Five Documents to Protect You and Yours

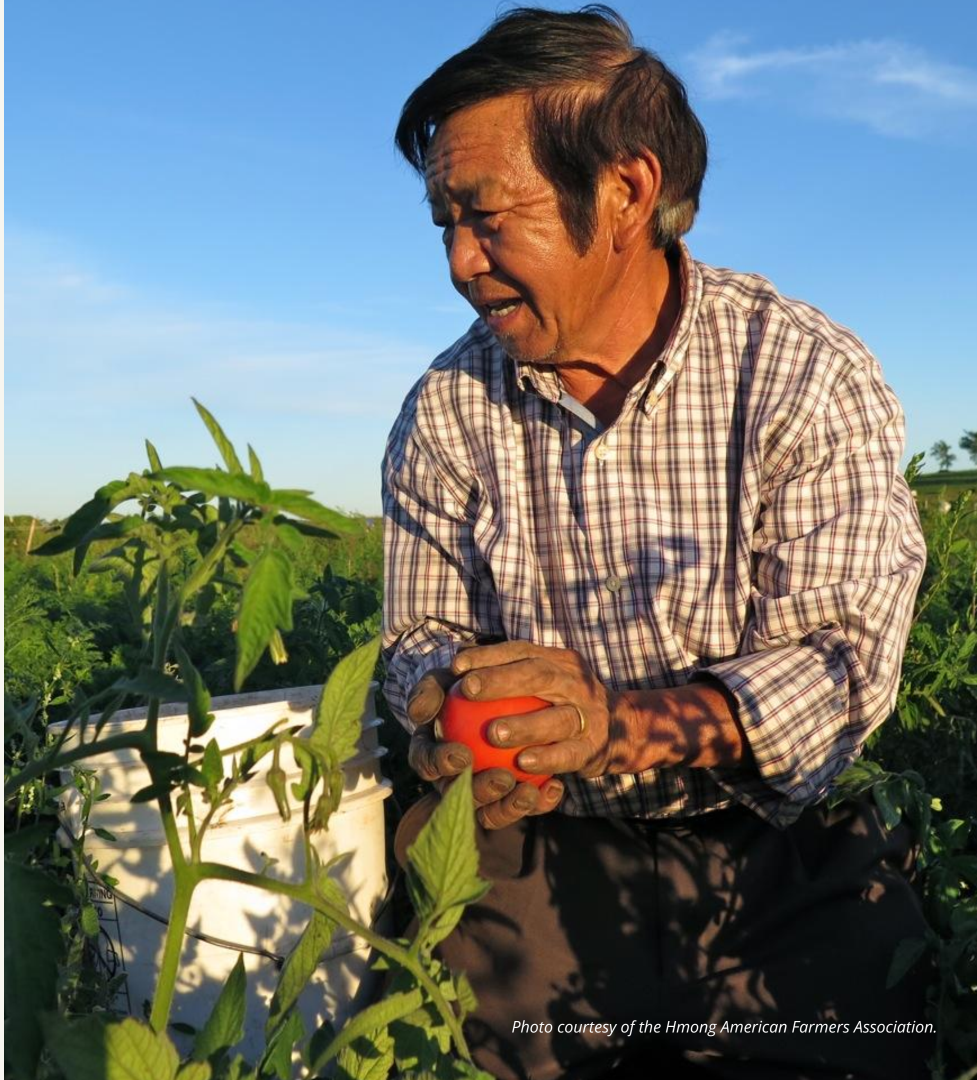
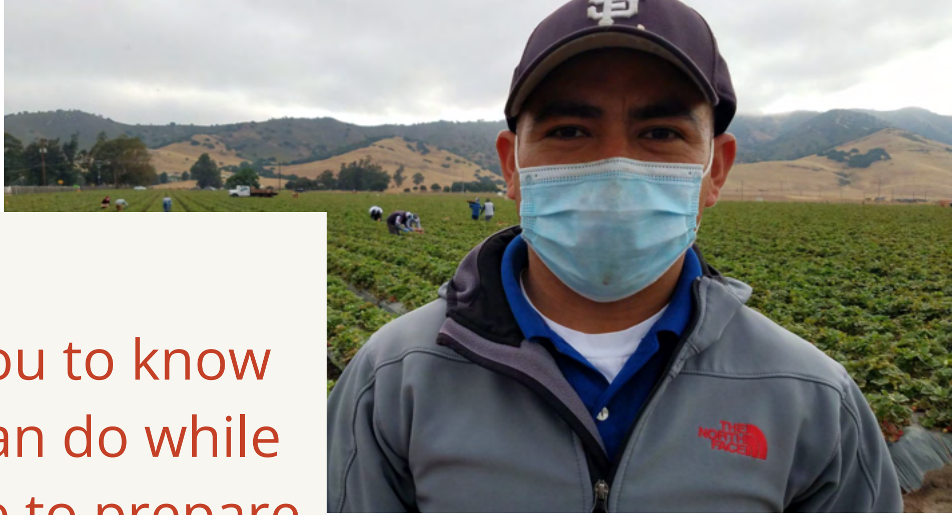
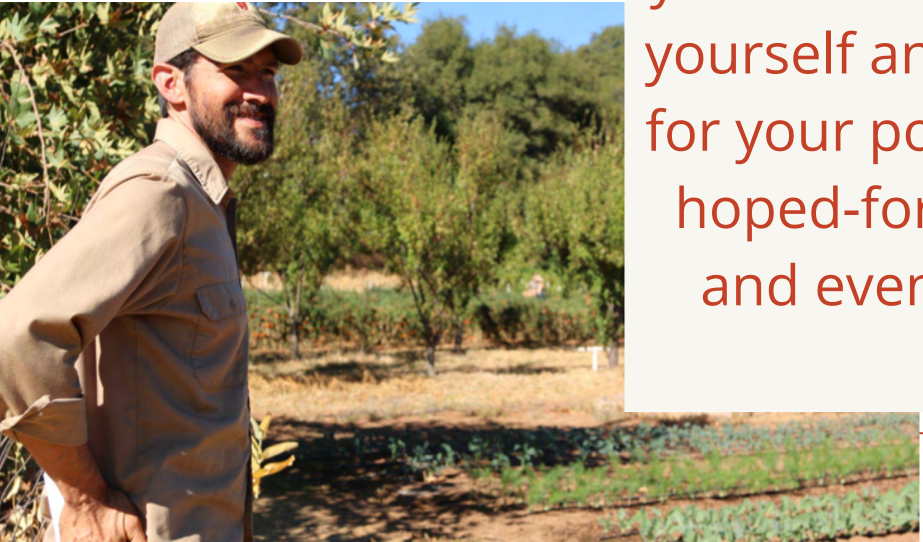
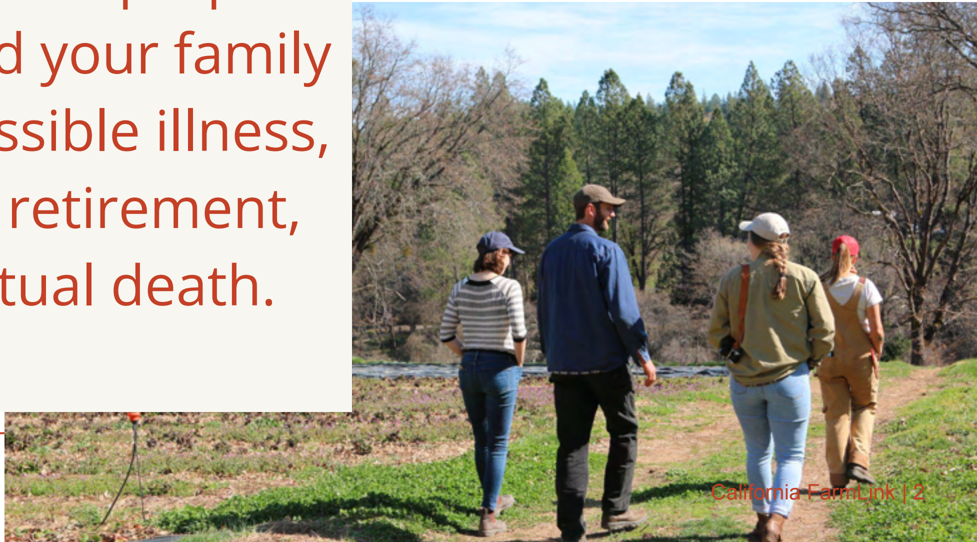


Photo courtesy of the Hmong American Farmers Association.



We want you to know what you can do while you are alive to prepare yourself and your family for your possible illness, hoped-for retirement, and eventual death.





Overview

- Essential documents for a simple estate plan
- How to get help

Why is planning important?

To protect yoursel and your loved ones you need a plan for:

- The retirement you have earned
- Your posible sickness or incapacity
- The unexpected
- When you are gone

An Estate or Succession Plan

Estate and Succession plans are:

1. A collection of *legal documents* designed to ensure your wishes are carried out.
2. *Written understandings and agreements* that communicate further details about your wishes.


Photo courtesy of the Hmong American Farmers Association.

Estate and Succession Plans

An *estate plan* is specifically for what happens after you die.

A *succession plan* is usually more focused on who takes over your business while you are still alive.

Usually people create both at the same time.

Legal documents are usually created by licensed attorneys, and are intended to be legally binding.

Written understandings and agreements are informal and not legally binding, but they provide important information to the people involved.

Communicating Intent

- Formal legally binding documents and agreements
  - Will, trust, written lease agreements, written buy-sell agreements, power of attorney
  - Established purchase or sales contracts
- Informal and not legally binding agreements
  - Verbal agreements
  - Written instructions
  - Additional explanations of intent both verbal and written

Five Documents Make A Simple Plan

1. **Will**
2. **Trust**
3. **Medical Power of Attorney**
4. **Financial Power of Attorney**
5. **Agreements and Instructions**

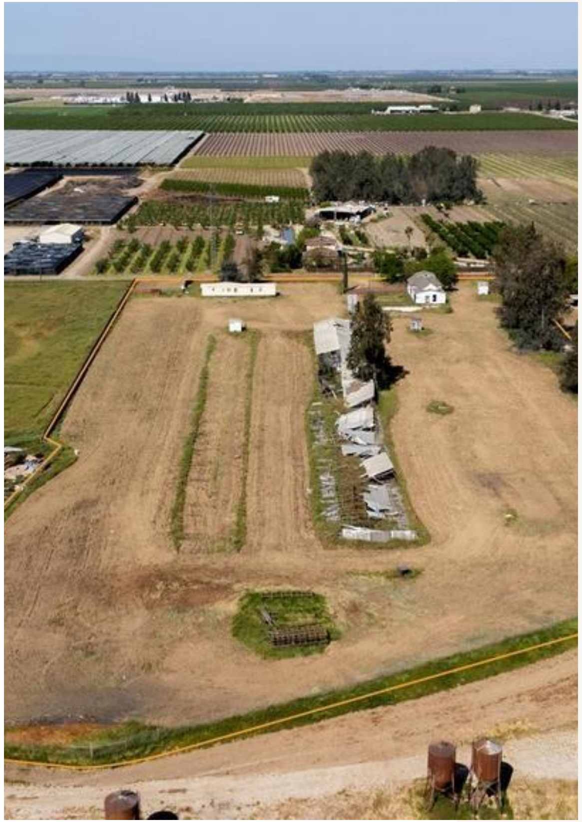
The first four are formal legal documents.

The last may be formal or informal.

Your Estate

Your *estate* is the legal concept describing all the *assets* and *liabilities* you own.

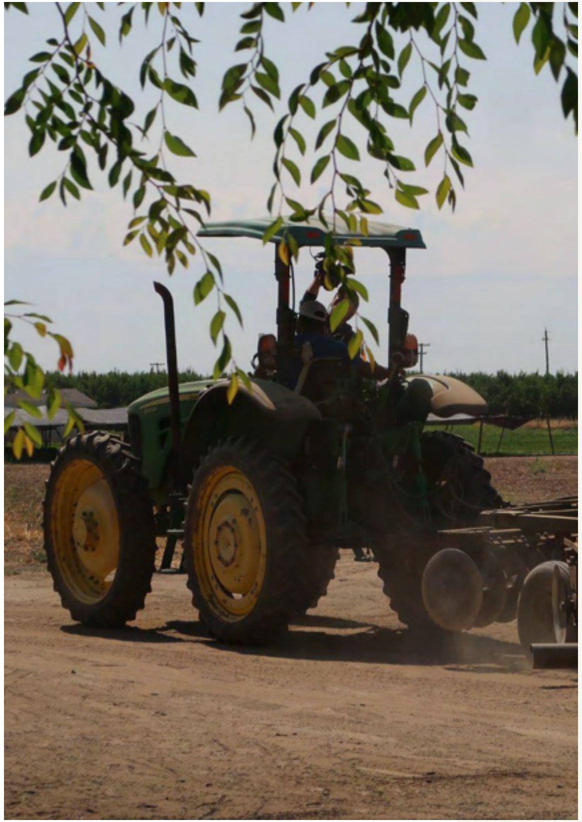
You own your estate during your lifetime, and when you pass on, what you leave behind is called your estate until all the legal work has been completed to transfer your assets to your heirs and to pay your liabilities.



Assets and Liabilities

Assets are also called *property*. Property includes tangible items such as land, buildings, equipment, furniture, jewelry and clothing, and intangible items such as checking and savings accounts.

Liabilities are debts you owe, including things like a loan to buy a house or a car, and credit cards and personal loans.



Settling an Estate

An estate is *settled* when all of the debts of the decedent have been paid and when all of the assets have been *distributed.*

Assets are distributed when legal title has passed from the estate to *heirs or beneficiaries*.

Heirs and beneficiaries are the people or organizations named in the *will* or *trust* of a decedent, or if there is no will or trust, heirs and beneficiaries are determined by state law.

A Will

After a person dies, they may be called *the decedent*.

A *will* is a set of written instructions regarding the decedent’s wishes.

A will expresses the decedent's wishes for how their estate will pass and may also specify who will care for minor children or for a dependent adult.

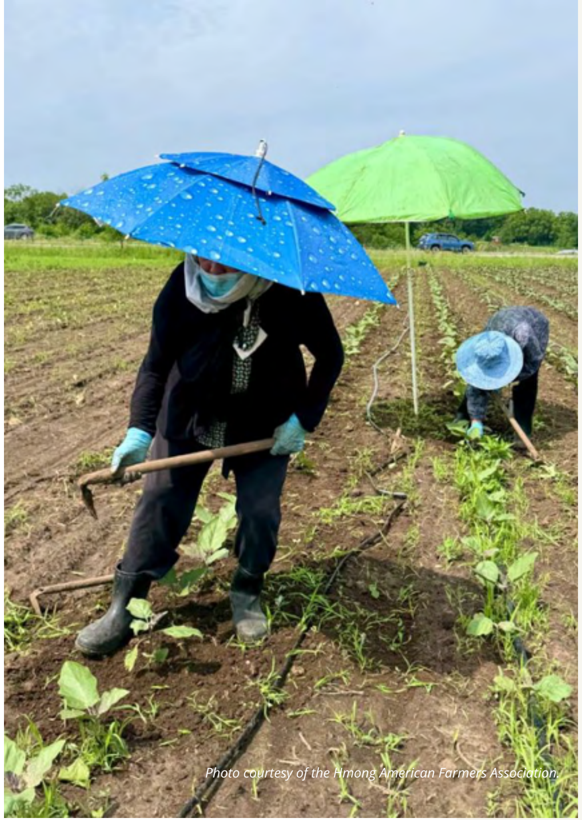
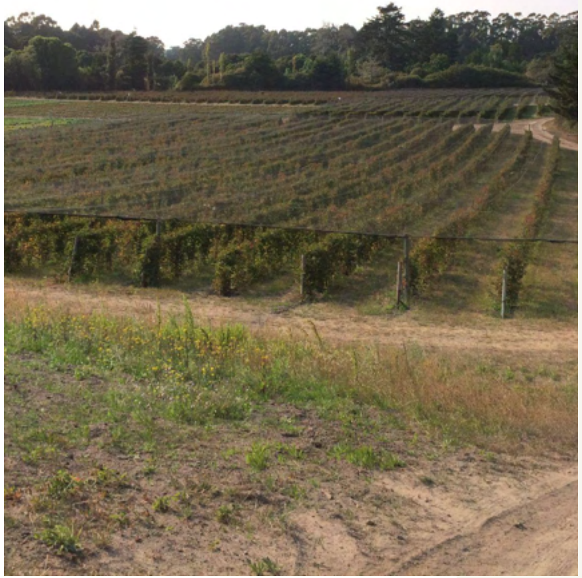


Photo courtesy of the Hmong American Farmers Association.

A Trust

A *trust* is a special legal document that is similar to a will - but can be used during your life or after.

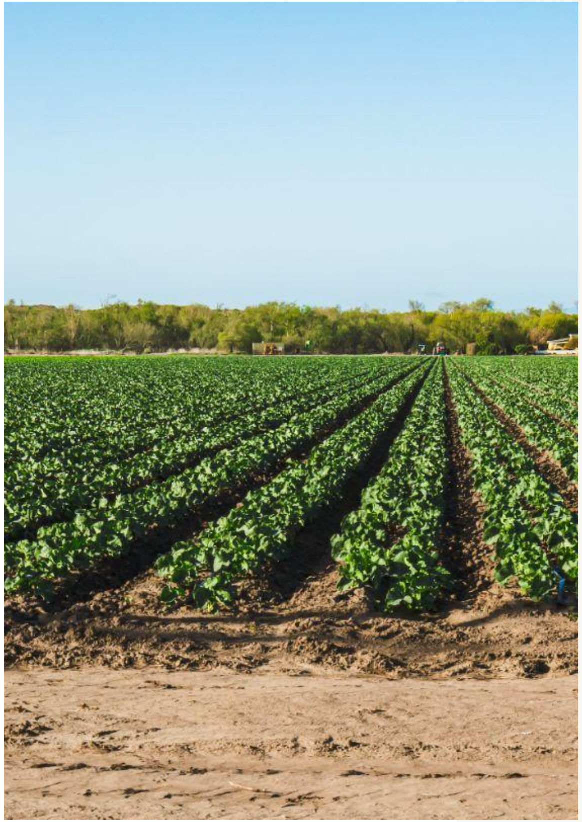
When you have a trust and a will it is easier and cheaper for your family to take care of your estate when you are gone.



A Trust

A *trust* is two things:

1. A legal way that property is owned
2. Written instructions about how the property of the trust is to be used



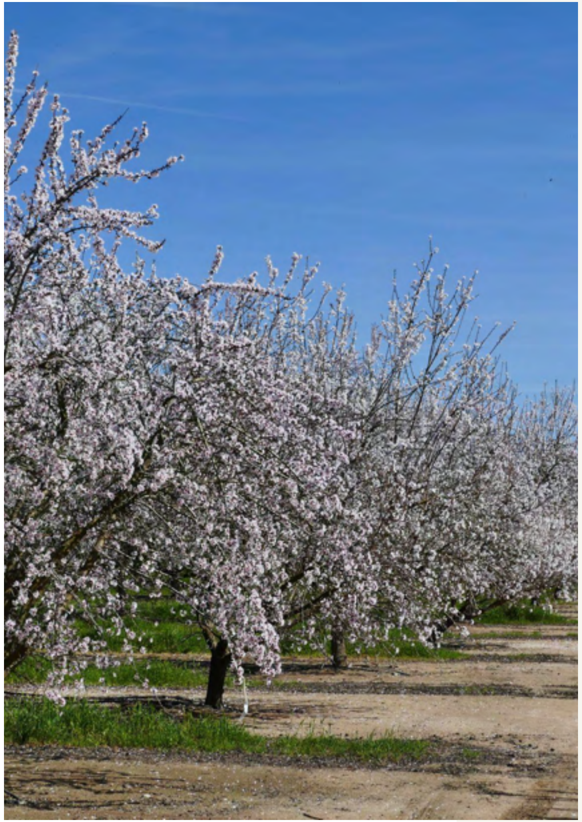
A Trust

A *living trust* is a way for a person to own property during their lifetime.

A person can create a living trust and change it at any time.

When the person passes on, the living trust becomes an *irrevocable trust.*

Once a trust becomes irrevocable it cannot be changed.

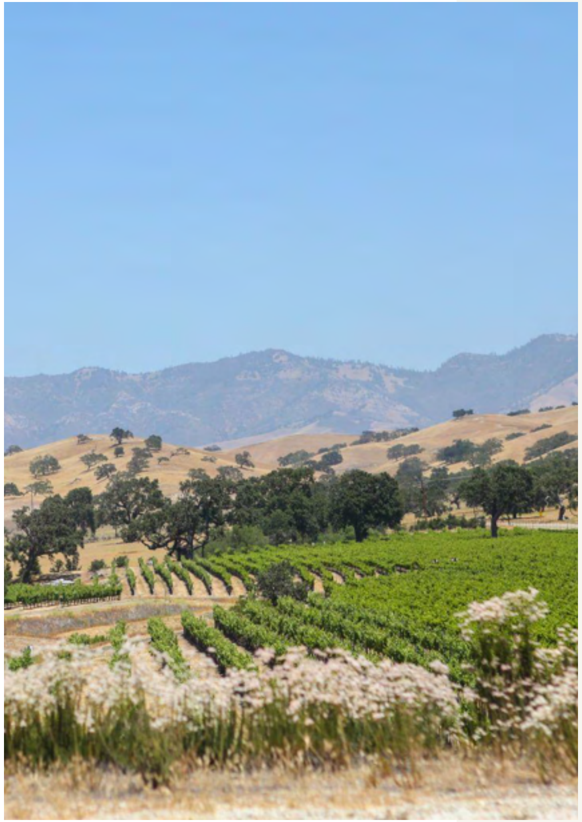


Why have a trust **and** a will?

- A will may be open to the public as part of the *probate process.*
- A trust is private.
- With no will, or only a will, your family may need to pay *probate fees.*
- With a will **and** a trust you can avoid *probate*.

Probate

When an estate *goes through the probate process* the court determines how the estate will be settled.

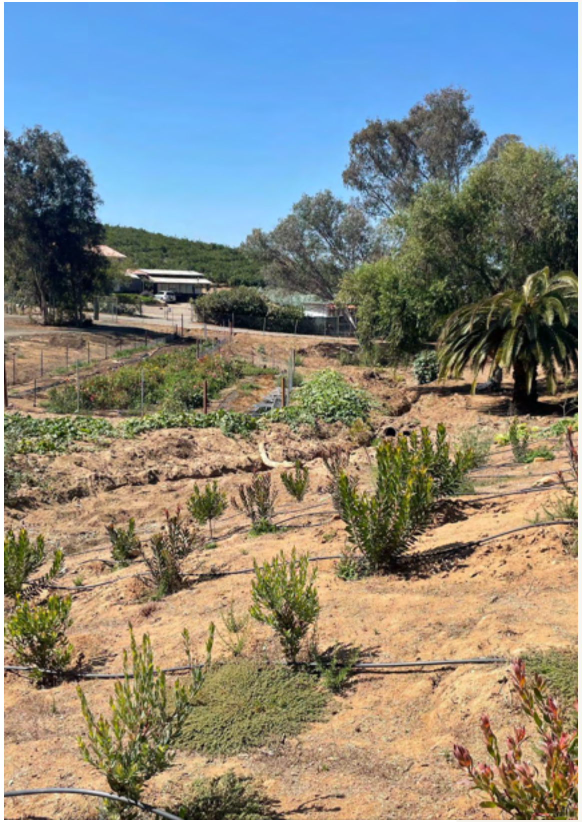


Probate is Public

During probate:

1. The will of the decedent may be made public
2. The assets and debts of the decedent/estate may be made public

With a trust document the specific instructions in the trust are not made public and the assets and debts of the trust are not made public.

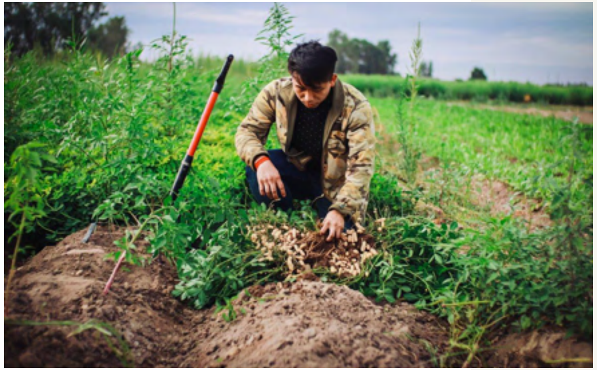


Probate or Summary Succession

The length, cost, and complexity of the *probate process* depends on the size of the estate.

In California a *summary succession process* is available for smaller estates. It is similar to probate, but designed to be faster, and less expensive.

The summary succession process is not public.



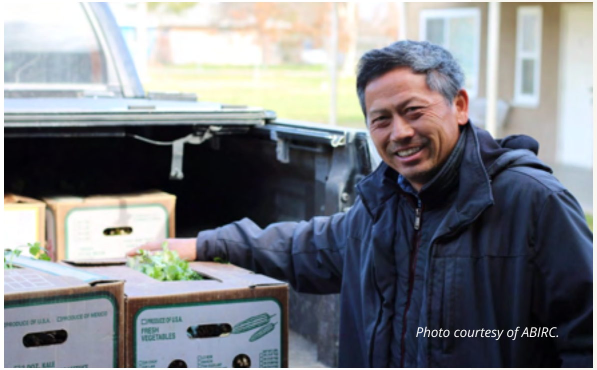


Photo courtesy of ABIRC.

Planning Versus Probate or Summary Succession

- It can take a long time to settle an estate.
- It can be costly to settle an estate.
- If the estate must go through probate or summary succession it will take even longer and cost even more.
- Probate and summary succession follow state law to make decisions for you.
- Planning means that you make your own decisions.
- An estate plan with formal legal documents means that as long as your plans are legal and financially possible, your wishes must be followed.
- Planning will probably be better for you and your family than using the probate or summary succession process.

Who will represent you?

An *administrator* is the person responsible for ensuring the estate is settled - this person may be named in a will, or appointed through the probate process.

A *legal guardian* is someone who will assume the responsibilities of taking care of a person who has been incapacitated.

A *conservator* is someone who will manage the assets and liabilities of someone who is no longer able to do so themselves.

Who will represent you?

To avoid having a court appoint an administrator, name this person in your will and trust documents.

To avoid having the court appoint a legal guardian or conservator for you if you need one, appoint them yourself with a *Power of Attorney*.

A power of attorney is a document authorizing an individual or an institution to take the actions specified in the document.

Power of Attorney - Medical

A *medical power of attorney* is specifically for medical decisions.

Power of Attorney - General

A *general power of attorney* may cover medical and other matters.

Power of Attorney - Temporary or Durable

A *temporary power of attorney* allows someone to make decisions on your behalf for a period of time, such as while you are incapacitated.

A temporary power of attorney would help you if you were sick for a few months. It would allow someone to run your business for you and make sure your other expenses are taken care of. Once you are able to work again the temporary power of attorney ends.

Power of Attorney - Temporary or Durable

A *durable power of attorney* allows someone to make decisions on your behalf for the rest of your life, once you become permanently incapacitated.

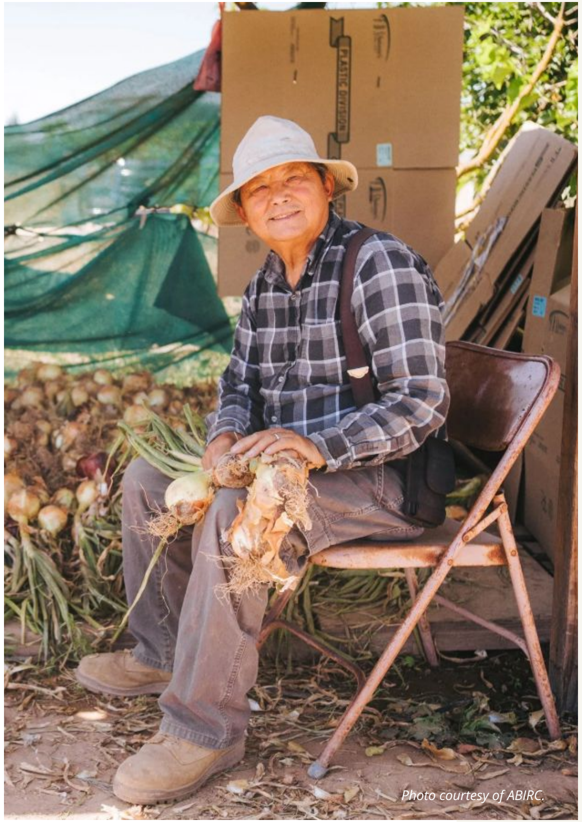
A durable power of attorney would allow someone to run your business for you and make sure your other expenses are taken care of for the rest of your life.

Next Steps - Create a Simple Estate or Succession Plan

1. **Will**
2. **Trust**
3. **Medical Power of Attorney**
4. **General Power of Attorney**
5. **Agreements and Instructions**

The first four are legal documents - you should consult an attorney to create them.

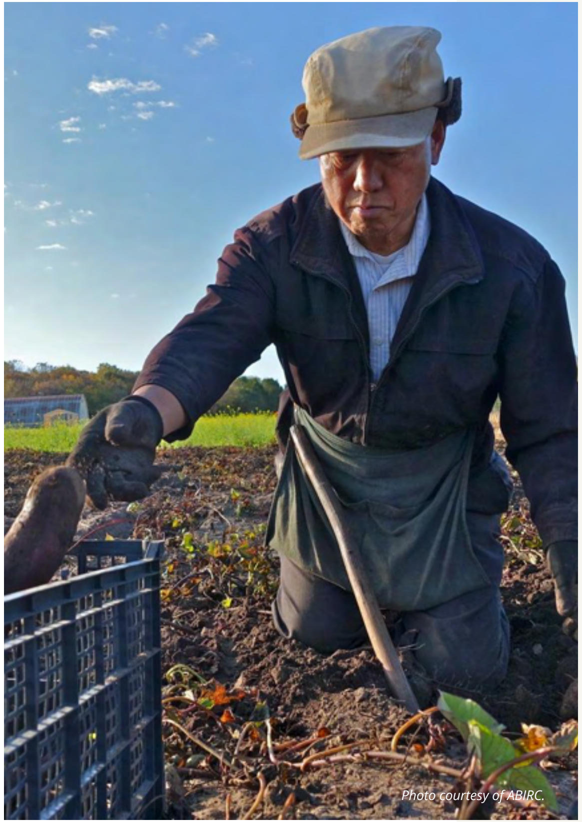
The last are private documents, but you may want help creating them.



How To Get Help

A general practice attorney can help create the legal documents.

An *agricultural mediation program* can help you to have family meetings to create other informal documents to help ensure that you are all on the same page about what happens with your farm or ranch business.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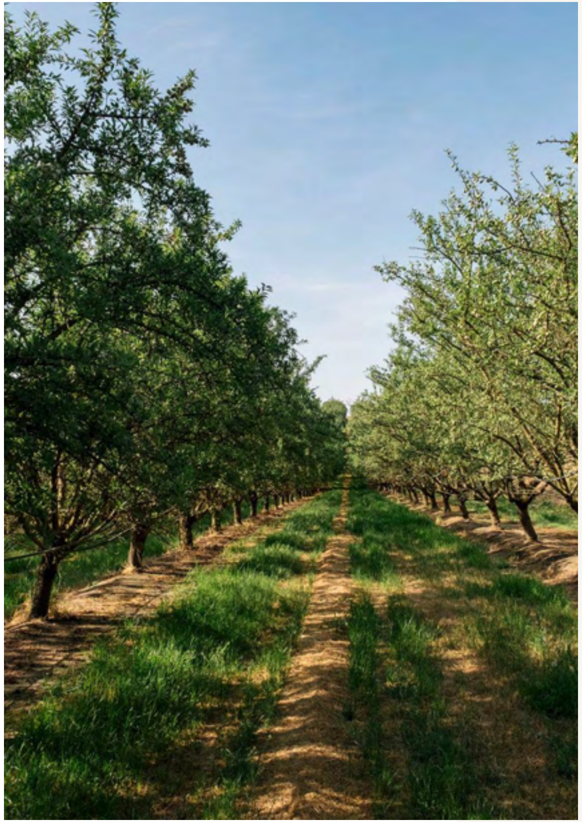
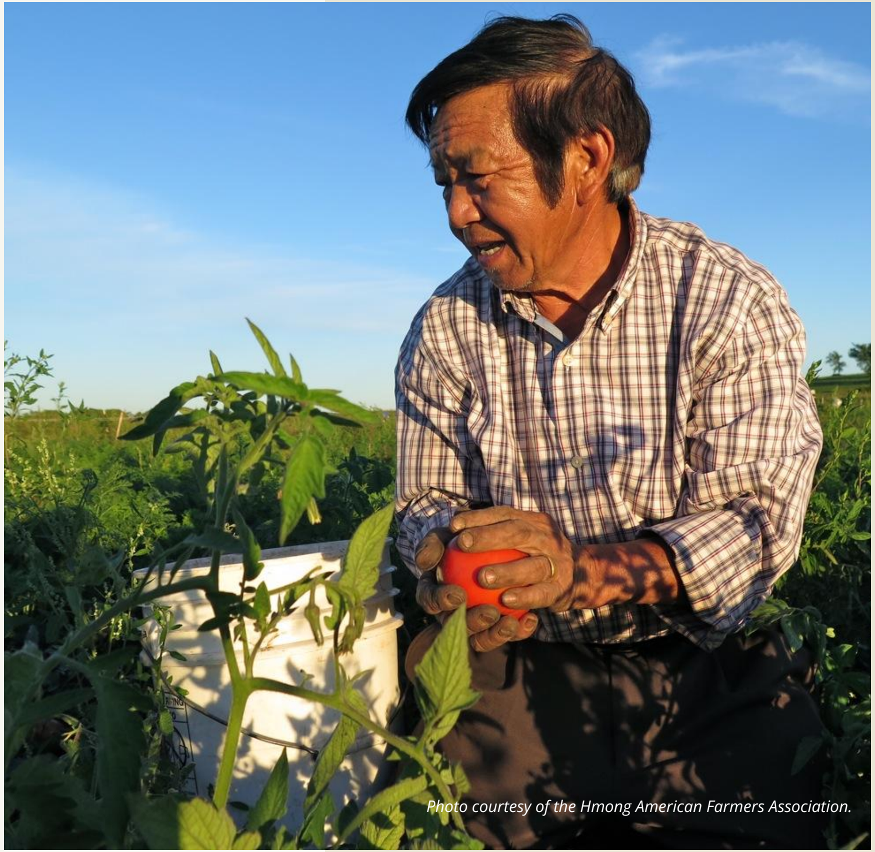
How To Get Help

In California, agricultural mediation services are provided by the California Agricultural Mediation Program, also known as CALAMP.

Residents of other states can find an agricultural mediation program through their local Farm Service Agency office.



Questions?



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Thank you!