

Powers of Appointment

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**A KEY ESTATE
PLANNING GUIDE**

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What Is a Power of Appointment?

- A power of appointment is control over the disposition of property that you do not own but which is normally held in a trust.
- Example – Mom creates a trust for daughter. In the trust mom gives daughter the power or right to direct in her (daughter's) will who should inherit the trust property on daughter's death. That is a power of appointment.

Powers of Appointment Come In Many Flavors

- General power of appointment – causes assets to be included in the powerholder's estate and may cause the assets to be subject to the powerholder's creditors.
- Limited power of appointment does not generally cause inclusion in the powerholder's estate and should not cause the assets to be reached by the powerholder's creditors.

Why Including Powers of Appointment Can be So Valuable

- Flexibility – circumstances change.
- Avoid GST tax.
- Change terms of trust by appointing to a new trust.

Some Tips

- Need to be careful to exercise the power as provided in the grant of the power (e.g., specific reference requirement, compliance with rule against perpetuities – consider the Delaware tax trap, etc.)
- Do not limit the exercise to only a will.

Additional information

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