

# Basic Estate Planning - for married couples with non-taxable estates (less than \$1 million)



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If you have a **non-taxable** estate (less than \$1 million for MA residents) -- this includes the **equity** in your home, life insurance, employment benefits - you do **not** need 2 separate trusts for estate tax savings. The documents you should consider are:

1. *Wills (with or without a Revocable trust):*

Simple Wills: Leaving all property to your spouse, and at the second death, then the estate (of the second to die) would either:

- (a) pass outright in equal shares to your children or other beneficiaries (received at age 18); or
- (b) pass into a Revocable Trust. This would be the case if you decide that at the second death, you want your property to continue to be held for your children or other beneficiaries until they reach a certain specified age (later than age 18). [*You might also consider this option in order to avoid probate (by "funding" your Trust with some or all of your assets during your lifetimes - see separate summary of Probate and the Funded Revocable Trust)*].

Your Wills would name each other as Executor and Guardian of any minor children (if any) and then should designate at least one successor executor (to administer the estate of the second to die) and successor Guardian (s) (to raise your minor children if neither of you is alive) as well. Please be sure that if you are naming a couple as successor Guardians, you should decide whether you want 1 of them to be Guardian if only 1 of them is then living; also think about what you want if the couple is not still married at the time they would become Guardians.

If you decide on the Revocable Trust, you would both be the current Trustees (inapplicable unless you decide to "fund" this Trust during your lifetimes - then you would continue to manage the property as you would normally do). You would also need to name at least one successor Trustee - this would be the person who would hold the property upon the second spouse's death, for the benefit of your children.

The Trust would also provide for the age(s) of distribution to your children or other beneficiaries (i.e. 1/3 at 21, 1/2 at 25, 1/3 at 30). However, before that time, the Trustee would be able to give money to your children/beneficiaries in the Trustee's discretion for their needs (i.e. health, education, support, etc.)

2. 2 Durable Powers of Attorney, 2 Health Care Proxies (as explained on the separate summary of "Related Documents").

3. Life Insurance and/or Retirement Benefits: You should continue to name your spouse as 1<sup>st</sup> beneficiary of these types of assets. However, if you are setting up a Revocable Trust, as described above, you would name the Revocable Trust as **contingent beneficiary** (after your spouse) of these types of assets so that upon the second spouse's death, the proceeds get held in Trust (with all of your other assets) for your children or other beneficiaries until a later age, rather than passing to them at age 18.