

WILLS AND ESTATE SETTLEMENTS



Facts to consider when preparing your estate.

Your all-important will

A will is an important part of your estate plan. Should you die without a valid will, your administrator could encounter complications as they try to settle your estate on behalf of your spouse, children, or other heirs.

If you do not have a will

If you die without a will, it could be more expensive and prolonged for your spouse or heirs to settle your estate. Your property could be held by the courts for an extended time without any guarantee it will ever be distributed according to your plans or wishes. To be specific:

- An administrator may be appointed by the court and may not be the person you want to handle your estate.
- Without a valid will, your assets may be distributed according to state law. State law prevails regardless of the needs, character or worthiness of the people among whom your estate is divided. For example, some states distribute one-third to the spouse and two-thirds to the children. Others divide the estate equally among the spouse and all the children, regardless of the number. If there are no children, certain states distribute a portion to the deceased's relatives.
- If you have children who are minors, your spouse will likely need to handle guardianship proceedings. In fact, there are certain circumstances where a guardian other than a parent can be appointed by the court. In such event, any assets specified for your children must be held by the guardian, and any money spent for anything except the necessities of life may require a court order.
- Without a will, the legal costs of settling your estate could be greatly increased, thus reducing the actual amount finally received by your heirs.

If you do have a will

- You can select your own executor.
- All your property can be left to whomever you choose.
- Your property can be divided among your heirs exactly as you desire.
- You can arrange your estate to help minimize potential estate and inheritance taxes

When should your will be revised?

Be sure to review your will periodically. It may need revising if, for example:

- There is a change in the value or makeup of your property.
- There is a death, birth, marriage, divorce or change in the competency of heirs or witnesses.
- You move to a different state.
- You acquire property in another state.
- Your executor becomes unable to serve.
- You have an increase or decrease in financial resources.

A will can be changed at any time. A new will can be drafted or a codicil may be added to the existing will. Never attempt to revise your will by crossing out or writing on the document. Consider consulting with an attorney when a change to the will is desired.

Life insurance

Life insurance can be a significant part of your estate plan for several reasons, including, for example:

- The proceeds from a life insurance policy will be paid directly to the named beneficiary upon the insured's death. Such proceeds are distributed outside of the probate process, which may be required of property left through a will. Instead, life insurance proceeds can be paid upon official proof of death, providing ready cash for the needs of the family.
- In addition to paying the debts of the estate, there can be considerable legal expense incurred when settling an estate. Life insurance proceeds can help cover these expenses so that more of the estate is left intact for your heirs.
- Federal estate and state inheritance taxes may apply and are often an unexpected expense. In some states, estate taxes can exceed 10 percent. Life insurance can provide a generally income tax-free benefit to help pay these additional taxes.
- Your life insurance can often be arranged so that the proceeds paid to your beneficiary may be exempt from federal estate tax and the estate and inheritance tax of many states.

Additional facts regarding the transfer of property

- Joint bank accounts. Rules vary with state and the bank.
- Stock registered in joint names. Write to the transfer agent (the bank) listed on the back of each stock certificate, or ask a stockbroker to handle the transfer for you.
- Contents of safe deposit box. In some states, the box is sealed immediately once the bank is notified of the death and cannot be opened unless a state government representative is present. This may take several weeks.

Consider consulting an estate planning attorney in your state for more detailed information regarding the estate settlement process.

Social Security

You must apply for survivor benefits through your local Social Security office. To qualify, the deceased worker must have earned the required number of Social Security credits, and must be age 65 or older. (Qualifications may also depend on such factors as your birth year and/or caretaking of a minor child of the deceased.) Contact your local Social Security office for specific details.

Other benefits

Be sure to check if you're eligible for any of the following:

- Veterans benefits. If the deceased was a veteran, you may be eligible to receive burial, funeral and plot-interment allowances from the Department of Veterans Affairs (VA). Qualifications and allowance amounts will depend on such factors as the date of the veteran's death and whether it was a service-related death. Contact your nearest VA office for details.
- Insurance you may not know about. Many clubs and organizations provide life insurance for members as part of the membership fee (e.g., travel and auto clubs). Call or write the headquarters or nearest branch office for information.
- Benefits from deceased spouse's employer. Contact the human resources department to see if you are entitled to any insurance, unused vacation pay, or investment or pension funds.

Glossary

When discussing a will with your attorney, here are a few common terms you should know:

Administrator – Someone appointed by the court, charged with managing the estate of the deceased. An administrator is appointed if there is no will, or if there is a will but the named executor doesn't qualify for or fulfill the role.

Codicil – An amendment to a will which changes only part of it (the rest remains unchanged). It is a separate document from the will.

Estate – The assets and liabilities left by the person at death.

Executor – The person or organization of your choice named in your will to manage your estate.

Guardian – An individual or corporation charged with looking after a person who, because of age or mental incompetence, can't look after himself or herself (i.e., an infant, a minor or a person declared incompetent). A single guardian may be responsible for both the person and property or there may be two guardians, one for the person and one for the property. The person the guardian looks after is called a ward.

Probate – The process whereby the court determines the validity of the will and that the deceased was of sound mind and acting of his or her own free will when the will was signed.

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