

Steps to an Effective Will or Living Trust



Building Your Legacy

As we move through life, we are all building a legacy. One day, when we are gone, family members, friends, and even acquaintances will remember us for our work, the causes and organizations we supported, and the special ways we connected with others.

A carefully fashioned estate plan can be an important component of a personal legacy as you determine how you will distribute your assets to heirs, charity, and others you care about. As a part of your estate plan, a will or living trust can be more than a practical tool for efficient distribution of your estate—it can be a reflection of your values, expectations, and concern for family and loved ones.

Whether your will or living trust is simple or complex, you can make certain it's effective when you consider these key components of estate planning:

- Decide to act now
- Determine your true objectives
- Make an inventory of your assets
- Consult your attorney

Decide to Act Now

If you do not have a will, or if you haven't reviewed your will in the past few years, plan to visit your attorney.

Over half of Americans die without leaving a valid, up-to-date will. The results can be tragic: complete loss of control over asset distribution, unnecessarily higher taxes, and added expenses due to extraneous costs. Don't let procrastination keep you from properly providing for your loved ones. Decide to act now!

Determine Your True Objectives

Making decisions about how to dispose of estate assets is not always a simple matter.

A married couple may think, "We want to keep it simple and just leave everything to each other." However, the real goal may be financial security for a surviving spouse. Once that is accomplished, there may be room for leaving a gift to charity or helping other family members in meaningful ways.

Determine your real objectives before you consider how you'd like to go about making distributions. It's helpful to write down everything that you would like to do with the assets you've spent a lifetime accumulating. Next, take time to think about how you want to divide your estate and what you expect to accomplish with these distributions. For example, it's common for individuals to want to:

- Provide lifetime financial security for a spouse, an elder dependent, or a child with special needs
- Arrange financial support for children
- Plan educational assistance for grandchildren
- Memorialize a valued friendship with a gift
- Leave specific items (a piece of jewelry, an antique desk, a painting, a coin collection, a car) to particular people
- Make charitable gifts that will shape the future of society or the community

All of these decisions affect planning, but there are other questions to consider as well. For example, what happens if a beneficiary predeceases you? Or what if you and a beneficiary die in a common disaster? Your attorney can help you answer these and other questions that will determine how your will should be executed.

Make an Inventory of All Your Assets

A detailed inventory of all your assets is an essential step in planning a will that truly reflects your personal wishes. Be sure to make a note of everything you own or have an interest in—life insurance, retirement accounts, stocks, bonds, mutual funds, bank accounts, jointly owned property, real estate, collections—even if you believe certain assets may not be subject to directives in your will.

Consult Your Attorney

Since there are many techniques and laws that affect how your will is executed, consult your attorney on how to best accomplish your objectives. Your attorney can make recommendations that will help you realize your planning goals. For example, if you have philanthropic objectives, your attorney can help you decide the most effective tools for giving—perhaps a lifetime gift, a gift in your will, or a trust that can benefit heirs or charities (or both).

Here are some important concepts and alternatives to explore with your attorney:

- **Can a trust in your will add to the effectiveness of your estate plan?** A trust lets you provide an income or other benefits for another person or group of people while ensuring that the trustee maintains ultimate control over the disposition of trust assets.
- **Should you name contingent beneficiaries?** It is generally advisable to name a second beneficiary to receive a gift in your will in the event that the primary beneficiary predeceases you.
- **Should you make lifetime gifts?** In certain cases, lifetime gifts are the best way to accomplish your objectives. They may be more effective than gifts in your will. Lifetime gifts can minimize probate costs and estate and/or inheritance taxes—and giving while you are alive provides the pleasure of seeing how your gift accomplishes your goals.

In consultation with your attorney, you can make specific decisions about gifts that you want to include in your will. If your plans include a charitable gift to us, we are happy to help you find the most effective and personally satisfying way to give.

A Revocable Living Trust

As the name implies, a revocable living trust is a trust you create during your life that can be changed or revoked at any time. In the trust agreement, you set forth exactly how trust property will be distributed at death, very much like a will.

You establish the trust and transfer property to it. You can reserve the right to receive some or all of the income generated by the trust. If circumstances change, you can change the trust, remove property from the trust, or cancel the entire arrangement at any time. You can even serve as trustee, with a substitute trustee taking over the responsibility in the event of death or disability.

A trust is more expensive than a will, takes more effort to fund appropriately, and requires active management of the trust assets. So what does a revocable living trust accomplish that makes it worthwhile?

REMINDER: BE AWARE OF CHANGING TAX LAWS

Congressional activity in Washington D.C. often leads to changes in the laws that affect planning. By regularly reviewing your will or living trust with your attorney, you will keep your plans effectively aligned with any changes in your personal situation along with any changes in tax law.

- Assets in the trust are not subject to probate, so both income and principal are immediately available to beneficiaries.
- The trust can serve as the cornerstone of your estate plan. You can name the trust as beneficiary of your life insurance and retirement death benefits. You also can direct in your will that certain other assets will be distributed to the trust at your death. In fact, you can arrange for the trust to receive practically all your assets.
- A trust is a private document, so your estate plan does not necessarily become public information as it does with a will.

Your Executor

The executor is charged with winding up your estate and carrying out your wishes as specified in your will. This includes:

- Working with the court during the probate process
- Paying bills and taking care of outstanding debt
- Attending to tax forms and payments
- Identifying and notifying beneficiaries and heirs
- Meeting legal requirements
- Distributing assets
- Ultimately closing the estate

Generally, demands on the executor increase in proportion to the size and complexity of the estate.

Your Trustee

A trustee is responsible for managing trust property in accordance with the terms of the trust. The trustee can be an individual or an institution such as a bank or trust company. Duties include keeping records, completing and filing tax forms, making investment decisions, and distributing assets. A trustee is legally bound to act in the best interest of the trust beneficiaries.



The Next Step

Drafting a will and setting up a living trust is more than just wise planning—it is an opportunity to provide for loved ones in a way that is most meaningful to you and to them. The key is to act now. Contact your advisors to create or update your will or living trust. Feel free to contact us for more information. It would be our privilege to help you explore how charitable gifts can enhance your estate and retirement planning.