# **ESTATE PLANNING GUIDELINE**

**LAST WILL & TESTAMENT** - A legal document which communicates one’s final wishes regarding one’s estate. A last will aways gets probated and tells the Judge - and universe - one’s intentions. If an asset doesn’t know where to go (no beneficiary designation), that asset must go through the probate process to get to the heirs. The last will provides the direction for the probate. Without a last will, the Judge relies on the Florida statute as to the heirs and personal representative. It’s very common to set up a trust agreement to avoid time, inconvenience and the legal fees associated with a probate.

**POWER OF ATTORNEY** – A legal document that gives the principal the ability to authorize an agent (or two) to carry out any financial or business decisions on the principal’s behalf should they not be available to make them while they’re alive.

**HEALTH CARE SURROGATE/PROXY AND LIVING WILL** – A legal document that designates who can make decisions regarding health care and medical treatment on one’s behalf should they not be available to make them. The living will component to this document declares one’s values and desires during incapacitation.

**REVOCABLE OR IRREVOCABLE TRUST** – An agreement on paper that creates an entity, much like a corporation or LLC. The agreement is between three parties; the grantor that established the trust, the trustee that administers the trust and the beneficiaries, the ones that benefit from the trust. In a typical grantor revocable trust the individual is all three, the grantor, trustee and beneficiary with backups identified as their passing.

**SPECIAL NEEDS TRUST** - A trust that includes provisions designed to protect someone collecting government benefits. The trustee is instructed to provide benefits to that individual only to the point of impacting their ability to qualify for the needs-based benefit.

**PET TRUST –** A trust that provides physically and/or financially for the care of pets after one’s passing. As with all trusts, this trust may be a living trust, established and funded when someone is alive, or a testamentary trust, written in one’s last will and then funded when someone passes away.

**DEED –** A document that is recorded with the County to transfer interest in real property. Whoever is on the deed is the owner of the property. The mortgage on a property is separate animal and should not be confused with the owner on the deed.

**LADY BIRD DEED /ENHANCED LIFE ESTATE –** A type of deed where one owns the property while they’re alive and then at their passing their beneficiaries take the property automatically. The only thing the beneficiaries need to do is record the death certificate. The beneficiaries are actually written onto the deed and have a future interest in the property. The life owner gets to keep all of their powers so should they want to sell, mortgage, finance or lease the property, they don’t need the permission or involvement of the beneficiaries, they may act alone.

**BANK ACCOUNTS –** It’s very important that every bank account has a payable on death (POD) designation. A joint account knows where to go, but an account owned by one person without a POD must get probated. We don’t want probate. This POD is not to be confused with a “signer” designation; they are two different things. A POD avoids probate a signer ends when someone passes away.

**REVIEW PERIODICALLY –** The estate plans change with our circumstances. One should review their estate plan periodically. Major life events such as a birth, death, move, relocation or change in financial circumstances always warrant an estate plan review.