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ESTATE PLANNING CHECKLIST

Most Americans have not done any estate planning, and of those that have, many plans are outdated. Everyone has different reasons for not making sure their affairs are in order. However, if you were to become incapacitated (e.g., serious illness, injury or advanced age) or die without a complete and current estate plan, those you care about and vice versa would likely experience undue challenges (e.g., delays in accessing funds to pay your bills, uncertainty or conflict regarding your medical or other wishes, extra legal fees and costs, court, and potential unexpected inheritance outcomes). However, by simply establishing and keeping your estate plan up to date, you can arrange for the orderly management of your medical and financial matters in case of your later incapacity and distribution of your estate to best take care of your loved ones after your death. This checklist is only a basic introduction to the most common estate planning documents used to assemble a complete estate plan; you should always seek legal advice to create the perfect plan for you based upon your own circumstances.

Every adult should have these legal documents:

- ☐ **Durable Financial Power of Attorney** designates Agent(s) to manage your financial matters either immediately or in the event of incapacity. It is critical to have a thorough and recently executed (within the last 3-5 years) financial power of attorney in place to avoid Conservatorship (court proceeding) in the event of your incapacity.
- ☐ **Health Care Power of Attorney** designates Agent(s) to handle your medical decisions in the event you were unable to do so yourself. In the absence of this document, state law designates persons with priority to act which may or may not be the persons you would prefer. You are also more likely going to be the subject of a Guardianship (court proceeding) without this document.
- ☐ **Mental Health Care Power of Attorney** allows your Agent(s) to consent to inpatient mental health treatment for you, if ever needed. This document avoids the need for emergency mental health guardianship (court proceeding).
- ☐ **Living Will** states your preferences regarding end-of-life medical treatment. Without a Living Will, you may receive treatment you would not want and/or create family conflict in the absence of your known written wishes.
- ☐ **HIPPA Medical Release.** Without this document your medical providers may not share any of your medical information with anyone, even a spouse.
- ☐ **Last Will & Testament.** A Will designates Personal Representative(s) to administer your estate and provides for the distribution of estate assets after your death. If you die without a Will (known as "intestate"), state law dictates how your estate will be distributed, which may or may not be consistent with your wishes. Note, probate (court proceeding) of the Will is required in AZ if the estate's equity

interest in real property exceeds \$100,000.00 or the estate's combined other assets exceed \$75,000.00.

Most individuals should also include a Revocable Trust:

☐ **Revocable Trust.** In a typical Revocable Trust, the creator of the trust (commonly referred to as trustor, settlor, or grantor) is also the beneficiary and trustee during his or her lifetime. This allows the trustor unfettered management, control, and benefit of the assets transferred to the Trust. If the trustor is later incapacitated, the designated Successor Trustee would then assume responsibility and manage the trust assets for the benefit of the trustor. After the trustor's death, the successor Trustee will distribute the trust assets to or for the benefit of the beneficiaries pursuant to the express terms of the Trust. There are significant advantages to use of a Trust, including but not limited to quicker access to assets upon trustor's incapacity or death, financial institution cooperation, probate avoidance, reduced legal fees and quicker post-death administration, and privacy. There are many different types of trusts; this is only a broad and basic overview.

Coordination of account ownership and beneficiary designations:

The estate planning documents themselves are only part of the plan. You must also carefully review ownership, pay on death, transfer of death, and beneficiary designations (primary and contingent) on all assets, accounts and policies, as the case may be, to be certain they reflect your testamentary wishes, and coordinate with your overall estate plan. Note, if you have a Trust, assets should be retitled to the trust (commonly referred to as "trust funding"). Warning: seek advice of counsel regarding ownership and beneficiary designations as a misstep can have unfortunate tax or other consequences. You need to review **all** assets, accounts, and policies, such as:

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| <input type="checkbox"/> IRAs and 401(k)s | <input type="checkbox"/> Life Insurance policies | <input type="checkbox"/> Brokerage Accounts |
| <input type="checkbox"/> Annuities | <input type="checkbox"/> Bank Accounts | <input type="checkbox"/> Vehicles |
| <input type="checkbox"/> Stock and bonds | <input type="checkbox"/> Real property deeds | <input type="checkbox"/> Business interests |
| <input type="checkbox"/> Pension benefits | <input type="checkbox"/> Employee benefits | <input type="checkbox"/> Time shares |
| <input type="checkbox"/> Digital assets | <input type="checkbox"/> Promissory Notes | <input type="checkbox"/> Oil & Gas interests |

CALL 480-922-1010 OR EMAIL INFO@BIVENSLAW.COM TODAY TO SCHEDULE A COMPLIMENTARY ESTATE PLANNING CONSULTATION, PARTICULARLY IF ANY OF THE FOLLOWING APPLY TO YOU:

- | | | |
|--|--|---|
| <input type="checkbox"/> No Estate Plan | <input type="checkbox"/> Out of State Documents | <input type="checkbox"/> Documents 3+ years old |
| <input type="checkbox"/> Changes are desired | <input type="checkbox"/> Need Trust funding check-up | <input type="checkbox"/> Want peace of mind |

This checklist does not provide legal or tax advice or constitute an attorney-client relationship; it is designed to provide only general information. Whether your estate is simple or complex, it is important to work with an experienced attorney to help you create and maintain an estate plan unique to your circumstances.