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New Jersey Elder Lawyer

ARTICLES BY JAMES DE MARTINO

- [Estate Planning](#)
- [Lady bird Deed](#)
- [Probate It Yourself Kit](#)
- [NJ Nursing Home Bound](#)
- [The Alzheimer Prayer](#)
- [Do You Need an Estate Plan?](#)
- [Special Needs Trusts](#)
- [NJ Probate](#)
- [Durable Power of Attorney](#)
- [Living Wills](#)
- [Wills](#)
- [Estate Planning for Minor Children](#)
- [Revocable Living Trusts](#)
- [Downloading Estate Planning Documents](#)
- [Dis-Inheriting a Child](#)
- [Pre-Numptial Agreements](#)

NJ Estate Planning

Estate Planning in New Jersey is the process of accumulating and disposing of an estate to maximize the goals of the estate owner.

The various goals of **estate planning** include making sure the greatest amount of the estate passes to the estate owner's intended beneficiaries, often including paying the least amount of taxes and avoiding or minimizing probate court involvement. Additional goals typically include providing for and designating guardians for minor children and planning for incapacity.



Estate planning tools

The tools involved in **estate planning** include the will, various types of trusts, beneficiary designations, powers of appointment, various forms of property ownership (Joint tenancy with rights of survivorship, tenancy in common, tenancy by the entirety, etc).

Gifts, and powers of attorney, specifically the durable **financial power of attorney** and the durable medical power of attorney. After widespread litigation and media coverage surrounding the Terri Schiavo case, virtually all **estate planning attorneys** now advise their clients to also create a **living will**.

Note that many people (and even some attorneys) confuse a **living will** with a durable medical power of attorney. The former controls solely those decisions that must be made at the end of the patient's life, while the latter is used to give decision-making authority to someone else (usually a family member or close friend).

This person, the attorney-in-fact, then makes all medical decisions leading up to the person's death, but has no such power to make end of life decisions for the patient.

Those decisions are made by the patient in the living will; in the absence of a living will, and where the patient is incapable of making end-of-life decisions for him or herself, such choices are left to family members.

Remainder interests

The tax code allows wealthy people to set up charitable remainder trusts and set up qualified personal residence trusts to own their personal residence yet leave it to their children without estate tax.

Paying taxes

Because the United States tax code does not tax life insurance proceeds as income, a life insurance trust could be used to pay estate taxes. However, if the decedent holds any incidents of ownership like the ability to remove or change beneficiary, the proceeds will remain in his **estate**. For this reason, the trust vehicle is used to own the life insurance policy and it must be irrevocable to avoid inclusion in the estate.

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Elder Law and NJ Estate Planning Strategies

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