

Estate Planning “Need to Knows” for Military Families¹

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Figure 1.
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Series Description

This series on military family readiness aims to provide valuable resources, information, and support to family service professionals and Extension agents who support military families navigating the unique challenges and opportunities that come with a military lifestyle. From relocations to retirement, each publication in this series will equip you with the knowledge and resources you need to engage with service members and to promote readiness, resilience, and overall military family well-being.

Intended Audience

This publication is intended for family service providers, Extension agents and specialists, educators, and other professionals in the Military Family Readiness System.

Introduction

Estate planning is the act of preparing for the transfer of wealth after death as well as the management of assets upon incapacity or disability. Thus, it is important for everyone. A colloquial phrase used to describe estate planning is “getting your affairs in order” (i.e., taking the time to organize and pre-plan legal documents, financial accounts, property, and personal/medical data).

Estate planning is not a “one and done” event. Rather, it is an ongoing process of managing and transferring property/wealth during someone’s life and upon death. A lot can change in people’s lives over time. A service member who writes an initial will at age 19 could be estate planning for 80+ more years! This publication discusses:

- General information about estate planning: terminology and mistakes
- General information about estate planning: legal documents
- Military-specific estate planning: legal assistance
- Military-specific estate planning: death benefits
- Military-specific estate planning: funeral benefits

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- Five estate planning tips for military families
- Estate planning resources

General Information about Estate Planning: Terminology and Mistakes

Below is a list of common terms used in discussions about estate planning.

- **Estate:** In colloquial language, an estate is someone's "stuff," or everything that is deeded, titled, or otherwise owned by individuals at the time of their death. Examples of items included in an estate are real estate, bank accounts, life insurance, investments, retirement savings plans, automobiles, business interests, and intellectual property.
- **Estate transfer methods:** Estate assets are transferred to people and/or entities (e.g., charities) in three ways: operation of law (e.g., joint tenancy and a transfer on death or TOD designation); beneficiary designation (e.g., life insurance policy, annuity, and tax-deferred retirement plan); and outright bequests (transfers made via a will or trust).
- **Executor:** Person(s) named in a deceased person's will to oversee estate settlement, often with assistance from an attorney. Duties of an executor include obtaining death certificates for the deceased, gathering data about estate assets and debts, opening a bank account for estate assets, and filing paperwork with the IRS and local court.
- **Federal estate tax:** Sometimes called a "death tax," this is a tax on a deceased person's assets before they are distributed to beneficiaries. [Some states](#) have estate taxes as well. Most people die without an estate tax levy, however, because the federal estate and gift tax exemption is a [multi-million dollar amount](#) that is indexed annually for inflation.
- **Intestate:** This term refers to estates of people who die without a will where state-specific intestacy laws determine who gets what. Court-appointed administrators oversee state rules about asset distribution and select the deceased's personal representative. Intestacy generally results in additional time and administrative costs.
- **Personal representative:** This term refers to executors named in a deceased's will or administrators appointed by the court in an intestacy situation. They typically receive a letter of administration from the court as identification to contact banks, brokerage firms, etc. Personal representatives are typically compensated with fees set by state law.

- **Probate:** A court-supervised process of distributing a deceased person's assets whether or not there is a will at death. A probate court judge must ensure that creditors of an estate are paid before approving a transfer of assets as designated in a will or by state law. Probate also involves proving the validity of a will to ensure it is valid and authentic.
- **Probate avoidance:** Some people wish to avoid probate because documents involved with probating a will are public record. In addition, probate can be costly and slow in some states. Methods of avoiding probate include proper titling of assets (operation of law), beneficiary designations on assets (where applicable), and revocable living trusts.

Below are brief descriptions of seven common estate planning mistakes:

- Failure to develop an estate plan with key estate planning legal documents
- Failure to address possible incapacity with advance directives (e.g., power of attorney)
- Failure to properly title assets or a conflict between asset titles and a will
- Failure to understand and update beneficiary designations
- Failure to consider taxes (e.g., required minimum distributions on inherited IRAs)
- Failure to update estate plans as needed (e.g., when a beneficiary or executor dies)
- Failure to organize personal financial information and share it with trusted persons

General Information about Estate Planning: Documents

- **Living will:** A document that sets forth the creator's choices regarding medical care and end-of-life decisions (e.g., feeding tube, life support, organ/tissue donation, palliative care). The content of a living will provides direction for a health care power of attorney.
- **Power of attorney (POA):** An agent appointed to manage someone's financial/legal affairs without court supervision. This power ends when the creator dies. Four types of POA are general (provides a broad range of powers), special (provides authority for a limited purpose such as selling a car), springing (takes effect upon an event such as the creator's incapacity), and durable (remains in effect after the creator is incapacitated).

- **Health care power of attorney:** An agent designated to make health care decisions on behalf of someone who is incapacitated in accordance with the POA creator's wishes. In other words, a living advocate who can provide direction to medical providers.
- **Trust:** Trusts are a legal fiduciary relationship between a settlor (i.e., creator) and trustee to control and direct assets upon death and incapacity. The settlor's assets must be retitled and transferred to the trust. Common types of trusts are revocable living trusts, testamentary trusts that take effect upon death, and special needs trusts for dependents with disabilities. A trust can simplify estate administration upon death (e.g., real property owned in multiple states) and complements, but does not replace, a will.
- **Revocable living trust (RLT):** A trust is like a "container" into which assets are placed. The most commonly used type of trust is a revocable living trust (RLT), which is in effect during a creator's lifetime and after death. Key functions of RLTs are to avoid probate and a forced state conservatorship (in the event of incapacity) and to reduce someone's taxable estate.
- **Will (Last will and testament):** A basic estate planning document that: names an executor to administer a deceased person's estate; names a guardian for minor children; and provides instructions for the transfer of probate estate assets (i.e., assets that are not held in a trust and do not have a joint owner or designated beneficiary).

Military-Specific Estate Planning: Legal Assistance

Service members are exposed to risk while fulfilling their job responsibilities. Compared to civilians, military families encounter the aforementioned estate planning terminology and documents more frequently and at younger ages. Military families understand the importance of advance planning for unknown future events including frequent moves and deployments.

The potential for deployment to a combat zone creates a heightened sense of urgency to "tie up loose ends" with respect to estate planning decisions and documents. In addition, a will is highly recommended (although not required) for service members and their families, even those without a spouse, children, or valuable property. Service members are repeatedly told in briefings that having a current will and power of attorney are key parts of deployment readiness, along with reviewing life insurance needs, organizing financial documents (e.g., tax and credit card records), and updating beneficiaries for the Thrift

Savings Plan, IRAs, and Servicemembers' Group Life Insurance (SGLI).

Fortunately, service members can receive free assistance with estate planning decisions and document preparation. They do not have to search around and pay for the services of an attorney. Military installations have a Legal Assistance Office that provides free services including drafting wills and powers of attorney and guiding estate planning. These offices typically do not write RLTs or other complex estate planning documents.

Helpful estate planning resources for military families include Air Force Legal Assistance, Army Legal Assistance Services, Navy/Marine JAG (Judge Advocate General) Corps, and Coast Guard Legal Services. Military One-Source also offers free financial counseling, and CGSUPRT (for the Coast Guard) offers free money coaching. A [detailed list](#) of military legal assistance programs by state is available through the American Bar Association. Personal financial managers (PFMs) at military installations may also be helpful.

Military-Specific Estate Planning: Death Benefits

When service members die while on active duty, their next of kin (i.e., a surviving spouse, then child(ren), then parents, then siblings) receive a \$100,000 payment known as a [death gratuity](#). This amount is also paid to service members who die within 120 days of separation as a result of a service-connected illness or injury.

Another source of income for survivors of fallen service members is Servicemembers' Group Life Insurance (SGLI). SGLI is low-cost term life insurance automatically available to service members on active duty, National Guard members, ready reservists, and other designated military employees. Free SGLI coverage is also available for 120 days after a service member leaves the military.

SGLI coverage is [automatically activated](#) for \$500,000, the maximum coverage amount, unless a service member opts out in writing. Service members can elect lower SGLI coverage or no coverage, with coverage available in \$50,000 increments. Multiple primary beneficiaries, as well as contingent beneficiaries, can be named for a SGLI policy. Service members are also free to supplement SGLI and purchase additional life insurance, online or via a licensed agent, to provide added protection for dependents.

The current premium for SGLI coverage is 6 cents per \$1,000 of insurance regardless of age, gender, health status, or tobacco use. Monthly premium payments, shown below, are deducted from service members' base pay. When they leave the military, service members can apply for Veterans' Group Life Insurance (VGLI) within 1 year and 120 days from their discharge for up to the amount of coverage they had through SGLI.

Table 1. Monthly SGLI premium rates.

Coverage Amount (USD)	Monthly Premium Rate (USD)	TSGLI Premium (USD)	Total Monthly Premium Deduction (USD)
500,000	30.00	1.00	31.00
450,000	27.00	1.00	28.00
400,000	24.00	1.00	25.00
350,000	21.00	1.00	22.00
300,000	18.00	1.00	19.00
250,000	15.00	1.00	16.00
200,000	12.00	1.00	13.00
150,000	9.00	1.00	10.00
100,000	6.00	1.00	7.00
50,000	3.00	1.00	4.00

Source: U.S. Department of Veterans Affairs.

Military-Specific Estate Planning: Funeral Benefits

Part of estate planning is making provisions for a deceased loved one's funeral and burial. For civilians, the average cost of a funeral with viewing and burial is about \$7,000 to \$12,000, and the average cost of a funeral with cremation is about \$6,000 to \$7,000.

As a final tribute for their service to the United States, active duty service members, Selected Reserve members, and honorably discharged military veterans qualify for **military funeral** honors including special funeral and burial benefits. A veteran can be buried in a national cemetery, Arlington National Cemetery, a National Park Service cemetery, or a state veterans cemetery. Family members must provide a deceased veteran's DD Form 214 for evidence of eligibility for military funeral honors.

Funeral directors typically oversee most military funeral arrangements and help survivors navigate benefits and services to which they are entitled. The U.S. government covers many expenses, up to the maximum amount allowed by law, including transportation of the deceased's remains,

return of personal effects, casketing or cremation (mortuary services), and transporting the deceased's remains and immediate family members to the burial site. Some excluded expenses include obituary notices and flowers. Not having to secure and pay for a gravesite and other funeral expenses alleviates financial concerns at a time of stress for survivors. A VA burial allowance is a tax-free benefit.

Military funerals typically **include** folding and presentation of a U.S. flag to next of kin, the playing of "Taps," and, depending on a service member's rank and the geographic location, other features (e.g., a rifle detail or color guard). Military funeral honors also include military representation by at least two service members. A Presidential Memorial Certificate, signed by the president of the United States, is also available to next of kin.

If a veteran is buried in a private cemetery, funeral directors can help family members request reimbursement for eligible expenses. Family members must formally request reimbursement using VA Form 21-530, *Application for Burial Benefits*, and provide a DD Form 214 for evidence of eligibility for military funeral benefits.

Five Estate Planning Tips for Military Families

- 1. Check document reciprocity.** Legal advisors at military installations can advise service members about the status of estate planning documents when they PCS (move) to another state. Many states will accept any will as valid if it was valid in the state where it was prepared. Nevertheless, legal "landmines" may exist (e.g., rules for witnessing a will).
- 2. Avoid document conflicts.** There should be no conflict between the content of a will and titles to property or beneficiary designations on contracts such as life insurance policies, IRAs, and TSP retirement accounts. If there are conflicts, titles and beneficiary designations always take precedence over the terms of a will.
- 3. Designate capable proxies.** Two primary criteria for an executor are organizational skills and geographical convenience, if possible. Naming multiple executors (e.g., four adult children) is cumbersome and time-consuming (e.g., needing everyone's signature on documents). The person named as a health care proxy in a living will must be willing and able to be assertive about life support decisions with medical personnel.

4. **Protect your children.** Many parents postpone writing a will because they cannot agree on who to name as a guardian for their minor children. This one decision becomes a sticking point. A guardian does not have to be a family member. It could be a close friend. For children with disabilities, a special needs trust is recommended so they are not disqualified by asset tests for government benefits.

5. **Utilize military benefits.** Military legal services are a valuable resource for service members. Legal staff can review decision-making options as well as save money on legal fees. Take the time to explore resources that provide financial security for dependents including the death gratuity, SGLI, and military funeral benefits.

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