

Durable Power of Attorney

A power of attorney is a written document which one person (the principal) uses to empower another person (the agent or attorney-in-fact) to act on his or her behalf.

Powers Which May Be Included

Non-Tax Powers	Tax-Related Powers
<ul style="list-style-type: none">• To buy, sell or lease assets• To sue on the principal's behalf• To collect from creditors• To change provisions in a living trust• To operate the principal's business	<ul style="list-style-type: none">• The power to make gifts to the spouse (to equalize the estates) and to children, grandchildren, etc. (to utilize the annual gift tax exclusions)• The power to make disclaimers• The power to create living trusts to benefit the principal, spouse and heirs• The power to complete transfers to a living trust if the principal becomes incompetent• The power to join the competent spouse in signing income and gift tax returns• The power to exercise special powers of appointment

Additional Considerations

Some powers, such as the power to execute and revoke a will, can not be given to another individual. In addition, powers of attorney are usually notarized and those affecting real property may need to be recorded.

A power can be a "general" power, giving the agent all powers held by the principal; a "limited" power restricts the agent to performing only those actions specifically listed.

The document can be written to empower the agent now, or to become effective only upon the occurrence of a specific event, such as the principal's incapacity (sometimes referred to as a "springing" power). A durable power of attorney may save the often-considerable costs of a conservatorship. A conservatorship, however, has the benefit of court supervision.

Note: Significant powers may be granted under a power of attorney. Before using a preprinted form, legal advice should be obtained.