

Considerations in Choosing a Personal Representative or Power of Attorney

What Is a Personal Representative and What Does He or She Do?

A Will is a legal document which arranges for the orderly transition of your probate property to your beneficiaries. A personal representative is a fiduciary that you appoint in your will and the personal representative is responsible for overseeing the orderly transition of the probate property from your estate to the beneficiaries you name in your will.

A personal representative who will administer an estate has the following duties:

- Filing court papers in the proper probate court
- Taking inventory of everything in the estate
- Consolidating estate assets, collecting monies owed to the estate, paying bills from the estate's funds, and managing the estate property
- Handling details such as terminating credit cards and notifying banks and government agencies
- Determining debts owed to the estate and the validity of any claims against the estate
- Preparing and filing tax returns
- Distributing estate assets to beneficiaries

In choosing a personal representative, consider someone who:

- You trust
- Understands your wishes regarding your family and your property
- The beneficiaries will regard as trustworthy and fair
- Has the time necessary to spend on completing and filing paperwork, dealing with banks and financial institutions, and visiting with a probate attorney
- Is well organized, is able to keep detailed records, and will be able to meet deadlines

Most people choose a spouse or other family member. But if these are not good options, choose a trusted friend who is, ideally, younger than you and in good health so that they will more than likely be around when you are gone.

Be sure that whomever you choose to name as your personal representative is agreeable with being named in your will. It is advisable to go over your financial affairs with that person and let them know where your documents are located to make it easier on him or her after you are gone. A successor personal representative should also be named in your will in the event the first person you name is deceased, incapacitated, or otherwise unable to perform the duties of a personal representative.

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What is a Power of Attorney and What Does He or She Do?

A power of attorney gives someone, called the attorney-in-fact, the authority to handle financial matters for you such as paying your bills and managing your investments. It can be designed to allow the authority to be immediate or it can be designed to be used only if you become incapacitated and are unable to handle your financial affairs. A power of attorney can be written broadly so that the attorney-in-fact can do almost anything for you, or it can be limited so that the attorney-in-fact is only able to handle certain matters or a specific matter.

A power of attorney is valuable in that it allows you to choose who will act for you rather than allowing a court to make this determination. A power of attorney is only effective while you are living.

In choosing a power of attorney, keep in mind that the person you choose will have access to your financial records. Choose someone who:

- Is trustworthy and loyal to you
- Will act in your best interests
- Will take the commitment and perform the duties seriously
- Understands your wishes and values
- Is responsible when managing their own financial affairs

Make sure that the person you select is agreeable to serve as your attorney-in-fact. It is also highly recommended to select a successor attorney-in-fact in case the initial attorney-in-fact you name passes away, becomes incapacitated or unavailable, or no longer wishes to serve in the position.

Lastly, powers of attorney can be terminated by you at any time.