailored to your family's needs, I would urge you to call or contact my office so that we can set up a time to talk.



Call (703) 249-9007 to schedule a free no-obligation initial consultation.
Or use our scheduling app at <https://calendly.com/mays/webinar>

A. WHAT ARE WE TRYING TO ACCOMPLISH IN CREATING AN ESTATE PLAN?

1. **Legally Transfer Ownership** – Will Ownership transfer the way we want it to?
2. **Be Organized** – What information will my fiduciaries need and how will they get it?
3. **Minimize Conflict** – Am I setting the stage for problems by not being specific enough?
4. **Incapacity Planning** – Avoiding / preparing for age related decline.

Notes / Questions:

B. THE FIVE COMMON LEGAL DOCUMENTS IN ESTATE PLANNING

1. Will

Transfers probate estate (i.e. assets that do not have beneficiary designations). Assets with beneficiary designations (like 401k Plans) transfer outside of probate and are referred to as non-probate assets.

2. Revocable Living Trust

Almost like a little corporation that is set up to run your affairs. This corporation does not have to handle its business through the court system (like a will with probate). This makes it easy to manage assets if you are incapacitated and distribute assets once you pass.

Because it is a relatively simple type of trust, a Revocable Living Trust does not require you to change the way you do your taxes. Trusts, generally (although not necessarily a Revocable Living Trust), can help you with things like estate tax planning, spendthrift protection, Medicaid Planning, and managing distributions to a Special Needs Beneficiary.

3. Financial Power of Attorney and Healthcare Power of Attorney

A Power of Attorney is simply a written authorization that you can execute that gives another person legal authority to do specific tasks for you. We use Powers of Attorney in estate planning to allow other people to make healthcare decisions and manage our finances if we are not able to do so ourselves (i.e. we are incapacitated).

4. Advance Directive

We can specify in advance what types of medical treatment we do or do not wish to have. Typically when we do this we are talking about end of life care. An advance directive can also spell out religious observances and personal preferences for matters like burial or cremation and organ donation.

C. THINGS TO THINK ABOUT

1. Will vs. Revocable Living Trust (RLT)

- a. Wills require probate and RLTs do not. Depending on your estate, probate may be costly and time consuming. If this is the case, then an RLT may be preferable. For a simpler estate, a Will may be sufficient.
- b. RLTs make it easier to handle multiple properties. With a will, real estate in different jurisdictions may require **ancillary probate**, which can increase complexity and expense.
- c. A will is 'set it and forget it' in that it does not require "funding." An RLT requires that assets be transferred into the trust, which can involve more work up front. On the other hand, once set up, an RLT may be easier to administer.
- d. Remember that a will does not do anything until the maker (testator) passes away. Therefore, a will does not do anything to help with **incapacity**. RLTs allow for a **successor trustee** to begin managing assets even while the original grantor (person who made the trust) is still living.

2. **Powers of Attorney** are an easy and effective way to address **incapacity planning** and avoid the complexities and expense of **guardianship** and **conservatorship** down the road.
3. Make sure your **beneficiary designations** for assets like 401k's, IRA's and Life Insurance are in alignment with your overall estate plan.
4. Consider a **separate writing** to deal with **tangible personal property**. This will help avoid conflict and confusion over who gets what.
5. Think about how real estate will be transferred to avoid **joint ownership** problems down the road.
6. Make sure you aren't setting your loved ones up for a complicated **scavenger hunt**. Talking to an attorney and getting his/her thoughts can help.
7. Understand when you might need more complicated planning tools.

- a. **Spendthrift Trust or Trust Provisions** – Protects assets from the creditors of a beneficiary.
- b. **Special Needs Trust** – If a beneficiary is receiving resource based government benefits, a special needs trust will ensure that they do not lose these benefits by receiving distributions from a trust or will.
- c. **Medicaid Asset Protection Trust** – Protects assets from the requirement that they be ‘spent down’ in order to qualify for Medicaid Long Term Care benefits.
- d. **Taxable Estates** – If the value of estate assets are close to or exceed the **exemption amount** for **estate tax**, then talk to an attorney about more complex planning options.

Notes / Questions:
