

## **KEYS TO A COMPREHENSIVE WILL**

A survey in August 2001 by the Web site FindLaw found that six in ten adult Americans did not have a will, especially among younger adults. Less than a month later the terrorist attacks of September 11 made many Americans acutely aware of the need for a will, particularly after realizing that so many young people with young families died in the attacks.

A will is a legal document that details where you want your estate's assets to go (after debts and taxes are paid) and who is going to oversee the distribution of the property. It also may state who is to take care of your minor children, though you may use a separate document called a declaration of guardianship.

A will provides many benefits. Without a will, the laws of the state will determine where your property is distributed. Your spouse, children or other heirs could end up with less than you planned, the assets could be poorly managed, your children may not have the guardian you wished or your estate could end up paying more in taxes and legal fees than necessary.

Although writing your own will can save money, an improperly drafted or witnessed will might lead the court to reject it as invalid, heirs to challenge it, or you may simply forget to include important information in the document. Also, each person's circumstances are different, and require different drafting requirements. State laws also vary significantly, so the will must reflect the particulars of that state. That's why Certified Financial Planner™ professionals generally recommend having a local estate planning attorney draft the will.

When having a will drafted, keep in mind several key issues.

A will doesn't supersede named beneficiaries for such assets as a life insurance policy, a retirement account or property held in joint tenancy with right of survivorship. If your will says your current wife is to receive your entire estate, but your ex-wife is still the named beneficiary of your life insurance policy, your ex-wife gets the benefits.

Choose a guardian carefully in the event you and your spouse die together. The court will likely have to approve the guardian, but at least you're likely to get the person you name in the will, rather than the court picking someone else. Make certain the guardian is willing and physically able to care for your children. Also be certain

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they have the financial resources, or that you give them the resources, to raise your children. They are not legally obligated to pay for the care of your children out of their pockets. Also, name a contingent guardian as backup.

The guardianship ends when your children turn 18 or 21, and they gain control of the assets you've bequeathed to them. To prevent this, a will might establish a trust at your death, a trust which is a separate legal document, to manage the assets until they reach a more suitable age at which to assume control.

Carefully name an executor in your will. An executor oversees the carrying out of the particulars of the will and settles the estate, making sure debts and any estate taxes are paid. As in the case of a guardian, name someone who is willing, trustworthy and capable. Name a backup executor. Especially important is to give the executor the power to carry out your will, unless the state allows for independent executorships. For example, wills sometimes fail to give the executor power to sell assets such as real estate. The executor then must obtain the court's permission, resulting in needless delay and cost.

A will also may be used to designate precisely who is to receive personal property of high sentimental value but little monetary value, such as a set of golf clubs or a favorite lamp. Some attorneys prefer a separate letter of instruction instead of a will for this type of detail, because it reduces the cost of rewriting the will each time you decide to make changes. Either way, these documents can minimize a lot of squabbling among heirs.

The will should take care to address potential estate taxes, perhaps by establishing trusts upon your death. Especially keep in mind that under the new tax act the amount of estate exempt from taxes (\$1 million in 2002) increases several times in the coming years. A poorly drafted will establishing a trust to protect some of your estate from taxes could, for example, result in impoverishing your spouse.

And be certain to review and possibly revise the will when key events occur, such as the birth of a child, changes in circumstances of guardians, a marriage or divorce, the death of an heir or executor, retirement, or a move to another state.

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