



Grinde & Dicke Law Firm P.A.
Attorneys at Law

ESTATE PLANNING QUESTIONNAIRE

407 14th Street NW / P.O. Box 6667, Rochester, MN 55903-6667
PH: 507-282-8118 FX: 507-282-2275
www.GrindeLaw.com

d/b/a **RYAN ASSOCIATES**
313 West 6th Street / P.O. Box 356, Saint Charles, MN 55972-0356
PH: 507-932-4461 FX: 507-932-3736

CLIENT NAME(S)

**PLEASE COMPLETE THIS FORM IN ITS ENTIRETY AND PROVIDE ALL
REQUESTED INFORMATION AND DOCUMENTATION**

Table of Contents

SECTION I: PERSONAL AND FAMILY INFORMATION 3

SPOUSE’S PERSONAL INFORMATION 3

CHILDREN 4

PERSONAL CONTACT LIST 5

SECTION II: FINANCIAL INFORMATION 5

PART II-A: REAL ESTATE 5

PART II-B: OTHER REAL ESTATE 6

SECTION III: BANK ACCOUNTS/INVESTMENTS 7

SECTION IV: WILL 9

SECTION V: HEALTH CARE DIRECTIVE 11

SECTION V: SPOUSE HEALTH CARE DIRECTIVE 13

SECTION VI: POWER OF ATTORNEY 14

SECTION VI: SPOUSE POWER OF ATTORNEY 15

DUAL REPRESENTATION 16

REPRESENTATION AGREEMENT 17

REVOCABLE TRUSTS 20

TYPES OF REAL PROPERTY TRANSFERS 22

ESTATE PLANNING DIAGRAM 24

SECTION I: PERSONAL AND FAMILY INFORMATION

1. Full Legal Name: _____
2. Address: _____
3. City, State and Zip Code: _____
4. County of Residence: _____
5. Telephone: Home: _____ Work: _____ Cell: _____
6. Email: _____
7. Marital Status: Single _____ Divorced: _____ Widowed: _____ Married: _____
8. Have you been married before: Yes: _____ No: _____
A. If yes, name of ex-spouse/deceased spouse: _____
9. Date of birth: _____
10. Social Security Number: _____
11. Are you a US citizen: Yes _____ No _____

Spouse's PERSONAL INFORMATION

12. Full legal name of spouse: _____
13. Telephone: Home: _____ Work: _____ Cell: _____
14. Email: _____
15. Has your Spouse been married before: Yes: _____ No: _____
A. If yes, name of ex-spouse/deceased spouse: _____
16. Spouse's date of birth: _____
17. Spouse's Social Security Number: _____
18. Is your spouse a US citizen: Yes _____ No _____

CHILDREN

Name	Date of Birth	Address and Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

19. Who are the parents of the children (if not both of you-add please specify which children if any have been legally adopted)? _____

20. Are any of your children adopted? Yes _____ No: _____

21. Are any of your children deceased? Yes _____ No: _____

22. Do any of your children or others depending on you have special needs due to mental or physical disabilities? Yes _____ No: _____

If yes, please explain and list any government programs or assistance they are receiving or are eligible to receive in the future: _____

PERSONAL CONTACT LIST

The following check list is designed to help organize your records and can serve as a guide for your family and the personal representative of your estate, in the event of your death. It can also help, should you be injured or otherwise incapacitated and no longer able to handle your own affairs. Make several copies, keeping one at home and another in your safe deposit box.

23. Accountant: Firm: _____

Address: _____

Phone Number: _____

24. Financial Planner: _____

Address: _____

Phone Number: _____

25. Insurance Agent: _____

Address: _____

Phone Number: _____

SECTION II: FINANCIAL INFORMATION

PART II-A: REAL ESTATE

26. Do you own your own home? Yes _____ No: _____

27. If yes, do you own your home with anyone else? Yes _____ No: _____

If yes, with whom do you own it? _____

28. What is the estimated market value? _____

29. Is there a mortgage or contract for deed on the home? Yes: _____ No: _____

30. Who is the holder of the mortgage/Contract? _____

31. How much is owed on the mortgage? _____

PART II-B: OTHER REAL ESTATE

32. Do you own any other real estate, such as a farm, cabin or rental unit? Yes: ____ No: ____

If yes, please give details about the Property location, address, (provide tax #IDs if have):

33. Do you own this real estate with anyone else? Yes: ____ No: _____

If yes, with whom do you own it? _____

34. What is the estimated market value? _____

35. Is there a mortgage or contract for deed on the home? Yes: _____ No: _____

36. Who is the holder of the mortgage? _____

37. How much is owed on the mortgage? _____

38. Do you own any real estate outside of the state of Minnesota? Yes _____ No: _____

If yes, where is the property located, what type of property is it and what is the estimated market value?

If you have a deed(s) to your real property, please provide a copy.

SECTION III: BANK ACCOUNTS/INVESTMENTS

Please list below all bank accounts, certificates of deposit, money market certificates, IRA accounts, stocks, bonds or similar assets owned either in your name alone or jointly-if jointly, state "Spouses." This information is used to determine whether a basic will is appropriate for your situation. Please name the Beneficiary, if there is a contingent or secondary beneficiary please name the person, or if all your children are named, please put "children."

This intake form **does not name** a Beneficiary on your account- discuss with attorney!

Bank or Co.	Type of Asset	Owner	Beneficiary	Value
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

39. Life insurance (on your life)

Name of Ins. Co.	Owner	Beneficiary	Value
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

ESTATE PLANNING QUESTIONNAIRE

40. Do you currently participate in a pension or profit-sharing plan through your employer? Yes:

_____ No: _____

If yes, please state the name(s) of any beneficiary(s) under the plan, its approximate value and who it is through:

41. Does anyone owe you money? Yes: _____ No: _____

If yes, name, address and phone number of person(s) owing:

42. Do you own or have any interests in any business? Yes: ____ No: _____

If yes, please name the business, name the partners, shareholders, or members, describe the business; and state the approximate value of your interest in the business:

43. Do you have any child support or alimony obligation from a previous marriage?

a. Yes: _____ No: _____ If yes, please name that individual(s) owed. Also, provide a copy of your divorce decree.

44. Are you the beneficiary of any trusts? Yes: _____ No: _____

If yes, please explain.

45. Have you given anyone other than your spouse any gifts worth more than \$15,000 or money or securities in any calendar year? Yes _____ No: _

If a gift tax return was filed, please provide a copy. Please list the years.

46. Have you formally contracted to leave any assets or money to any person or organization? Yes:

_____ No: _____

If yes, please explain and provide details:

ESTATE PLANNING QUESTIONNAIRE

47. Have you signed any pre-marriage contract regarding disposition of assets?

Yes: _____ No: _____ (Please bring a copy of this to your appointment for review)

48. Do you presently have a safe deposit box? Yes _____ No: _____

If yes, please provide the location and names of persons with keys/renters:

SECTION IV: WILL

49. Whom do you wish to name as your personal representative-A.K.A. Executor? (Most married couples choose their spouse). Please provide the full name, address and phone number, not already provided.

FULL NAME ADDRESS PHONE NO.

50. Whom do you wish to name as your second, or third choice as your personal representative (P.R.)? Please provide the full name, address and telephone number of each P.R., if not already provided above or below. You can have personal representatives serve at the same time, this can either be done jointly, each P.R. serving must act together and sign all the documents, or independently, only one P.R. is needed to make a decision.

FULL NAME ADDRESS PHONE NO. JOINT INDEPENDENT

FULL NAME ADDRESS PHONE NO. JOINT INDEPENDENT

51. Please describe how you wish your property to be divided. At the will signing you will be provided with a personal property list which can be used for any personal property but not: money & coin collections, property used in trade or business, so it is not necessary to name specific items, such as heirlooms, personal vehicles, jewelry, or guns below.

52. Who would you like to be named guardian, and as a backup guardian? Any minor child(ren) would reside with these persons if both spouses died. It is suggested to name one person, not married couple in case of divorce of the named guardians.

FULL NAME ADDRESS PHONE NO.

FULL NAME ADDRESS PHONE NO.

ESTATE PLANNING QUESTIONNAIRE

53. If your children are under 18, a testamentary trust will be added to your wills. This is a trust inside your wills that comes into being only if both parents die while the child(ren) are still young. The trustee of the trust manages and distributes any funds needed for the child(ren)'s care, such as health and education, until the children reach a certain age, at which point any remaining assets are distributed outright to the children by the trustee. Please indicate the age(s) you would like any remaining assets of the trust to be distributed.

For example, "1/2 of any remaining assets at 21, and the remainder at 25" is common.

FULL NAME ADDRESS

PHONE NO.

FULL NAME ADDRESS

PHONE NO.

52. Do you have any burial plots you own, or, think you may have inherited that you do not plan to use, if so, where are they located and who would you like to leave them to?

(Note: under Minnesota Law burial plots must be specifically referenced in the will and limited to one particular person, otherwise, with no surviving spouse, they will not pass to all your children, but will pass to the oldest child, or if no children to your youngest surviving sibling, and if no surviving sibling, the cemetery association may pick your relatives.)

SECTION V: HEALTH CARE DIRECTIVE

A health care directive allows for competent adults to appoint someone, an agent, to make health care treatment decisions for them when they are unable or unwilling to communicate a decision for themselves. Also, it allows the principal, you, to make specific written expressions of preference and instruction to the agent, which the agent must follow. It helps your family and doctor when there is a difficult decision to make, as it applies to your health care. The health care directive also allows you to express your wishes concerning life support by artificial means, organ donation and disposition of your body after death.

The law allows but does not require you to name an alternative agent. It is a good idea to name another agent, since your primary may be out of town, unable, or unwilling to make decisions for you. You can also name as many backup agents as you wish. Further, if you wish you can have two agents serving at the same time- this can be done either jointly, the agents must come to the same decision, or, independently, only one agent is needed to make decision. If you have any questions about these choices, please discuss them with the attorney.

Almost Every Hospital has their own propriety form of an Advance Directive, and I encourage you to fill out the form for the hospital you normally receive your healthcare.

Please have the form completed and bring it to our office when you come in to sign the rest of your estate planning documents and we will notarize the form for you. We will give you two copies your Advance Directive. You should give one to the hospital you normally get your healthcare at so they have one on record and one to your backup agent, so in the event of an emergency if you do not end up at your normal hospital, for instance you may be traveling, then they have a copy to use to come and see you directly.

For your convenience, we have included hyperlinks to some of the most common health providers' health care directive forms. If you are not able to open the hyperlink or do not have the ability to print, please contact our office at 507-282-8118 and we can mail or email the form to you.

[Mayo Clinic - An Advance Health Care Directive](#)

[Olmsted Medical Center - Healthcare Directive \(Long Version\)](#)

[Olmsted Medical Center - Healthcare Directive \(Abbreviated Version\)](#)

[Winona Health - Healthcare Directive-Power of Attorney for Healthcare](#)

[Gunderson Health - Advance Directive-Power of Attorney for Health Care](#)

ESTATE PLANNING QUESTIONNAIRE

Please Fill out the following information **ONLY IF** you would like our office to prepare for you an Advance Directive based on our Form for a fee.

If the named agent is your spouse or child, you do not need to reenter their contact information

Agent-First Priority

(If you are married, most name their spouse)

Name: _____

Address: _____

Home Phone: _____

Work Phone: _____

Cell Phone: _____

Alternative Agent-2nd Priority (if you wish)

Serving with someone? ___ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Work Home : _____

Cell Phone: _____

Alternative Agent-3rd Priority (if you wish)

Serving with someone? ___ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Work Phone: _____

Cell Phone: _____

Alternative Agent-4th Priority (if you wish)

Serving with someone? ___ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Work Home : _____

Cell Phone: _____

I wish to donate my organs, tissue and other body parts when I die. Yes _____ No _____

I have agreed in another document or on another form to donate my organs when I die.

Yes _____ No: _____

I request cremation of my remains. Yes: _____ No: _____

SECTION V: SPOUSE HEALTH CARE DIRECTIVE

Agent-First Priority

(If you are married, most name their spouse)

Name: _____

Address: _____

Home Phone: _____

Work Phone: _____

Cell Phone: _____

Alternative Agent-2nd Priority

Serving with someone? ___ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Work Home : _____

Cell Phone: _____

Alternative Agent-3rd Priority

Serving with someone? ___ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Work Phone: _____

Cell Phone: _____

Alternative Agent-4th Priority

Serving with someone? ___ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Work Home : _____

Cell Phone: _____

I wish to donate my organs, tissue and other body parts when I die. Yes _____ No _____

I have agreed in another document or on another form to donate my organs when I die.

Yes _____ No: _____

I request cremation of my remains. Yes: _____ No: _____

SECTION VI: POWER OF ATTORNEY

Complete the following section if you would like us to prepare a power of attorney for you,

A power of attorney is a written authorization from the principal, you, to the attorney(s)-in-fact (**A-I-F**), person whom you name to handle your property and or financial matters. You are able to name one or more persons to act as attorneys-in-fact. It is a good idea to name at least one backup A-I-F. You can also require that the named A-I-F act together- jointly, or individually. If you choose to have them act jointly, they must both agree on all decisions and all sign documents related to your financial affairs, or, if you say that they can act independently, only one of the agents needs to make a decision or sign documents.

The form takes effect the date that you sign it, it does not “spring” to life only if you are incapacitated. The power of attorney indicates a series of powers that you, the principal give your attorney(s)-in-fact. These powers include power over real estate, personal property, stocks, bonds, bank accounts, business transactions. You, as the principal can choose to give your attorney(s)-in fact all of the power or restrict them and give them only certain powers. When selecting an attorney-in-fact, be sure to choose persons who are trustworthy, willing and able to handle the responsibility of managing your financial affairs, should you become incapacitated.

If the named agent is your spouse or child, you do not need to re-enter their contact information.

Attorney-in-Fact

(If you are married, most name their spouse)

Name: _____
Address: _____

Home Phone: _____
Cell Phone: _____

2nd Priority A-I-F (if you wish)

Serving with someone? ___ Joint or Independent?

Name: _____
Address: _____

Home Phone: _____
Cell Phone: _____

3rd Priority A-I-F (if you wish)

Serving with someone? ___ Joint or Independent?

Name: _____
Address: _____

Home Phone: _____
Cell Phone: _____

4th Priority A-I-F (if you wish)

Serving with someone? ___ Joint or Independent?

Name: _____
Address: _____

Home Phone: _____
Cell Phone: _____

SECTION VI: SPOUSE POWER OF ATTORNEY

Attorney-in-Fact

(If you are married, most name their spouse)

Name: _____

Address: _____

Home Phone: _____

Cell Phone: _____

2nd Priority A-I-F (if you wish)

Serving with someone? ____ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Cell Phone: _____

3rd Priority A-I-F (if you wish)

Serving with someone? ____ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Cell Phone: _____

4th Priority A-I-F (if you wish)

Serving with someone? ____ Joint or Independent?

Name: _____

Address: _____

Home Phone: _____

Cell Phone: _____

DUAL REPRESENTATION

Legal ethics require that you be given an explanation of “dual representation” and that we obtain your consent before we undertake dual representation. Dual representation occurs when a lawyer represents two or more clients at the same time on the same matter. You may have differing interests, if not potential or actual conflicts of interest. These differing interests may affect the lawyer’s ability to serve each of you with independent legal advice. For example, you may have differing desires regarding the titling of property during life or the disposition of property after the death of either of you. If each of you had a separate lawyer, each of you would have an “advocate” and would receive totally independent advice.

On the other hand, in amicable circumstances, where each of you apparently shares the same objectives, the use of one lawyer or firm can assist in developing a coordinated overall plan, encourage the resolution of possible differing interests, and, of course, produce cost savings and efficiencies.

With regard to client confidences, each of you should realize that the lawyer or law firm cannot keep information confidential between you, since the lawyer is serving both of you. Therefore, by requesting dual representation, each of you is authorizing the lawyer and law firm to reveal each of your incomes, assets and liabilities, contents of documents, and other disclosures and information to the other.

After considering these factors, each of you must decide whether the lawyer and law firm will continue to represent both of you in connection with your estate planning and related matters. If in the future either of you wishes to have the advice of a separate lawyer, you can do so. Finally, upon the request of either of you, we are obligated to withdraw from representing both of you.

CONSENT TO DUAL REPRESENTATION

We have reviewed the foregoing information. Each of us realizes that there are areas where our interests and objectives may differ and areas of potential or actual conflicts of interest. We understand that each of us may retain a separate lawyer in connection with our estate planning and related matters. After careful consideration, each of us consents to dual representation and requests that **Grinde & Dicke Law Firm P.A.** represent both of us.

Dated: _____, 20____.

Client 1 Signature

Dated: _____, 20____.

Client 2 Signature



Grinde & Dicke Law Firm P.A.

Attorneys at Law

Representation Agreement

THIS AGREEMENT, dated _____ is made between the client, _____ whose address is: _____ (hereinafter referred to as "you") and **Grinde & Dicke Law Firm P.A. d/b/a Ryan Associates**, whose address is 407 14th Street NW, PO Box 6667, Rochester, MN 55903-6667 or 313 West Sixth Street, PO Box 356, St. Charles, MN 55972 (hereinafter referred to as "firm").

- LEGAL SERVICES TO BE PROVIDED.** You have asked us to represent you in preparation and drafting your estate planning documents and coming into our office to sign them. Client acknowledges that the firm in Not being retained for any other matters. Client acknowledges that the firm is being retained and that from time to time it may be necessary for the attorneys and paralegals of the firm to work together when handling your client matter. Client consents to this arrangement by signing this Representation Agreement.
- If the firm is representing both you and your spouse or significant other it is important that you know that **attorney client privilege is waived** between you and your spouse or significant other. Thus any information or communications that if provided to the firm may be shared with the other client on this agreement and vice versa.
- ADDITIONAL LEGAL SERVICES.** If you require any other legal services, your attorney may require you to sign a new agreement. If no new agreement is entered into, the terms of this agreement will apply. The firm is not obligated to undertake representation of you for any additional legal service.
- DISCLAIMER OF GUARANTEE.** Nothing in this agreement and nothing in our statements to you may be construed as a promise or guarantee about the outcome of your matter. We make no such promises or guarantees. Our comments about the outcome of your matter are expressions of opinion only.
- FEES AND EXPENSES.** Below are our **Minimum Fees** for representing you for your estate planning. If you exceed these minimum fees based on our hourly rates, **then you will not be charged the minimum fee, but will be charged the hourly rate instead.** The firm generally cannot predict or guarantee the total amount of fees and expenses to be incurred. This is usually dependent upon the amount of time and effort expended, the skill of the attorney and supporting staff, strategy and legal tactics employed, and conduct of other parties to the case. The complexity of the issues to be dealt with and the amount of time expended generally are the most important factors.

A. Minimum Fees

Simple Will	\$500 single / \$600 married couple [Min. Fee]
Codicil	\$350.00 [Min. Fee]
Will with Testamentary Trust (including Disclaimer Will or for Minors)	\$650 single / \$750 married couple [Min. Fee]

Revocable Trust	\$2,000 single / \$2,500 married couple [Min. Fee]
Power of Attorney (POA)	\$200.00 – single / \$300.00 – married [Min. Fee]
Health Care Directive (HCD)	\$200.00 – single / \$300.00 – married [Min. Fee]
Transfer on Death Deed (Per Deed) (County Recording Fee Included)	\$300.00 – single / \$300.00 – married [Min. Fee]

Estate Planning Package: Single Person (Minimum fee) Includes Simple Will, HCD, POA, TODD	\$1,000.00 (Testamentary Trust: \$1,100.00) [Min. Fee]
--	--

Estate Planning Package Married Couple (Minimum fee) Includes Simple Wills, HCDs, POAs, TODD	Simple wills: \$1,250.00 Testamentary Trusts: \$1,500.00 [Min. Fee]
---	--

Grinde & Dicke Law Firm P.A.
Representation Agreement - Page 2

- B. HOURLY rates: You have agreed to pay the firm for its services on an hourly basis. The attorneys and paralegals who will or may work on your file and their hourly rates are:

<u>Attorneys:</u>		<u>Paralegal / Staff:</u>	
Paul H. Grinde	\$400.00	Tami K. Stoppelmoor	\$200.00
Kristine L. Dicke	\$425.00	Beth Cage	\$175.00
Mark A. V. Mickow	\$375.00	Connie J. Enestvedt	\$175.00
Morgan B. Muenster	\$325.00	Jody A. Kruckeberg	\$100.00
Kathryn R. Brooks	\$275.00		

These hourly rates may change from time to time and if the firm changes the attorneys' or paralegals' hourly rate you agree to pay the new rate. Such changes usually occur early in the New Year (Jan. or Feb.) and are applicable to our clients across the board.

- C. Advance Payment: The firm may request that you deposit advanced funds prior to beginning work on your estate planning matter, if this is the case, the attorney working on your estate plan will include this payment under "8. Other" when giving you a copy of this agreement and will not commence work on your matter until receipt of this payment. funds will be applied to fees and expenses incurred pursuant to this agreement.
- D. Billing: You will be billed monthly for services at hourly rates. The minimum time charged is ".2" of an hour. Small expenses such as postage, minor mileage, minimal copy charges, faxes, long distance charges, parking charges, etc. are incorporated into the hourly rates. In the Firm's discretion you will be billed monthly for expenses in these areas or for other expenses incurred. If billed, mileage will be charged at the Federal reimbursement rate per mile and copies at \$.20 per page.
- E. Due on Receipt: Fees for services and expenses are due on receipt. If statements for fees and expenses are not paid in a timely manner, the firm reserves the right to stop work on this matter and to withdraw from further representation if your account is more than 30 days past due. That is, if your bill is not paid in full within 30 days of receipt of the invoice. If Court approval of our withdrawal is necessary, we will seek it pursuant to the Rules.
- F. Interest Charges: The firm charges six (6%) percent interest on all past due amounts.
- G. Closed Files: At the conclusion of our representation, your file will be closed. At that time, we will send you a digital copy of your complete file (correspondence and filed court documents) and will return any and all original documents to you. Our physical file and any copies that you have provided us will be destroyed at the time of file closing. Should you prefer your file on a thumb drive or a CD, please check here .
- H. Payment from a Third Party: Payment on your account should come directly from you. If that is not possible and a third party pays on your account, those funds are your property. The third party has no right to information or to make decisions regarding your case. At the end of our representation, any remaining funds will be returned to you and not to the third party.
6. **E-MAIL**. You may choose to communicate with your attorney through e-mail. The e-mail is not encrypted or secured. The firm takes no responsibility for and makes no representations concerning the security of e-mail communications. Do not use e-mail to transmit confidential information. Do not use an e-mail account provided by your employer as this may be construed to waive the attorney-client privilege.
7. We appreciate the confidence shown by you in asking us to represent you in this matter. We will do our utmost to demonstrate that your confidence is well placed. It is our goal to provide you with high quality effective legal service. We believe you will be completely satisfied with our representation. However, if at any time you are not completely satisfied, we urge you to contact us and discuss any concerns or dissatisfaction you may have. Open, candid and direct communication between attorneys and clients is key to a successful outcome. Your full cooperation with us is also essential, and you do agree to cooperate with us, providing documentation and information as requested to pursue this representation.

**Grinde & Dicke Law Firm P.A.
Representation Agreement - Page 3**

8. **OTHER:**

GRINDE & DICKE LAW FIRM P.A.

Client Signature - Date

For the Firm -

Client Signature - Date

REVOCABLE TRUSTS

Lots of people question whether they need a Revocable Trust. Historically, Revocable Trusts are done for two purposes. First, it allows married couples to double the Minnesota Estate Tax Exemption amount. When the first spouse dies, their revocable trust does not transfer all of the assets to the surviving spouse but holds back an amount. The surviving spouse can still access these assets, but since it does not go outright to them, it is not part of their taxable estate when they die. From 2006-2013, this threshold was \$1,000,000. So, if a Couple had \$2,000,000 in assets evenly divided between them, then the first spouse's estate would hold onto \$1,000,000 which would not be included in the second spouse's taxable estate. However, for 2025 the Minnesota exemption amount is \$3,000,000. In addition, there are \$2,000,000 exemptions for homestead agricultural land and family business. Thus, even with inflation, there are fewer couples with a net worth over \$3,000,000, or farmers with \$5,000,000.

Prior to 2006 you could not avoid a probate transfer of full ownership of real estate upon death without using a trust. Now you may utilize a transfer on death deed, and a trust can be avoided.

While your estate planning should be discussed in detail with your attorney, it is important to see if a trust will meet your goals before spending thousands of dollars on this plan.

What goals a Trust Can Achieve

- Avoids Probate: Private administration of the assets without the court's involvement.
 - May be a faster administration of your assets.
 - If you have land in multiple states without transfer on death deeds as an option.
 - If you are concerned about relatives challenging your wishes
- Estate tax planning essentially doubles a married couple's state Estate Tax Exemption.
- You can establish trusts to hold onto assets after your death.
 - Children or beneficiaries may not be appropriate to leave them a lump sum based on young age, substance abuse, spendthrift issues, or other concerns.
 - Blended Families. Spouse may want to only leave assets for life to other spouse.
- If you have complex planning such as business interests or farming succession.
- If you would like to leave money to charity.

What Goals a Trust may not Achieve

- Not a cost-conscious plan. Trusts will take a lot of money and time to establish.
- There will still be administration of the trust which will cost time and attorney fees after death.
 - May need to be a separate tax return after death.
- No tax benefits if married couples are under exclusion amount or not married.
- You will need to appoint a trustee. This trustee is fiduciary, and if there is family conflict they may be sued.
- **Trusts do not protect assets from Medical Assistance in Minnesota.**

To summarize, you need to make sure that a trust will achieve your estate planning goals. If it does not achieve any purpose, consider why you would pay for establishing, maintaining and administering a trust. Keep in mind that the reasons why your friends or family established revocable trust have changed in the last 15 years with the exemption amount increasing and the introduction of transfer on death deeds. People should be cautious of law offices that offer unnecessary services. While it may not harm your estate planning goals, it may cost your family thousands of dollars, time, and hassle so an attorney can collect more fees. Furthermore, in the age of the internet there are now trust mills, which are organizations – often online, that promise DIY or other kits at a high rate. Often times, these trust mills will advertise something their kit cannot accomplish and prey on fears that are not real such as “the government will take everything” if you do not have their kit or estate plan.

TYPES OF REAL PROPERTY TRANSFERS

There are three main techniques that are utilized in transferring real property to another individual. As the most common scenario is to leave your home to your child(ren), that is the focus of the following information. This section is meant to provide a brief overview of transferring real estate to children, particularly for those who are interested in protecting their assets for their children's inheritance. This information is so limited that you must not base any decisions upon this information and must consult with your attorney in detail. Furthermore, the law in this area is evolving, and this information may be outdated by inadvertence to this form being updated.

Transfer on Death Deed

The purpose of a transfer on Death Deed (TODD) is to avoid having the home go through probate. It is a document where you specify who is to receive your home once you have passed away. If properly drafted, executed and recorded, this will avoid having your home go through the probate process at that time. So, for example, you could do a TODD for your home to your children. Then, upon your death, your children would own your home without having to go through probate.

A couple of the positive things regarding TODDs are that you are in control while you are alive. If you decided to sell your home, you can do that without your children's involvement. If something should happen to one of your children, you can do a new TODD to specify who receives the property then. Your children also receive a stepped-up basis for capital gain purposes.

Since a TODD is not a gift, you are not transferring any interest to you children until your death. It is not protected from the nursing home either forcing a sale or placing a lien on the home depending on the circumstances.

Quit Claim Deed with Reserving a Life Estate

If you deeded your home to your children but kept a life estate, also known as a 'life lease', you continue to have the right to reside in the home. Even if you are not residing there, you'd have the right to rent it out and collect the rents. You would remain responsible for the property, including for the real estate taxes, upkeep, and the interest on any mortgage. You become the life tenant, and your child(ren) are what's known as the remaindermen.

On the negative side, if you deed the property to your children and keep a life estate, you could not sell or mortgage the property without the children and their spouses agreeing. In addition, if any of your children were to die before you, you would have no control over what happens to your deceased child's interest in the home, that would pass according to their estate plan.

A deed to your children with a reservation of a life estate may affect your ability to receive medical assistance should you go into a nursing home. The rule now is that if you go into a nursing home and apply for medical assistance (that is asking the State to pay for your nursing home care) the County will ask you if you have made any gifts within the previous 5 years. If you have made a gift within that previous 5-year period, that would disqualify you from receiving medical assistance. The time of disqualification depends upon the amount of the gift. Another quirk with a life estate is that even if you gifted the home, kept a life estate and 5 years went by before you needed to apply for medical assistance, the County would keep track of how much it paid toward your care. After your death, the County could file a lien against the home for up to the value of your life estate based upon your age just prior to death. This value gets less and less the older you get. The bottom line here is that if the County provided medical assistance to pay for nursing home care, it would recoup at least part of that from the value of your life estate at the time of your death. However, it is a good balance, the majority of the asset is protected and if something happened to your children-death, divorce, tax lien, etc. these may impact their share as a remainderman, but will not cause you to lose your home while you are alive.

If you gift the house to your children, you would have to file a gift tax return but normally no gift taxes is due. Also, by keeping a life estate, as long as it has not been sold prior to your death, your children would receive a step up in basis upon your death for capital gains purposes. Also, a deed to your children now with a reservation of a life estate does avoid having the house go through probate at your death.

Quit Claim Deed with no Life Estate

You could gift the house outright to your children without keeping a life estate. One benefit here if more than 5 years go by before you must apply for medical assistance is that the State would have no lien for the value of the life estate. However, your children would not receive a step up in basis upon your death. If your children are agreeable, you could rent the house back from them. But there are risks hereto. For example, what if one of your children died before you.

If this is your primary residence, this is an extremely risky plan, as if something were to happen to one of your children, death, divorce, tax lien, judgment, it is no longer your house and it may be taken away from you, as you don't own it, and have no homestead protections under law to protect it.

Medical Assistance Protection Trusts

A recent development is that an irrevocable trust may protect assets from medical assistance *if properly drafted and set up*. There are serious considerations, taxes and otherwise, to go over with an attorney who is experienced with drafting these qualifying trusts before this is considered. Our office does not draft these instruments and recommends consulting with an attorney who is experienced in these matters. The Courts as recent as 2024 as still developing the law on what is protected from medical assistance regarding these trusts.

ESTATE PLANNING DIAGRAM

	<p>Power of attorney (Effective when signed-does not “spring -to-life” upon incapacity, continues to be effective until death)</p>	
Incapacity	<p style="text-align: center;">Power of Attorney</p> <p style="text-align: center;">§</p> <p>Broad authority of financial, property (real estate and personal property), and investments. This broad authority <u>does not include medical</u>.</p> <p>Power of attorney <u>terminates at death</u> and either will or non-probate transfer controls.</p>	<p style="text-align: center;">Healthcare Directive</p> <p style="text-align: center;">(A.K.A advanced directive, living will, healthcare power of attorney)</p> <p style="text-align: center;">+</p> <p>If you cannot make your own medical decisions this document will be used by your agents to follow your instructions. Not just for an end-of-life emergency but for hospice care, and continues past death and can control who has the right to your deceased body and location and conditions of final disposition- in other words- who can take your body and arrange your funeral and either burial or cremation.</p>
Death	<p>Will-Controls Probate assets only- probate assets are assets titled solely in your name when you die with no named beneficiaries.</p> <p>Non-Probate: assets that are jointly owned, owned by a trust, have a beneficiary designation.</p> <p>A transfer on death deed (Todd) is normally a Non-Probate transfer.</p>	<p>Healthcare directive can continue past death and grant agent control over remains and burial/cremation.</p>

The diagram above shows a broad visualization of when each estate planning document is effective and what they can control. This is a basic guide. It is not controlling in all situations, and there are exceptions to this diagram.

Always consult with your attorney instead of relying on this diagram.