

Power of Attorney vs. Executor: What are the differences?

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A common question that comes up in conversations about estate planning is “What is the difference between a power of attorney and an executor? And do you need both?”

A good estate plan includes both a power of attorney and an executor. However, the two play their part in your estate plan at entirely opposite times.

Power of Attorney

Your power of attorney is an individual you name to assist during your lifetime with your legal and financial matters and decisions. Typically, this comes down to practical affairs such as paying bills, managing your finances and property, and accommodations. Depending on the type of power of attorney document you decide on, your power of attorney has authority to step into your shoes for legal and financial matters upon you losing mental capacity or whenever it may be convenient for you, including times when you are out of the country or having an unexpected stay in the hospital.

When naming a power of attorney, it is important to consider who would have the ability to assist with your affairs on a regular basis and with ease. Oftentimes it makes sense to name an individual who is geographically close to where you live, who is familiar with your affairs, and who you feel will assist you in making decisions, or make decisions for you, with your best interests in mind.

While your power of attorney’s authority reaches many areas, that authority ends upon your death.

Executor

When you pass away, your executor steps in to administer your estate and ensure your wishes are carried out following your death. Your executor will gather your assets, pay your debts and funeral expenses, file your final taxes and distribute your estate according to the instructions set out in your will.

In most cases, this will involve navigating probate and working with professionals such as accountants, lawyers and realtors. Your executor's job starts upon your death, and they have no authority or responsibility prior to your death.

Your executor should likewise be a trusted individual who would be organized and thorough in dealing with the many moving parts of administering your estate. They will also need to be able to effectively communicate with the various professionals involved in the administration, and with the beneficiaries named in your Will.

It is often the case that the person named as your power of attorney is likewise best suited to be named as your executor as well. However, the above considerations may help in understanding the role each must play and, correspondingly, the best person in your life for each job.

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