

Estate Planning 101

Presented by:

Alex Dorobantu, Esq.

Beaufort Office: 1110 Pick Pocket Plantation Drive, Suite A
Beaufort, South Carolina 29902

Bluffton Office: 29 Plantation Park Drive, Suite 118
Bluffton, South Carolina 29910

www.LowcountryLegacyLaw.com



LOWCOUNTRY LEGACY™
LAW FIRM LLC

**ALL INFORMATION CONTAINED IN THIS PRESENTATION IS FOR
INFORMATIONAL PURPOSES ONLY**

Team Members

- Victor “Alex” Dorobantu – Founding Attorney
 - Works primarily out of the Beaufort Office
- Arlia Mendenhall – Client Relations Manager / Office Manager
 - Works out of our Beaufort office
- Ryan Trask – Associate Attorney
 - Splits times between Bluffton and Beaufort office
- Mia Crivaro – Client Relations Associate
 - Splits time between Bluffton and Beaufort office

- Opened Lowcountry Legacy Law Firm in 2015;
- Practiced law with a focus in the areas of estate planning and asset protection since 2012;
- Graduate of the 2017 Class of Leadership Beaufort;
- Instructor for USC-Beaufort's OLLI Program since 2016;
- Beaufort Memorial Hospital Foundation – Broad of Trustees (Chair)
- Published in *SC Lawyer Magazine* in 2021
- Speaker for NBI (National Business Institute) Continuing Legal Education and South Carolina Bar



WealthCounsel[®]

Practice Excellence.[®]

MEMBER

BURNING QUESTIONS



Course Overview

- A) What is Estate Planning?
- B) What Type of Planning Works For YOU?
- C) How to Maintain Your Plan?
- D) 2026 Tax Rates
- E) Things to Avoid

What Is Estate Planning?

Definition of Estate Planning

I want to:

- control my property while I am alive,
- take care of myself and my loved ones, if I become disabled,
- when I die, give what I have, to whom I want, when and how I want, and
- save as much in taxes and fees as possible.

How can you accomplish this?

1. No Planning
2. Will-based Planning
3. Trust-based Planning

No Planning – How can this work?

If clients are married...

1.) All assets must be owned jointly with the word “OR” separating the two names.

This includes automobiles.

South Carolina passed a “TOD” Transfer on death statute for boats and automobiles last July (2025). These forms can be found online.

2.) Home deed should list both spouses as “joint tenants with rights of survivorship”.

3.) All beneficiary designations **MUST** be filled out and **NONE** should list the “Estate”.

Blank beneficiary designations revert to “the Estate”.

No Planning – How can this work?

If client is not married...

1.) All accounts should have a “TOD”/”POD” designation to your intended beneficiaries.

*** If you list a co-owner on an account or real estate deed, they will get the money in the account or the underlying property ***

2.) Home deeds and car titles MUST list another person on them.

***** These type of transfers can have negative tax AND asset protection consequences for you / your beneficiaries.*****

No Planning – The Risks

- You will have no control over who administers your estate – if there is one.
 - With no Will you have no way of naming your Personal Representative. Instead, the court gets to appoint this person.
- No way to enforce any disinheriting.
 - Any intentionally disinherited child can challenge your “no plan” and will most likely receive their “statutory” share.
- Any assets that DO pass through your estate will be dictated by South Carolina’s laws of “intestate succession”.

No Planning – The Risks

What is intestate succession?

If there is **no will** or **when none of the people named in the Will survive** the decedent, the state laws of South Carolina make a “best guess” as to your wishes. This “best guess” is intestate succession.

No Planning – The Risks

Intestate Succession – Example #1 (Married Couple, Two Children)

Husband dies...

Wife receives - $\frac{1}{2}$

Children each receive – $\frac{1}{4}$

(***If children are minors, then Wife must report to the Probate Court as to how she is managing each child's share annually.***)

No Planning – The Risks

Intestate Succession – Example #2 (Married Couple, Two Children, One Child Deceased)

Husband dies...

Wife receives - $\frac{1}{2}$

Living child receives – $\frac{1}{4}$

Any grandchildren of deceased child share the remaining – $\frac{1}{4}$

No Planning – The Benefits

1.) “Easy”

- This type of planning is easy for the decedent (because they never make a plan), but it is a nightmare for any beneficiaries unless everything is titled directly through beneficiary designations.

2.) Inexpensive

- This is “free” planning prior to the decedent's death, but may be extremely expensive for any beneficiaries to clean up.

No Planning – DISCLAIMER

We strongly advise that any client create some type of estate plan.

Even if all accounts or assets list a beneficiary this will provide a guideline for the deposit of any delayed check or catch any missed items.

Will-Based Planning – How does this work?

With a Will-based plan a client will execute a Last Will & Testament that lists his/her Personal Representatives and beneficiaries. The Will lays out who is entitled to what and who will be appointed to make sure it happens.

Most Will-based plans also include a Durable Power of Attorney, a Healthcare Power of Attorney and a Personal Property Memorandum.

Will-Based Planning – How does this work?

A Will is a “dead” document so it will only apply to your assets once you are dead.

For any periods of time that you are determined to be incapacitated your assets will be managed by the person(s) named in your Durable Power of Attorney.

A Power of Attorney grants **raw** power. So, if your Agent’s idea of “investing” is the South Carolina lottery you may be in trouble!

Will-Based Planning – The Risks

- Your Will is only as good as the person you name to enforce it.
- A Will does not help control your assets or wishes in the event that you are physically or mentally incapacitated.
- Your Will controls who gets **any items that are titled in your name when you are dead.**
- **Your Will does not control who takes care of you in the event you can not take care of yourself.**
- Assets that pass to your beneficiaries through a Will pass to them outright.
 - This means that once your beneficiary receives his/her share those assets become exposed to any creditors of that beneficiary (divorcing spouses, law suits, etc.)
- No “remarriage protection”
 - If you leave everything to your spouse, they can then decide who gets everything at their death.

Incapacity Planning with a Will

- In the event you are physically or mentally incapacitated you will need a Durable Power of Attorney document that names an “Agent” who will be responsible for managing all of your assets and taking care of your well-being.
- This Agent is generally granted raw discretionary power to make any and all choices about your care.
- In South Carolina there is a separate Agent that handles healthcare decisions and they are appointed by a state-specific Health Care Power of Attorney (this document includes a Living Will).

Remarriage Protection???

With Will-based planning if one spouse leaves everything to the other then the survivor decides where it goes upon his/her death.

This opens the door for any of these scenarios:

1.) Children can be disinherited completely by surviving spouse.

2.) If surviving spouse remarries, “new” spouse can take everything and leave to his/her children.

3.) “Common Law Marriage” – **NO LONGER RECOGNIZED IN SOUTH CAROLINA** as of 2019

Will-Based Planning – The Risks

- Lastly, a Will generally **guarantees** that a Probate will occur.
 - In South Carolina, Probate is a mandatory year long process.
 - During Probate all of the assets that pass through your Estate become public record.
 - Your beneficiaries will not have direct access to any of the assets in your Estate until after the Estate has been closed. The Personal Representative will control your assets during the Probate Administration period
 - Probate fees are assessed on any assets that pass through the Probate estate. This includes out of state assets. The Gross Value of assets is assessed versus the Net Value.
 - Probate “horror” stories (Notice to Creditors names surviving spouse, children and others contest the Will, etc.)

Will-Based Planning – The Benefits

1.) Your wishes will be upheld.

- Any assets that pass through your Will should end up where you specify. “Should” because they are subject to creditor claims before they pass to beneficiaries.

2.) Simple to understand, explain and enforce.

3.) Depending on goals/concerns this can be the most cost-effective type of planning.

Trust-Based Planning – How does this work?

With a Trust-based plan a single client or joint clients will decide to retitle their assets into the name of a Revocable Living Trust during their lives. They will be the Trustees of this trust and continue to retain control over all of these assets while they are both 1.) alive and 2.) competent.

No matter which spouse dies first the survivor will have access to and control of all the assets, but a predetermined portion of them will be locked in as going to a specific group of beneficiaries (i.e. joint children).

Most Trust-based plans also include a “Pour-Over” Will, a Durable Power of Attorney, a Healthcare Power of Attorney and a Personal Property Memorandum.

Trust-Based Planning – How does this work?

A Revocable Living Trust is a “living” document. It can be drafted to speak to your wishes during life:

- Creating a Revocable Living Trust-based plan involves clients creating one (or more) trusts to hold their assets during the course of their lives.
- Clients will generally serve as their own “Trustees” during their lives and manage their assets according to their own wishes.
- In the event the Client is incapacitated they will lay out a list of successor Trustees who will come in and manage the assets of the trust pursuant to the Client’s stated wishes.
- Many of our clients will include a “Stay at Home Provision” instructing their Trustee to provide for their care at home or a “Continued Gifting Plan” to instruct their Trustee to continue making gifts to younger beneficiaries.

LOWCOUNTRY LEGACY

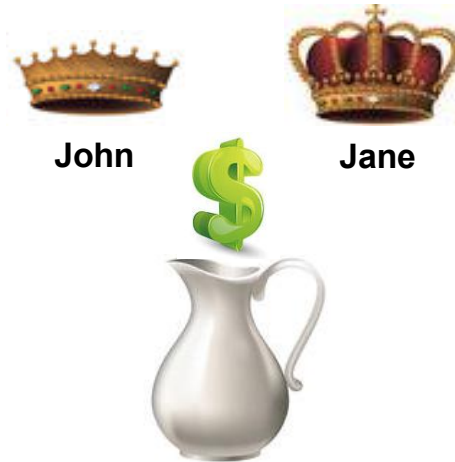
LAW FIRM LLC

PHONE: (843) 593-8083

EMAIL: INFO@LOWCOUNTRYLEGACYLAW.COM

*FOR ILLUSTRATIVE PURPOSES ONLY

Revocable Living Trust (RLT)
Provides for a smooth transfer of wealth and avoids probate.



Disability Panel
Allows for Private Determination of Incapacity



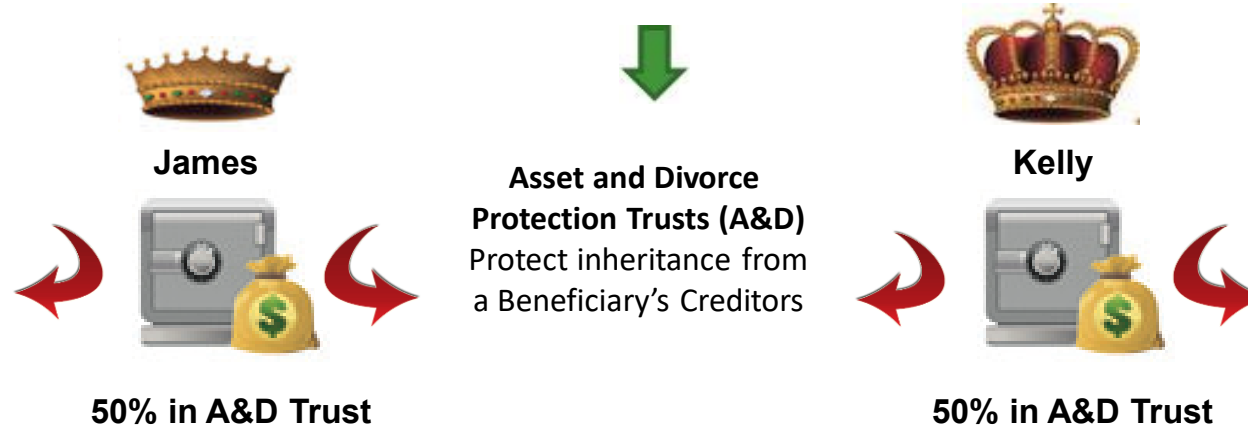
Stay at Home Provision
Allows for Trustmaker's Care to be Provided at Home

1st Death in 20??



Surviving Spouse has access to and control of both the **Marital and Family Trust**.

2nd Death in 20??



Trust-Based Planning – The Risks

- Your Trust is only as good as the person you name to enforce it.
 - You must make sure that the back-up Trustees have been educated about the trust and what your wishes are.
- Most Trusts never get fully “funded”.
 - You must take some steps after the document has been signed to guarantee your assets are titled correctly.
 - Assets that are not “funded” will pass to the Revocable Living Trust through a Pour-Over Will. This is basically an estate planning reserve parachute.
 - Assets that pass through a Pour-Over Will are required to go through Probate.

Trust “Funding”???

A Revocable Living Trust is referred to as “fully funded” if all assets owned by the Trustmaker(s) have been retitled to the name of the Revocable Living Trust.

Below are the most often overlooked assets:

- 1.) AUTOMOBILES (99% of the time these are NOT funded)
 - Note these can have a TOD Beneficiary Designation
- 2.) Life Insurance and 401k/IRA/Roth Beneficiary Designations
 - These should list a beneficiary (often times not the trust)
- 3.) 2nd Properties / Investment Properties
- 4.) Business Interests
 - Depending on business structure this be set up to be owned by or pass to the Trust

Trust “Funding”???

Most attorneys supply their clients with a set of funding instructions explaining the steps involved in funding various assets as well as a waiver for their clients to sign.

Ultimately, it is the client’s responsibility to coordinate the transfer of assets into his/her trust.

Reviewing Your Estate Plan

You should review your estate plan with an attorney every two to three years because all estate plans require on-going maintenance. In particular, a change in your family, an increase in your net worth, or a change in the tax law could significantly impact the effectiveness of your plan.

Funding Acknowledgement

I acknowledge that I have been advised by counsel of the importance of funding my living trust, and I understand that funding my living trust is my responsibility. I also understand that neither my attorney, V. Alex Dorobantu, nor Lowcountry Legacy Law Firm LLC is responsible for funding my living trust. In addition, I acknowledge that I have reviewed the funding instructions and I understand the instructions have been provided to assist me with the funding of my living trust.

Accepted and Agreed.

Date: _____

JOHN DOE



**CAR
CRAFT**™

MAGAZINE

Trust-Based Planning – The Benefits

1.) Probate Avoidance

- If everything is titled correctly your family will avoid Probate and the successor Trustee can literally be writing checks while leaving the funeral.

2.) Remarriage Protection

- For couples, you decide together who your beneficiaries are. The surviving spouse will not be able to write them out in favor of any new spouse or children.

3.) Asset & Divorce Protection for Beneficiaries

- Anything you leave to your beneficiaries through the trust will be protected for life as long as they keep it in the name of the trust.

4.) Incapacity Provisions During Life

- The Trust directs what you want to have happen in the event you no longer have your capacity. The assets are to be used for your benefit for as long as you are alive and your Trustee is bound to enforce your wishes.

Which Plan is Right For You?

The biggest factors in determining which plan is best for you are **your specific goals and concerns**.

No two people have the same goals and concerns that is why it is important to figure out what your priorities are BEFORE sitting down to meet with an attorney.

For example, if your only **goal** is to pass your assets to one beneficiary you could be fine with no planning at all. This assumes that you have **no concerns** relating to incapacity for yourself or asset protection for your beneficiary.

Which Plan is Right For You?

Another example would be second marriages. In my experience, most couples who are in their second (or later) marriage have specific goals that can only be met through the use of a Revocable Living Trust.

For example, specific assets staying on a particular side of the family and/or no ability for the surviving spouse to disinherit any children of the decedent spouse.

Which Plan is Right For You?

Another example would be younger families with small children.

A married couple with two minor children who only have a home and a modest amount of money in their checking account may not need a Revocable Living Trust, but they will need a Will to name guardians for their minor children – so the “no plan” method would not be a fit for them.

Which Plan is Right For You?

Concerns: Incapacity, Asset Protection for Beneficiaries, Probate Avoidance, Remarriage Protection, Less Work on Administration

Best Fit: Revocable Living Trust

Concerns: Simplicity, Lower Investment on Front End

Best Fit: Will

Concerns: None / “Let _____ deal with it!”

Best Fit: No Plan

How to Maintain Your Plan?

No matter what type of estate plan you decide to use to accomplish your goals one of the most important things you must do is **maintain the plan**.

Our firm offers free annual reviews for all existing clients. This ensure clients are kept out to date on changing laws and tax rates.

The next few slides will be examples of how to title your assets based on various estate planning situations.

Home Deed Inside of Trust

NOW KNOW ALL MEN BY THESE PRESENTS, that, MEREDITH H. DOROBANTU and VICTOR A. DOROBANTU in the State aforesaid, for and in consideration of the sum of One and No/100 (\$1.00) Dollar, unto the Grantor(s) in hand paid at and before the sealing of these presents by VICTOR A. DOROBANTU AND MEREDITH H. DOROBANTU, TRUSTEES, OR THEIR SUCCESSORS IN INTEREST, OF THE DOROBANTU LIVING TRUST DATED JULY 31, 2014, AND ANY AMENDMENTS THERETO, in the State aforesaid, for which the receipt whereof is hereby acknowledged, have granted, bargained, sold, and released, and by

Home Deed Outside of Trust

In order to avoid Probate the magic words for a home deed are “joint tenants with rights of survivorship”.

For example: *JOHN DOE and JANE DOE, as joint tenants with rights of survivorship*

***** For passing property to a beneficiary, if you do so through a joint tenancy deed “gift” your beneficiary will have to pay capital gains based on your basis when and if they sell the property.*****

Checking Account

DOROBANTU LIVING TRUST U/A 7/31/2014
VICTOR A DOROBANTU TRTEE
MEREDITH H DOROBANTU TRTEE
528 SANDERS FARM LN
CHARLESTON, SC 29492-7645

676

87-2/640 TN
1614

9/9/16 _____
Date

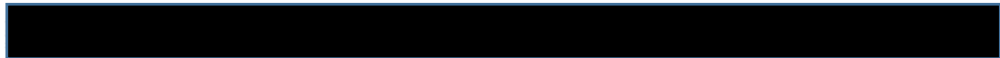
Pay to the Order of Daniel Island Academy | \$ 150.⁰⁰
One Hundred Fifty ⁰⁰/₁₀₀ _____ Dollars

 Security Features Details on Back.

Bank of America 

ACH R/T 064000020

For New Student Enrollment Meredith H. Dorobantu MP



Look Out For...

Older trust documents that contain “sprinkle” trust provisions for beneficiaries.

For example:

Assets are held in trust for beneficiary then:

At age of 40 beneficiary receives 1/3,

At age of 45 beneficiary receives 1/3, and

At age of 50 beneficiary receives remainder.

If a beneficiary is going through a divorce or getting sued at one of those ages they stand to lose that portion of their inheritance.

Current Tax Rates - Estate Tax Exemption

Under current (2026) estate tax law each of us can pass \$15 million per individual, up from \$13.99 million in 2025. That means an individual can leave \$15 million to heirs and pay no federal estate or gift tax. A married couple will be able to shield \$30 million from federal estate and gift taxes. South Carolina mirrors the federal estate tax exemption rate of \$15 million per person.

This amount is known as our unified credit exemption.

Even if you do not have an estate of this size consider filing for portability if something happens to one spouse with IRS Form 706.

Current Tax Rates – Annual Gift Exclusion **Amount**

\$19,000 per person or \$38,000 per couple to as many people as you want.

For example, if you had five (5) grandchildren you and your spouse could pass \$190,000 to them (\$38,000 per grandchild) every year – tax free.

*** This type of strategy would require consulting with an attorney as well as a CPA. ***

Current Tax Rates – Trust Tax Rate

For 2026 taxes (which you'll file in 2027), the federal government taxes trust income at four levels. These tax brackets also apply to all income generated by estates. Below is a breakdown of these rates and brackets:

\$0 to \$3,300:	10%
\$3,300 to \$11,700:	24%
\$11,700 to \$16,000:	35%
\$16,000+:	37%

Things to Look Out For

- Interested Witnesses (or Notaries) on your documents
- Power of Attorney older than five (5) years
- Dead people named as Agents, Personal Representatives, Trustees and/or Beneficiaries
- “Disinherited” children who still receive “\$1.00”
 - They are not disinherited unless it specifically states this in the Will/Trust
- Leaving IRAs (or any other tax deferred accounts to pets, estate or dead people); also leaving IRAs/401Ks to Trust without conduit provisions
- Beneficiary designations or joint ownership that goes against your estate planning goals

Things to Look Out For

- 4% Homestead Tax exemption
 - Any time a property is transferred from from one owner to another it is reassessed at a 6% property tax rate (this is the case if a new spouse or child is added to a deed or if a property is transferred to a trust)
 - If you do not reapply for the 4% homestead tax rate (as well as any other applicable tax deductions) you will owe the higher rate
 - In order to apply you will need the minimum of the following:
 - SC Drivers License
 - SC Tax Return for the previous year
 - SC Voter's Registration
 - (if trust owned) a copy of your Revocable Living Trust showing that you are the beneficiary

Any
Questions

Contact Information

- Bluffton Office – Currently scheduling in late March:
 - (843) 595-2400

- Beaufort Office – Currently scheduling in late April:
 - (843) 593-8083



LOWCOUNTRY LEGACY™

LAW FIRM LLC