

Why a Basic Will is Not Enough

Properly executed wills are the foundation of most solid estate plans because they designate how and to whom your property will be distributed after death. If you don't have a will, you give up your right to distribute your property as you wish. Assets owned jointly or that have beneficiary designations, such as life insurance, annuities, or retirement accounts, are not controlled by your will. However, they are included in your taxable estate.

Wills are the primary documents for transferring wealth upon death. *If you die without one, state law controls the disposition of your property and is known as intestate succession.* Without a will, settling most estates can be troublesome, public and costly for beneficiaries.

THREE MAJOR WILL PROVISIONS YOU SHOULD CONSIDER

- ✓ **Guardian for your children.** A will should name a guardian for minor children in the event that both you and your spouse die. Selecting a guardian requires careful thought; be sure the persons you elect are willing and able to accept this responsibility.
- ✓ **Creation of trusts.** A will directs the disposition of your estate. To accomplish longer-term goals, such as funding a child's education or providing for an elderly parent, you may need to include instruction for the creation of trusts at your death.
- ✓ **Naming an Executor.** Your executor is your personal representative after your death. He or she has several major responsibilities, including administering the estate and distributing assets to beneficiaries; making certain tax decisions; paying debts/expenses of your estate; ensuring all life insurance and retirement plan benefits are received; and filing necessary tax returns and paying the appropriate federal and state taxes.

People often think they can use a "do-it-yourself" will. Estate, probate, and tax laws are complicated, and, in most cases, only a lawyer experienced in these areas knows how to use the legal terminology designed to protect you and your interests. You should work with your attorney to develop a will that can protect you effectively and discuss Why a Will is Not Enough.

BE SURE TO REVIEW YOUR WILL PERIODICALLY. REVISE IF:

- You move to a different state;
- Your financial situation changes;

Avoiding Probate Costly Mistakes

“My estate is small. I don’t need a will?”

“My assets are not complicated or worth very much. Why do I need a trust?”

If you only have a will, a court action called a probate must be started and can take nine months at a minimum to settle. Probate is expensive and fees by law are awarded to attorney and the person who administers such. Fees and court costs are expensive too. Assets appreciate and values should be evaluated annually.

Example: \$300,000 estate:

Probate e-Filing fees \$495.00
Publication fee \$570.00
Bond \$1,800.00 *per year*
Letters fee \$127.50
Probate referee fees \$800.00
Final Petitions fees \$ 982.00
Statutory fees \$9,000.00
Attorney fees \$9,000.00

TOTAL: \$22,774.50

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- You add another dependent, be it a child or aging parent;
- Your heirs change marital status, have children, or die;
- You acquire property in another state;
- Your property increases substantially in value;
- You make a change in your life insurance;
- Your guardianship plans change;
- You inherit or purchase property;
- **There is a change in tax laws.**

“AVOIDING EVEN A SIMPLE PROBATE WITH \$300,000 IN ASSETS CAN SAVE YOU \$22,774.50 IN FEES AND COSTS.”

To change a current will, you must execute a new one or amend an existing one. Do not try to change your will by writing in or crossing out something. Changes made in this manner are meaningless and may even void the entire will. See your lawyer to make any changes.

WHY A BASIC WILL IS NOT ENOUGH

A will can be a good foundation for your estate plan because it outlines your wishes. It directs the disposition of personal belongings after you die and lets you designate a guardian for your younger children. *But a will does little, if anything, to address how taxes affect your estate and is subject to court action called a probate. Avoiding even a simple probate with \$300,000 in assets can save you \$22,774.50 in fees and costs. See the text box “Avoiding Probate Costly Mistakes” above.*

In fact, relying on a will as your sole estate-planning tool can cost you much more than peace of mind and money. For example, *if you pass away with only a will in place:*

1. Your financial accounts may be frozen.
2. The probate process may be lengthy, with your assets and bequests subject to the claims of heirs and creditors.
3. Probate and estate settlement costs may decrease the size of your estate.
4. Your will is a public document.
5. Interpretations of wills can vary from state to state. For example, your will may be interpreted differently if you die in a state other than where it was originated.
6. Your will may not control all your property (such as properties with joint tenancy titles and beneficiary designations).
7. Your will could be contested.
8. Assets left to your spouse are subject to federal estate tax upon his or her death (rates as high as 40%). Also, state inheritance or death taxes may apply.
9. Should you become incapacitated or incompetent, a will cannot make provisions for your care.

For more information about estate planning documents to make provisions for your care, please ask us for the article, “HIPAA, CMIA, DPA, AHCD and POLST’S OH MY!” for an explanation of an Advance Health Care Directive, Durable Power of Attorney, and a Physician’s Order for Life Sustaining Treatment.

As always, I appreciate your referrals and your business and look forward to working with you and showing you ways to protect and maximize your wealth and assets and discuss your estate planning needs with you further.

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