

## HOMEPAGE

Since opening its doors in 1982, Osterman Law Firm has proven itself to be a progressive, client-centered Denver estate law firm that embraces the faithful adherence to ethical standards, professional diligence and confidentiality.

The goal was not to be a “one-stop-shop” for every type of legal issue, but rather, an estate planning boutique firm serving the needs of families and individuals who have shown a commitment to excellence. As a result, the Osterman Law Firm focuses solely on estate planning, will, trusts, probate and estate administration and elder law.

Founder David W. Osterman has spent decades developing expertise in estate planning law to better serve his clients’ needs. His approach emphasizes practical legal solutions that address both life’s complications and simple truths. Mr. Osterman’s clients have a number of things in common:

- They’ve worked hard to get where they are now.
- It took years of careful planning and sharp execution to build the life that they have.
- They want their legacy to remain intact when they can no longer be there.
- They care enough about their loved ones to prepare early for end of life events.

Recognizing that each client’s situation is unique, Mr. Osterman can provide legal solutions on a wide range of estate planning issues touching on financial, retirement and personal planning matters designed to:

- Protect Beneficiaries
- Preserve Your Family’s Future
- Avoid Probate
- Proactively Address Long-Term Health Issues
- Ensure Your Wishes Are Carried Out

Countless Denver families in need of a trusts and estates lawyer have relied on David W. Osterman’s expertise and cost-effective approach. Offering fixed-fees for most legal services, clients understand what to expect, with no surprises when the bill arrives.

If you are looking for a competent and caring Denver estate planning attorney who is responsive to your needs, please [contact the Osterman Law Firm today](#). Together we’ll work to find the most effective options and answers that are right for you.

## ABOUT PAGE

### THE OSTERMAN LAW FIRM

The Osterman Law Firm was founded in 1982 in Denver, Colorado with the vision of providing superior legal services to families in need of estate planning services. Our clients trust us to provide competent advice and counsel on issues including:

- [Will](#) and [Trust](#) Drafting
- [Estate](#) And Trust Administration
- [Probate](#) Administration
- [Digital Estate](#) Management
- [Business Succession Planning](#)
- [Family Partnerships](#)
- [Wealth Preservation](#)

### DAVID W. OSTERMAN

Since establishing The Osterman Law Firm in 1982, David W. Osterman has used his knowledge of wills, trusts, elder law, estate and gift taxation, probate, trust and estate administration to serve countless Colorado families.

After receiving his Bachelor of Arts Degree from Brandeis University in 1977, Mr. Osterman went on to obtain his Juris Doctor degree from the University of Toledo Law School in 1982. His distinguished academic record included work on the Law Review and a Judicial Clerkship.

Mr. Osterman's commitment to providing outstanding value to his clients, his attention to detail, his experience and his personal relationships with his clients and their families has earned his firm an "Av Preeminent<sup>®</sup>" rating from Martindale-Hubbell.

### ABOUT LEGAL RATINGS

Martindale-Hubbell publishes a lawyer's rating only after an extensive, confidential review, which includes the opinion of other attorneys in the local community. Av Preeminent<sup>®</sup> is the highest possible ranking for an attorney, and is considered to be a significant legal accomplishment - a testament to the fact that a lawyer's peers rank him or her at the highest level of professional excellence.

Mr. Osterman is licensed to practice in the state courts of Colorado and Ohio, as well as the U.S. District Court of Colorado and the 10th Circuit Court of Appeals federal courts.

### WORKSHOPS

As an expert in the field of estate planning, Mr. Osterman is known and respected for his commitment to client education and pro bono projects. Mr. Osterman is a frequent lecturer and is available to provide educational workshops for non-profit organizations, community and professional groups.

You can request an Educational Workshop on our [Contact page](#).

## **HOW WE WORK**

At The Osterman Law Firm, we understand that each person's situation is unique, requiring a different approach and plan. Regardless of your estate planning needs, all of our clients have come to expect:

- Pre-determined, flat rate fees (for most matters)
- Personalized service
- Estate law expertise
- Open and prompt communication
- Total discretion

All of Mr. Osterman's clients know that they will receive his full attention to their matter.

### **What to Expect During Your First Visit**

Estate planning, as the name suggests, requires a great deal of planning on your part. When you schedule a consultation with Mr. Osterman, you should bring along existing documents regarding your estate. Depending on your situation, those documents might include:

- Existing will and/or trust documents
- Existing Powers of Attorney
- Existing Advanced Directives
- List of assets, both real and personal (including approximate values)
- List of debts
- List of Bank Accounts, IRAs and other Retirement Accounts
- List of digital assets, including web address, username and passwords
- List of beneficiaries and other family members
- Stock Certificates
- Business and Personal Contracts
- Deeds to real property
- Income and expense reports

The goal of your consultation is to assess the extent of your estate and determine the specific mechanisms you will need to employ. Mr. Osterman will discuss the options that are available to you. Together, you will determine the best estate plan for you.

### **What to Expect When You Leave Your Consultation**

After your consultation with Mr. Osterman, you can expect to better understand the estate planning process that is right for your specific needs. You may also take comfort in knowing that:

- Your assets are protected

- Your wishes will be followed if you die
- Your family may avoid dealing with probate, or at least face minimal probate costs
- Your family is taken care of in case you become disabled or incapacitated

You can rest assured that your estate matters will be expertly handled by a team of legal professionals, headed by Mr. Osterman. [Contact us online](#) or call 303-759-3199 today to schedule your consultation and have your estate planning questions answered by a knowledgeable Denver estate planning attorney with over 30 years of estate planning experience.

## **RESOURCES**

At The Osterman Law Firm, we understand that you may have some initial research that you want to complete so that you can be as educated as possible about your estate planning needs before you speak with an attorney. Educated clients are partners in achieving the best possible estate-planning results, so we've put together some select resources from the Colorado Bar Association for you to review before giving us a call.

**What is an Estate Plan?** We've all heard the term, but what does it mean exactly? Click [here](#) to find out more information about all of the aspects of estate planning in Colorado.

**What is a Will?** A will is the most common estate-planning tool. It tells people what you want to happen with your assets upon your death. Learn more about when a will is important in Colorado [here](#).

**What is a Living Trust?** A trust can be an effective estate-planning tool for preserving wealth and avoiding some types of taxes. For more information on Colorado trusts, click [here](#).

**What is Colorado Probate?** Simply put, probate is the process of distributing a person's possessions after death. For individuals with complex estates, this process can become equally complex. Learn more about the Colorado Probate process [here](#).

**What is Joint Tenancy?** Joint tenancy is a way of owning real or personal property by two or more individuals. Joint tenancy can have important implications when it comes to taxes and probate. Click [here](#) to learn more about joint tenancy in Colorado.

**What are Advance Medical Directives?** Advance Medical Directives allow you to pre-determine how you will be cared for in the event that you become unable to make decisions for yourself. Find out more about Colorado Advance Medical Directives [here](#).

**What are Financial Powers of Attorney?** Like other Powers of Attorney, this document enables you to assign an agent to act on your behalf on certain enumerated matters. Learn more [here](#) about Colorado Financial Powers of Attorney.

**What is a Parenting Plan?** A parenting plan is a written document that serves as an agreement as to how children's needs will be taken care of. For more information about parenting plans in Colorado, click [here](#).

**What do I do if Someone Dies?** Coping with the loss of a loved one can be difficult and confusing. For a better understanding of the steps you should take when someone dies, click [here](#).

**How do I Choose and Use a Lawyer?** Let's face it, there are a lot of Denver estate planning attorneys out there and it's hard to know what to look for. This [guide](#) can help you better understand how to choose and use an estate planning attorney in Colorado.

**[What is the Colorado Designated Beneficiary Agreement Act?](#)** The Colorado Designated Beneficiary Agreements allows two unmarried people to agree in writing that they want each other to have legal rights, benefits, and protections to make certain decisions about each other's health care and estate administration. Learn more about this important Act [here](#).

So now you're an agent for someone who has passed, or who is incapacitated in some way. What do you do now? Below are links to helpful guides that will provide information as to what your rights and obligations are as an agent.

[So Now You Are An Agent Under Financial Power Of Attorney](#)

[So Now You Are A Conservator](#)

[So Now You Are A Guardian](#)

[So Now You Are A Personal Representative](#)

[So Now You Are A Trustee](#)

## **BUSINESS SUCCESSION**

Wealth preservation and estate planning go beyond just planning for your family and personal assets. It's also important to have a business succession plan in place to ensure that what you've spent years building is protected when you pass away or in the event that you become incapacitated.

Business succession is important for companies of all sizes, but especially so for small and highly profitable companies whose success has been dependent on a single owner or a handful of partners. A sound business succession plan must identify the needs of the business as well as the individual to ensure a smooth transition can be made with as little financial impact as possible.

### **Business Succession Agreements**

Business succession agreements are the most basic form of business succession planning. This legal document details how a business will be managed, and by whom, when an owner dies or retires. It can outline how much control different successors may have in the business.

A business succession agreement should clearly state the business owner's intent for ownership, operation and control when he or she no longer runs the business, plus contain information about how to transition to new leadership. Not having a business succession agreement in place can force an otherwise healthy company to close, or cripple it with tax debt it must take on from the recently deceased person.

When an individual passes away, all of his or her assets become part of an estate, including interests in a successful business. If steps aren't taken during life to protect those business interests, they can be tied up in [probate](#) and subject to expensive estate taxes. In addition, a business succession plan that outlines how a business is to continue can reduce the risk of a partnership dispute.

### **Different Types of Succession Plans**

Choosing the right type of succession plan for a business will depend on several factors including its size and the number of partners involved.

In businesses involving a handful of partners, life insurance can often help with business succession. Typically, life insurance is purchased on all partners in a business either by the individual partners or the business itself so that in the event that a partner dies while still involved in the business, the proceeds from the life insurance policy can be used to buy out his or her share and distribute it to the other partners.

Other possible types of business succession plans include selling the business either to inside or outside interests, an initial public offering, bringing on additional partners, transferring the business to family members, or changing the corporate structure of the business.

A business succession plan can be included with an [estate plan](#), or drafted separately. However, any business succession plan will likely require the drafting of several documents related to Colorado business law. There are also tax and estate concerns that must be taken into account when preparing a business succession plan, so it's best to contact an attorney experienced with such matters to come up a business succession plan that best fits your needs.

David W. Osterman has over three decades of experience counseling entrepreneurs on business succession matters. He has a strong understanding of Colorado law and tax issues that may affect your estate, your partners and your family. Contact Denver estate planning attorney David Osterman today at 303-759-3199 or [online](#) to schedule an initial consultation.

## **Digital Assets**

In today's technological world, estates include more than just the obvious, tangible property that people think of first. Among the houses, cars, and jewelry, many people have digital assets that can be inherited. When creating an estate inheritance plan, including these digital assets is just as important, and perhaps in some cases more so, than the rest of the physical property. Many important documents are included in an individual's assets, so they need to be protected.

Digital assets include items such as passwords, digital pictures, medical information, instructive memos, and any other item that is accessed primarily through digital means such as books, music, and movies. Digital assets can also include intellectual property such as copyrights, trademarks, and patents. Because of its wide definition and its growing presence in the world, property that was once only held physically is quickly becoming digitized. For example, people are getting rid of their hard copies of photos as they transfer them to digital formats, while simultaneously forgoing hard copies of new photos, and instead putting them in digital form from the start. Writings, bank accounts, and social networking sites are all becoming fully digitized.

As more and more of life becomes intangible, how these assets are handled in [estate planning](#) becomes equally important. However, unlike tangible property, there are other owners and parties to take into account in the digital world. Using those same photos as an example, think about pictures being held in the cloud or placed on a social network site. The photo uploader has clear ownership rights, but the cloud or platform owner, such as Google, Microsoft, or Facebook, also has some rights.

Whether licenses to access purchased music and movies on a platform like iTunes or Amazon passes to heirs or can transferred after death is still something of a legal gray area. However, making sure heirs can find the passwords for these accounts after a loved one's death can ensure continued access to these libraries for years to come, and prevent hackers from breaking into the accounts and locking out authorized users. Providing passwords to heirs can also help them access financial information from sites such as PayPal. It's possible to die with hundreds, if not thousands of dollars stuck in a PayPal account. Making sure the password is readily available after death can help heirs easily close the account on their own rather than going through the complicated process of contacting PayPal to do so.

Ensuring that intellectual property that exists only digitally is properly transferred to heirs is another important part of estate planning. For example, copyrights last for the lifetime of the author, plus 70 years. Unless a testamentary devise clearly identifies who will inherit the copyright, the copyright will go to next of kin who may not use it in accordance with the creator's wishes. The death of the creator also needs to be recorded with the Copyright Office in Washington, D.C. to ensure the copyright is extended for an additional 70 years.

Similarly, trademarks should be properly transferred to heirs who will use the mark as stated in its registration to ensure that the trademark can still be used for years to come and not deemed abandoned. Patents also must be transferred in writing, and clearly state ownership of the patent, who has the right to license it, and responsibility for maintenance payments.

Other issues that are unique to digital estate planning include:

- Electronic assets have the capability to be copied indefinitely, which is especially a problem when the assets represent intellectual property.
- In order to issue the assets to the new owners, the executor may need access to the deceased's online accounts, which can create privacy violations.
- On the inheritor's side, inheriting digital property might require IT skills that the inheritor does not possess.
- In many situations, customer service providers hosting the digital information terminate or reduce accounts upon the death of the original owner.
- Inheritors might have limited instructions on how to manage each of their new accounts.
- Finally, problems may arise with the extreme proliferation of the digital information. Because the average person has around 25 online accounts, finding and distributing the information to the right sources stored throughout all of the deceased's various devices can be time consuming and difficult.

Because of all of the various considerations that must be taken when putting digital assets into an estate, it is extra helpful to get help from a specialist in this area. The Denver based Osterman Law Firm specializes in estate planning and can help you plan all aspects of your estate, including those in the digital arena.

David Osterman has over 30 years of experience assisting individuals in managing their digital assets through estate planning. With that talent on your side, you can feel confident that your assets will be protected when you pass. [Contact us online](#) today, or call 303-759-3199 to have your digital asset questions answered.

## ESTATE ADMINISTRATION

Being named as a personal representative in an estate administration is an important responsibility.

A personal representative has the duty of ensuring that the final wishes of the deceased are fulfilled during probate administration. The personal representative is also responsible for ensuring that the estate pays the final bills and taxes of the deceased.

The personal representative, usually the person named as such in a will, is appointed by the court when the will is submitted to [probate](#).

### **General Duties**

The personal representative has a duty to collect and inventory the assets of the estate, manage those assets during the probate process, pay the bills of the estate, distribute the assets of the estate to heirs and beneficiaries, and to finally close the estate once those tasks have been completed.

A personal representative has the authority to search for important documents that will be needed during probate administration, such as safe deposit box agreements, trust agreements, pension and retirement statements, deeds to property, stock certificates, and unpaid bills.

### **First Steps as a Personal Representative**

Upon being appointed by the court, a personal representative will receive letters from the court indicating that he or she has the authority to act on behalf of the estate.

The personal representative should then prepare a Notice of Appointment form to send to any parties with an interest in the state, such as creditors and beneficiaries. This form must identify the personal representative and a contact address, the court in which probate administration is occurring, and state the rules of the probate administration. This notice must be sent out within 30 days of the appointment of the personal representative.

It is important to then set up an estate accounting system that keeps track of the cash and financial transactions of the estate for beneficiaries to review. This information is required for tax purposes and a formal closing of the estate.

Within three months of the appointment, the personal representative should prepare a written inventory of the estate's assets. At the very least, this inventory must be given to all interested parties. If the estate is formally closed, it must be filed with the court.

### **Distribution of Assets**

The Colorado Probate Code allows for a \$24,000 "family allowance" to the spouse and surviving children of the deceased during probate administration. The Code also provides for a \$26,000 allowance to the spouse of the deceased. This amount is generally exempt from claims by creditors.

Distribution of assets does not have to wait until the estate is closed. The personal representative can make full or partial distributions during probate administration, unless the estate is in formal probate and all transactions must first be approved by the court.

Family members appointed as personal representatives generally waive compensation for their work. However, personal representatives are entitled to reasonable compensation for acting on behalf of the estate, as well as expenses related to the estate administration.

When all of the assets of the state have been distributed, the personal representative may close the estate either informally or formally. In an informal closing, the personal representative files a statement with the court stating that the estate has been fully administered.

Beneficiaries and creditors can challenge the personal representative's decisions for one year following an informal closing. A formal closing requires final approval of asset distribution by the court, but the personal representative is immediately discharged of any liability.

Administering an estate, especially a complex one, can be confusing and often overwhelming. Having an experienced Denver estate-planning attorney available to assist with the administration of the estate can reduce a lot of anxiety and help protect assets in the process. David W. Osterman has over 30 years of experience assisting individuals in administering estates. [Contact The Osterman Law Firm today](#) for an initial consultation to see what your options are.

## **FAMILY PARTNERSHIPS**

A Family Limited Partnership (FLP) is a legal asset vehicle that can ensure wealth is preserved from generation to generation by pooling the control of assets. An FLP can minimize tax consequences in transferring wealth to your descendants, protect assets from creditors and judgments, and also keep assets out of [probate](#).

### **Structure of an FLP**

FLPs are structured similarly to traditional business partnerships, with both general and limited partners. They differ in that participation in the partnership is limited only to family members. General partners, who are usually older family members, participate in the management of the FLP, such as investment decisions, and are also liable for the decisions of the FLP. General partners contribute their assets to the FLP in order to be named as a general partner in the FLP. A portion of this interest in assets can be transferred to younger limited partners directly, or through a trust.

Limited partners do not participate in the FLP's decision-making and cannot liquidate or transfer their interest in the FLP. Distribution of assets to limited partners is at the discretion of general partners. No matter what percentage of assets limited partners control in an FLP, they do not have the decision-making powers that general partners have.

An FLP must be formed for valid business reasons beyond merely the avoidance of taxes. Common valid business reasons for forming an FLP include simplified gifting to other family members, consolidated management of family assets, avoidance of family disputes upon the death of a family member, and to ensure assets stay in a family.

### **Benefits of an FLP**

Real estate, business interests, and securities are all examples of assets that can be held by an FLP. Assets put into an FLP are not subject to estate taxes. However, placing these assets in an FLP allow general partners to continue to control these assets until such a time as they are transferred to limited partners.

An FLP is not a taxable entity. General partners instead report the FLP's income on their personal tax returns.

General partners are entitled to reasonable management fees for their management of an FLP. Income from the FLP can also be used to pay salaries to family members employed by the FLP, as well as to provide other benefits, such as health insurance.

An FLP can protect assets from either creditors or changes in family circumstances. Creditors cannot gain an interest in an asset that a limited partner has an interest in without the consent of a general partner. It is also significantly more difficult to for a judgment to be attached to an asset held by an FLP.

Partnership documents can require a limited partner to transfer his or her interest in the partnership back to the FLP upon divorce or another change in family circumstances. Such provisions ensure that family assets stay within an FLP.

**Considering Forming an FLP?**

FLPs are extremely useful tools for [wealth preservation](#), but also require careful planning. Consulting with an attorney experienced in wealth preservation is recommended if you are considering forming an FLP or are seeking guidance in how to manage an FLP. The Osterman Law Firm has been assisting Denver families in structuring Family Limited Partnerships for over 30 years. If you believe your family may benefit from an FLP, contact David Osterman [online](#) or at 303-759-3199 today for an initial consultation.

## **PROBATE**

Probate is the legal process used to distribute the assets of a deceased person.

The type of probate and the length of time of the probate proceedings depends on the size of the estate and the assets within it.

Under Colorado law, a deceased person's will must be filed in the District Court where that person resided within ten days of death, regardless of whether or not the will is expected go through probate.

The court will then appoint a personal representative (also known as an executor) to act on behalf of the deceased in distributing his or her assets during the course of probate. The personal representative must petition the court to receive this position. Priority is given to the person or persons named as executor in the will of the deceased. If no executor named in the will is willing to serve as personal representative, priority is first given to the spouse of the deceased if he or she is named as a beneficiary in the will.

If a spouse is unable or unwilling to serve as personal representative, the court will then look to appoint a person nominated in a designated beneficiary agreement. If no such agreement exists or that person is also unwilling to serve, the court will look to other named beneficiaries in the will. How the court then proceeds depends on several factors.

### **Types of Probate**

The first type of probate administration is reserved for small estates valued at less than \$50,000 and containing no real estate. For small estates, beneficiaries can often collect the assets willed to them by filing affidavits with the court. No other legal proceedings are necessary.

The second type of probate is called informal probate, and it is reserved for uncontested estates. Informal probate is administered by the court, but the assets of the deceased are distributed in accordance with a valid, uncontested will.

Informal probate is also used in cases where a person has died without a will but is survived by a spouse or one child, so it is clear under the intestacy provisions of Colorado law who is entitled to the assets of the deceased.

The third and final type of probate is formal probate. Formal probate administration is opened when a will is invalid, contested or unclear. Problems with identifying heirs or clearing the title of real property can also lead to formal probate.

In formal probate, the personal representative of the estate may be required to receive approval from the court to conduct any transaction on behalf of the estate.

Both informal and formal probate must be open for at least six months, though probate administration can last much longer. During this period, the personal representative must

notify any creditors of the deceased, either by mail or publication in a newspaper, that the estate has entered probate. The personal representative must pay any legitimate claims made against the estate.

Once the creditors have been paid, the personal representative makes payments to the beneficiaries and heirs. When all of the assets are transferred out of the estate, the estate closes, and probate concludes.

### **Do I Need an Attorney During Probate?**

For smaller estates, it is often not necessary to hire an attorney. For medium to larger estates, having an attorney can be incredibly helpful in identifying and valuing assets, ensuring the probate estate is competently handled and ensuring a timely, cost-effective probate process. [David W. Osterman](#) has over 30 years of experience managing Denver probate estates. For answers to your probate or other estate questions, contact us [online](#) or at 303-759-3199 today.

## TRUSTS

Trusts are an important tool for preserving wealth by avoiding costly probate proceedings and estate taxes.

Colorado law allows for the creation of “living trusts.” A living trust is an agreement by which one person, a trustee, holds legal title to property for the benefit of another person, the beneficiary. The owner of the property, known as the trustmaker, can also serve as trustee.

Many assets, including real estate, antiques, stocks, and other business interests can be held in trust. Putting an asset in trust can keep it out of an estate, and thus avoid putting it through [probate](#).

Similar to a [will](#), the living trust directs the trustee how to distribute assets upon a trustmaker’s death. A living trust differs from a will by also directing the trustee how to distribute and manage assets during the trustmaker’s life. A living trust can also provide directions for how a trustee is to act in case the trustmaker is incapacitated.

### **Revocable Trusts**

Generally, living trusts can be sorted into two categories: Revocable and irrevocable. The terms of a revocable trust can be changed at any time, while the terms of an irrevocable trust cannot be changed. That might seem simple, but each type of trust has specific benefits and drawbacks when it comes to [estate planning](#).

A revocable trust allows the trustmaker to retain control and possession over property placed in the trust. Transferring property into a revocable trust is not subject to the federal gift tax, and no other special income tax filings besides what the trustmaker typically files every year are necessary for upkeep of the trust.

Once the trustmaker dies, the trust becomes irrevocable and cannot be changed without a court order. This means that assets held in a revocable trust have limited protection from creditors while the trustmaker is alive, but that these assets may be subject to more protections once the trustmaker passes away and the trust becomes irrevocable.

### **Irrevocable Trusts**

Irrevocable trusts may seem like a less desirable option for [wealth preservation](#) because the trustmaker gives up all rights to control and possession of the assets, effectively making a gift to the trust.

That means that the initial transfer of property to an irrevocable trust is subject to the federal gift tax. However, the benefit is that the asset is then not subject to the estate tax when the trustmaker passes away. This makes irrevocable trusts an ideal vehicle for wealth preservation for assets that are expected to appreciate in value. Careful estate planning may even be able to avoid subjecting an asset to both the gift tax and the estate tax.

One type of asset typically placed in irrevocable trusts is a life insurance policy. Life insurance policies can be purchased by the trust itself or transferred to the trust with minimal or no gift tax consequences. If a life insurance policy in the trustmaker's name is held by a trust rather than the individual, it is not subject to estate taxes when the trustmaker dies.

Beyond revocable and irrevocable trusts, there are many other types of trusts that can be used to preserve assets in different types of ways, so it's important to consult with an experienced estate planning attorney about which trust is right for your situation. Denver estate planning attorney [David W. Osterman](#) has helped countless Colorado families create trusts during his 30+ years of practice. To determine if a trust is right for your estate plan, contact us [online](#) or at 303-759-3199 today.

## WILLS

Traditionally, the cornerstone of an [estate plan](#) is a carefully designed will. With a will, you can make provisions for your spouse, descendants, and other family members. You can also provide for non-family beneficiaries and charities, who otherwise would receive nothing from your estate through the default Colorado laws of descent and distribution. A will allows you to choose the person you want to serve as personal representative of your estate. Further, it gives parents of minor children the opportunity to choose their guardian, should the need arise.

It is just as important to realize what a will cannot do. The distribution of some assets is determined by law. For example, property owned jointly with the right of survivorship passes automatically to the surviving joint owner, not according to your will. Any provisions regarding the distribution of such property in your will are ineffectual if the joint owner survives. Similarly, a surviving spouse has certain rights under Colorado state law that can't be trumped by the will, unless the couple has an agreement to waive those statutory rights provided to a surviving spouse that would otherwise normally apply in such a situation.

### **Writing a Will**

Writing a will in-and-of itself is not necessarily a complex task for smaller estates, and many people choose to write their own wills without significant negative effects. However, for those with significant assets and/or family issues which may lead to a will being contested, writing a will with the advice of an attorney can help avoid issues upon your passing.

While an attorney can be of significant assistance in helping you draft a will, you will need to determine certain important things such as:

- Who your executor will be
- What assets you wish to leave to whom
- Who will serve as guardian for your minor children
- Who will take care of your pets
- How your business is to be dealt with

Your will must be signed and witnessed by two witnesses in order to be valid.

### **How Probate Fits In**

The distribution of your estate according to your will is generally done through a legal process known as [probate](#). Probate may not always be avoided, but a skilled estate planning attorney can help you set up your estate so that a majority of your assets are transferred automatically when you pass away, through a variety of [wealth preservation](#) tools.

### **Additional Considerations for Estate Planning**

Depending on your life circumstances, different estate planning tools aside from a will may be advisable. For instance, if you have a family, you may want to make sure that the

coverage your life insurance provides is enough to take care of them. Or, if you own a business or have co-owners, you need to make sure that the transfer of your share is done with a [business succession plan](#) or another type of agreement.

Denver estate planning attorney [David W. Osterman](#) has over 30 years of experience advising individuals and families on proper will structure and other wealth preservation tools. To ensure that your family is taken care of and your assets are protected, contact our office [online](#) or at 303-759-3199 today.

## **WEALTH PRESERVATION**

The wealth you accumulate during life comes from hard work and careful planning, so it's just as important to carefully plan how to preserve that wealth after you've passed on.

High-value estates can be subject to large tax penalties or high legal fees in [probate](#) if steps are not taken to protect those assets during life. It is important to come up with a wealth preservation strategy specific to you and your family's individual needs. Effective wealth preservation may be achieved through a combination of insurance, [trusts](#), gifts during an individual's lifetime, and a legally sound [will](#).

### **Trusts**

Trusts are perhaps the most important part of proper wealth preservation. An irrevocable trust is a type of trust that cannot be altered without a court order. Any sort of asset, including stocks, bonds, or real estate can be placed in an irrevocable trust. Annual gifts can be made to the trust without any tax consequences so long as they do not exceed IRS limitations. For adults, income from the irrevocable trust will be taxed at the individual beneficiary's tax rate rather than the grantor's tax rate. Adding a spendthrift provision to an irrevocable trust can also ensure that a beneficiary cannot transfer his or her interest in the trust, ensuring that wealth can be passed on for generations to come.

The biggest advantage of an irrevocable trust is that assets put in the trust can avoid being tied up in probate. In addition, assets held in trust cannot be seized by the creditors of beneficiaries. The creation of a trust can be complicated though, so it is important to consult with an attorney experienced in wealth preservation and [estate planning](#) when considering a trust.

### **Gifts During Life**

The best way to avoid paying high taxes on transfers of wealth is to make a gift of them while you're still alive. While taxes may still apply to what's known as an *inter vivos* gift, these taxes are often lower than estate taxes. Making an *inter vivos* gift will also keep the property out of probate, which can prolong the time it takes for the beneficiary to take possession of the property, and could also subject the transaction to costly legal fees.

### **Wills**

Having a properly executed will is extremely important to ensure your wealth is distributed in accordance with your wishes. If you die without a will, your estate will be distributed in accordance with intestacy provisions, and your property may not go to your designated beneficiaries. In Colorado, a valid will must be signed by two witnesses. A will along with other estate planning provisions such as a transfer-on-death deed, can protect your property and ensure it transfers to your loved ones with minimal cost to your estate. In the case of a transfer-on-death deed, this document allows real estate to stay in your possession during your lifetime, then pass to a designated beneficiary upon your passing without having to go through probate.

As every client's situation is unique it is important to consult with an attorney before deciding which of these wealth preservation strategies is right for you.

Denver estate planning attorney [David Osterman](#) has a solid understanding of Colorado tax and estate laws that can impact your assets, making him a strong choice in assisting you with your wealth preservation plan. Contact us today [online](#) or at 303-759-3199 for a consultation.