

What's With the Will? (2/4)

You need to know a few key terms to create a will. Once you understand these words, the process becomes easier.

Estate Plan

This is the plan that manages your wealth while you're alive and distributes your wealth after you die. When you turn 18, you have two options:

- ❶ **Do nothing.** About 70% of Americans have no plan at all. Dying intestate (or without a will) is NOT recommended! The fact is: If you are 18 or older, you already have an estate plan. It was written on your behalf by the legislatures of the state in which you live. If you die intestate, these laws govern who will inherit your assets.
- ❷ **At age 18, you should create a simple will.** This is a written plan of how your property is to be distributed when you die. The following activity is a simple will.

Once you are older, the terms of your estate planning will be a bit more complex. You will have more assets and may also have a spouse and children to consider. These are some important documents you'll need to be familiar with and the purpose of each:

- ❶ **Durable power of attorney:** A written document whereby you authorize someone to act on your behalf (particularly in the case of a disability)
- ❷ **Living trust:** A trust is an arrangement in which one or more people manage or take care of property for someone else's benefit. A living trust is a trust that is created while you are still alive. You transfer title to your property from your name to that of the trustee of the living trust.
- ❸ **Medical directives:** A medical directive allows you to express which treatments you want if you are dying or permanently unconscious. You can accept or refuse medical care. You might also include instructions on:
 - » The use of dialysis and breathing machines
 - » If you want to be resuscitated if your breathing or heartbeat stops
 - » Tube feeding
 - » Organ or tissue donation

Terms and Definitions

- ❶ **Testator:** (You) The person for whom the will is created
- ❷ **Beneficiaries:** The people or organizations (such as charities) who are given shares of your assets
- ❸ **Joint tenants:** The people who are given joint-ownership of your property
- ❹ **Executor:** A male adult who executes the desires stated in your will
Executrix: A female adult who executes the desires stated in your will

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- ⑤ **Guardians:** The people who can act on your behalf in the event that you are unable to make your own decisions or unable to carry out errands for yourself
- ⑥ **Probate:** The court process by which a will is proved valid or invalid; the legal process in which the estate of the deceased is administered
- ⑦ **Will:** A legally enforceable declaration of how a person wishes his or her property to be distributed after death

What Should I Know About Creating a Will?

A will includes your final wishes for your family and friends, so take your responsibility seriously. Listed below are some guidelines for your will:

About Wills

- ① In most states your will must be signed, witnessed and notarized to be legal. The witnesses must watch you sign and then sign the document too.
- ② Your will has no effect until you die. Therefore it may be rewritten as often as you'd like. Each version negates the previous version. If two or more wills exist at the time of death, the most recent one applies.
- ③ **When choosing an Executor/Executrix:**
 - You can choose almost anyone. Most wills are fairly straightforward. No legal or financial knowledge is required. The most common executors are spouses, siblings or children.
 - Spouses usually serve on each other's behalf.
 - Name an alternate in case your first choice is unable to execute your will. For example, a successor (an adult child or one of your friends) can fill the position as well.
 - He or she should be a reliable, trustworthy adult who will work well with surviving spouses and /or children.
 - Secure the executor's agreement in advance and discuss the details of the will.
- ④ **When choosing Guardians:**
 - Identify guardians for children under the age of 18.
 - Select people with similar values as yours.
 - Secure the guardians' agreement in advance.
 - List alternative guardians.
 - Be specific about the guardians' powers.

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5 When choosing a Power of Attorney:

- Select someone you trust, such as a family member or friend. You are giving them the power to make decisions on your behalf.
- They must follow your directions, and they cannot use your assets for themselves (unless you tell them to). Their responsibilities may include spending your money on your behalf, selling your property, entering into contracts, and pursuing your legal claims.

There Will Be Taxes

- » When planning an estate, you will want to explore ways to reduce tax burdens of beneficiaries. Consult a professional to find out how the laws affect your situation.
- » If you are a beneficiary of a loved one's estate, you will also need to file a final income tax return to comply with tax laws that ensure taxes on your loved-one's income, before his or her death, don't go uncollected. That responsibility falls to the executor of the estate or, if there is not an executor, a family member. The tax return is filled out the same way as if he or she was still alive, but "deceased" is written after the taxpayer's name.

Final Thoughts

- » Write a list of valuable and sentimental items, along with the names of those who you want to inherit them. Attach this list to the will.
- » Clearly state burial and organ donation instructions.
- » Keep the will, along with copies of other important financial records (i.e., insurance policies, investments, bank records, etc.) in a secure location. Put an extra copy in an easily accessible place where your loved ones can find it.

NAME: _____

DATE: _____

My Simple Will

Directions

Please answer the questions below. Assume you are 40 years old, married, and you have three kids ages 16, 13, and 8.

- 1 **Executor/Executrix:** Who are two people you consider to be good executors for your estate? Explain why they fill that role well.

Name of Executor/Executrix

Reason for Selection

A

B

- 2 **Guardians:** Who will serve as guardians for your children? Explain why these people would serve this role well.

Name of Guardian/Guardians

Reason for Selection

A

B

- 3 Who will serve as your Power of Attorney? List reasons why.

- 4 Do you wish to be an organ donor?

- 5 What are your burial preferences?

- 6 Where can you go to have your will notarized and made legal?

- 7 Identify the individuals and /or charitable organizations that are beneficiaries of personal property.

- 8 Go online and research the minimum costs and procedures for drafting a simple will in your state.
