



WILLS & ESTATE PLANNING Q&A



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Some estate plans are more effective than others. What many of the best plans have in common, however, is a well-thought-out will designed to work along with other estate planning tools. This booklet offers general information that may be helpful as you plan for the future distribution of your property to family, friends and charitable interests.

Before reading further, you might find it useful to take a few minutes to consider the *Four Ps* of estate planning:

- **People.** Who are the family, friends and charitable interests for whom you would like to provide?
- **Property.** List all your property, in whatever form, along with its cost, today's value and the way it is owned. Include any debt and income associated with various properties.
- **Plans.** Consider how you would like to match your property with the people you have listed.
- **Planners.** List the professional advisors who would assist you in making your plans a reality.

Taking the time to reflect on these four Ps can make your estate plan more personal, efficient, and aligned with your true priorities.

Your will is just one part of an effective estate plan, but a vitally important one. In the pages that follow, you'll find answers to a number of commonly asked questions about making and revising wills.

1. Is it true most people don't have Wills?

Yes. Studies consistently show that more than half of Americans die without a valid will. Others have wills that haven't been reviewed in years and may no longer reflect their current wishes or circumstances.

2. Why don't more people have Wills?

In some cases, it's because they don't realize how important a will is. Others think they aren't wealthy enough to need one. Some believe that life insurance and retirement plan beneficiary designations or joint ownership arrangements are sufficient. Married people sometimes believe a spouse automatically inherits everything. And many simply procrastinate.

3. What happens when someone doesn't have a valid Will?

State intestacy laws determine how your assets are distributed -- essentially a one-size-fits-all plan that may have little to do with your actual wishes. These laws vary by state and make no exceptions for individual circumstances.

4. Aren't state laws adequate for most situations?

No. Intestacy laws are rigid and impersonal. They cannot account for your specific relationships or wishes, may result in unnecessary fees and expenses, and give a court, not you, the authority to appoint an estate administrator and name a guardian for minor children. They also cannot make bequests to friends or charitable interests. Only you can make your

wishes known through a will, trust or other arrangement.

5. What is an estate bond and can it be waived?

A bond is a form of insurance that many states require to ensure that estate administrators handle the estate honestly. The non-refundable premium is paid from the estate. Bonds can be waived in a will or trust, leaving more for your loved ones or charitable interests.

6. Does everyone have an estate?

Yes, if they own anything at all. The term refers to real estate, cash, all personal property, investments, retirement plan assets, life insurance, digital assets, and other types of assets.

7. Doesn't joint ownership make a Will unnecessary?

No. Joint ownership alone is not a substitute for a will. It can create unintended gift or estate tax consequences, and it may limit your control over property during your lifetime. Joint ownership can be useful, but it works best as one component of a broader estate plan.

8. How does a Trust differ from a Will?

Both a will and a trust can direct assets to family, friends, and charitable interests, but they work differently. A will goes through probate, which can involve delays and costs, and becomes a public

document at death. A trust generally avoids probate entirely, allowing assets to pass more quickly and privately to your intended beneficiaries.

Trusts come in two basic forms. A revocable living trust is established during your lifetime, can be changed or canceled at any time, and is designed to coordinate with the terms of your will. An irrevocable trust, once established, generally cannot be changed -- but may offer certain tax advantages in return. Trusts can be established individually or jointly with a spouse.

A trust works best as a complement to a will, not a replacement for one. Your attorney can help determine which approach fits your situation.

9. Should spouses each have Wills?

Yes. It's important that each have a will, even when the two wills are essentially the same. The wills should complement each other and provide for what happens if one spouse does not survive the other.

10. Can a Will help reduce estate taxes?

Yes. Through a well-planned will, you can make a number of provisions that can reduce state and/or federal estate taxes that may otherwise be owed. You may also be able to decide which heirs will be responsible for the payment of taxes if you do not wish for them to be borne equally.

Remember that federal and state gift and estate tax laws can change over time. Check with your advisors

to make certain your plans are designed to help minimize or eliminate state and/or federal estate taxes that may be due.

11. What is the unlimited marital deduction?

A husband or wife may leave to a spouse all property they own and pay no federal estate taxes on the estate of the first to die.

In your will, you can take advantage of the marital deduction and eliminate taxes in this manner. Be sure to talk with your advisors about ways your will and other plans can reduce or eliminate taxes on the estate of the surviving spouse.

12. Do I need a Will if my estate is small?

Yes. The smaller the estate, the more important that it be settled quickly, as delays usually mean increased expenses. Your estate may also be larger than you realize once you account for life insurance, retirement accounts, and appreciated property.

13. Can I write my own Will without hiring an attorney?

You can, but it's generally not advisable. Such wills are sometimes declared invalid by the courts. There is no substitute for the professional expertise of a competent attorney.

14. How much does it cost to have an Attorney write my Will?

That depends on how simple or complicated your plans are. Wills generally cost less than most people expect and undoubtedly less than the emotional and financial cost of not having one. Ask your attorney in advance about the fee. It's a question that is expected and answered routinely.

15. Can I do anything to reduce Attorney fees?

Yes. Attorneys charge for their time and knowledge, so the more time you can save them, the less the cost should be.

Take along all the basic information that will be needed. Remember to include your Social Security and Veterans Administration numbers (if applicable) and recent income tax records. Don't forget life insurance, pension and other retirement plan account information. Be prepared to discuss whom you would like appointed to settle your estate and/or serve as guardian of any minor children.

16. Can I name my spouse as personal representative?

You can. Or you may choose a close relative, friend or the trust department of a bank or another professional fiduciary. Ask your attorney or other advisors for guidance.

17. Must I get permission from the personal representative before naming him or her in my Will?

This is not a legal requirement, but it is wise to do so. Your assets or the terms of your will may affect the qualifications expected of a representative and could influence his or her willingness to serve.

18. Should my Will direct the compensation my personal representative is to receive for serving?

Fees are generally based on the size of the estate. The probate court will approve the representative's or administrator's fee, so it's not necessary to specify fees in the will. If the personal representative is your spouse, a close relative, friend or beneficiary, rather than a corporate entity, he or she may choose to waive such compensation.

19. After agreeing to serve, can a personal representative later refuse?

Yes. This can occur because of age, health and other factors. That is why it is wise to name an alternate.

20. What happens if my personal representative dies before me and I have not named an alternate?

In that case, the court will appoint an alternate administrator who may or may not be someone you would choose. Naming a primary and an alternate representative, preferably persons younger than you, is important. Because of their permanence, a bank

trust department or other professional fiduciary may be a wise choice as alternate representative.

21. What responsibilities does the personal representative have?

Among his or her other duties, the personal representative will:

- Obtain a death certificate and provide copies to your insurance company, the Social Security office and others.
- Notify banks where you have accounts or safe deposit boxes.
- Arrange for an appraisal of your property, if required.
- Provide for insurance or otherwise safeguard your property.
- Present your will to the probate court.
- Defend your will, if challenged.
- Locate witnesses to your will, if necessary.
- Collect any rents or other debts due your estate.
- Advertise for any just claims against your estate and pay them in order of priority.
- Provide interim management for business interests, if necessary.
- Inspect and maintain your real estate.
- Complete and file state and federal estate and income tax returns, as required by law, in time to avoid penalties.
- Defend your estate against improper tax assessments.
- Establish and fund any trusts created by your will.

- Distribute your property according to your instructions.
- Prepare final accounting and obtain receipts and releases from heirs, if appropriate.

22. Should I include funeral instructions in my Will?

Generally, no. By the time a will is read, it may be too late to act on funeral wishes. It's better to leave separate written instructions and make sure a trusted family member or friend knows where to find them.

23. Is my Will confidential or can anyone read it?

A will becomes a public document at death, available to anyone who wishes to see it.

24. How much detail should a Will contain regarding the disposition of particular property?

Enough to make your wishes known and prevent misunderstandings among heirs. It may be helpful to specify your wishes should property that is left to an heir no longer be owned at the time of your death.

25. How far should I go in my Will to try to foresee future events?

Think ahead on behalf of your heirs as much as possible. Try to make bequests appropriate to their future needs and family circumstances while leaving them free to use the inheritance as needed.

26. Should a Trust be created in a Will?

It depends on your situation. Trusts created in a will, sometimes called testamentary trusts can serve several purposes, including reducing or eliminating taxes on both spouses' estates, relieving a surviving spouse of the challenge of managing investments, and providing for the orderly distribution of assets to heirs. Some people accomplish similar goals through a revocable living trust established during their lifetime. Your attorney and other advisors can help identify which approach, if any, fits your overall plan.

27. What types of charitable trusts are commonly used in estate planning?

Two of the most common are the Charitable Remainder Trust and the Charitable Lead Trust. A charitable remainder trust provides income to you or other beneficiaries first, with the remaining assets passing to charity at the end of the term. A charitable lead trust works in reverse -- income goes to charity for a fixed period, after which the remaining assets pass to heirs, often with reduced gift or estate tax consequences. Your attorney can help determine whether either approach fits your overall plan.

28. Aren't charitable bequests made mainly by the wealthy or by those with no close relatives?

Not always. Many gifts by will are made by people who first provide for their loved ones and then choose to leave a portion of what remains to causes that have been important to them. Even a modest

bequest can represent a meaningful and lasting gift to an organization you care about.

29. How do people usually make charitable bequests?

After providing for loved ones, many donors designate that what remains of their estate go to one or more charitable interests. Others specify a percentage of their estate, a particular asset, or a fixed dollar amount. There is no single right approach. The best method depends on your assets, your family situation, and your charitable goals.

30. Is there a limit to how much I can devote to charitable purposes in my Will?

Some states may have limits on charitable bequests. Ask your attorney about the rules in your state before finalizing your plans.

31. Should I notify a charitable recipient that I have included it in my Will?

Yes, and it's worth doing. Letting the organization know allows them to plan accordingly and ensures your gift will be directed as intended. They can also provide guidance on proper legal naming and designation.

32. Is there any danger that my bequest may not be received as planned?

Using an incorrect or unofficial name in your will for the intended charitable beneficiary could cause this

to happen. Many charities have similar names. Be sure to use the correct legal name and address. Charities often have planned giving officers who can help ensure proper designation.

33. How many witnesses does my Will require?

State laws differ on the required number of witnesses. Your attorney can advise you.

34. Who can be a witness to a Will?

A person must be of legal age and mentally competent to be a witness. It is helpful if the witnesses are younger than the person making the will.

35. Must the witnesses read the Will and know its contents?

No. They must merely understand that it is your will and that you have signed it in their presence.

36. Is it legal for a witness to be a beneficiary of the Will?

Yes, but in some states such a witness may not receive property left to him or her under the terms of the will unless there are enough other witnesses to prove the will is authentic.

37. Once I have a Will, should I ever have to change it?

You should periodically review your will because even the best wills can become outdated. Changes may be called for if your marital status, financial status or charitable interests change. Revisions may also be in order if you have more children or grandchildren, if your designated personal representatives or guardians can't serve, or if you acquire property in another state. Updating your will may require nothing more than a simple codicil, or amendment.

38. Am I required to change my Will if I move to another state?

Most states will recognize a will drafted in the state where you previously resided, if the will was properly executed in that state. But it is always a good idea to have your will reviewed by an attorney in the state of your new residence.

39. Once my Will is completed, where should I keep it?

Sign one copy and keep it in your home, office or bank safe-deposit box, or ask your attorney to keep it. Retain an unsigned copy so you can check periodically to see if it needs updating. Note the location of the signed will on the copy.

In some states, safe-deposit boxes are sealed for a time upon the renter's death. Before storing your will

in a safe-deposit box, check to see if it will be readily accessible to your personal representative.

40. What should I tell my family about my Will?

While you're not legally required to disclose the contents of your will, discussing your intentions in advance can help prevent misunderstandings or conflicts later. At a minimum, let them know where the document is kept and who your attorney is.

41. Is there anything else I need to know about Wills?

A booklet like this can cover only the basics. Each person's circumstances and wishes are different, and an attorney should be consulted when planning or updating your will.

Keeping Other Plans Up to Date

The will is the foundation of most estate plans. Certain things such as naming a guardian for minor children, appointing a personal representative, and directing the distribution of assets can generally only be accomplished through a will.

That said, other planning tools can work alongside your will to round out your estate plan, minimize taxes, and reduce probate expenses.

Revocable Living Trust

A revocable living trust is one of the most commonly used estate planning tools. Assets including securities, real estate, and other property can be transferred into the trust and managed according to your instructions during your lifetime. Because you retain full control, the trust can be changed or canceled at any time. It can also include provisions for someone to manage your assets on your behalf should you become unable to do so.

At death, trust assets are distributed as the trust directs, generally avoiding the probate process. Trusts can be established individually or jointly with a spouse and are typically designed to coordinate with the terms of your will. Because assets remain under your control during life, there are no immediate income or gift tax advantages -- however, amounts passing to charity at death are generally deductible for estate tax purposes.

Other Planning Tools

Life insurance policies and *retirement plans* offer the opportunity to accumulate assets and make gifts that may also pass outside of probate, free of estate taxes under certain circumstances.

Through *joint ownership*, property can pass directly to another owner at death, avoiding the possible delays and expense of probate. While joint ownership can be useful, it is normally just one component of an effective estate plan.

Transfer-on-death and *pay-on-death designations* allow you to name a beneficiary directly on bank accounts, brokerage accounts, and certain other assets, ensuring they pass

outside of probate upon death. These designations are simple to establish, can be updated at any time, and can direct assets to individuals or charitable interests.

Lifetime gifts to loved ones and charitable interests can reduce the size of the probate estate and perhaps save on estate taxes that may otherwise be due. Such gifts may call for a change in your will and other plans.

Your will and the tools described here work best together as part of a coordinated estate plan. Your attorney and financial advisors can help ensure all the pieces align

For more information, please contact your professional advisor(s). We will be happy to assist you and/or your advisors upon request with the charitable dimension of your plans.

The purpose of this publication is to provide general gift, estate, and financial planning information. It is not intended as legal, accounting, or other professional advice. For assistance in planning charitable gifts with tax and other financial implications, the services of appropriate advisors should be obtained. Consult an attorney for advice if your plans require revision of a will or other legal documents. Tax deductions vary based on applicable federal rates, which can change. Some opportunities may not be available in all states.