



SHAPE YOUR LEGACY WITH A THOUGHTFUL WILL AND ESTATE PLAN

WHERE THERE'S A WILL, THERE'S A WAY

A will is an essential document for every adult. However, only 45% of Americans have a will¹, and even fewer Americans (33%) have an estate plan².

Creating a will allows you to decide how your assets and real property, such as your home or valuables, will be distributed. For those with significant assets, a carefully constructed will creates an opportunity for generational wealth planning. A will should also cover specific wishes for things like funeral arrangements and other end-of-life matters.

If you don't have a will when you die—legally referred to as dying “intestate”—it will be up to a probate judge in the state where you reside to finalize these highly personal decisions. More importantly, the absence of a will may leave your family facing difficult decisions about your final arrangements and personal property. This can cause unnecessary strain during an already trying time.

PROVIDE YOUR ASSETS WITH DIRECTION AND PROTECTION

It is essential to be specific with the direction of your assets—the names of individuals and organizations to whom you wish to leave certain assets. For example, you may want your assets to be divided equally among your children and/or stepchildren. However, without specific names mentioned in the will, your stepchildren could be excluded because many states don't automatically recognize them as heirs.

Your will also can help protect against unwanted direction of assets or unfriendly tax outcomes. For example, a will can establish a trust, naming both trustees and beneficiaries, which covers certain assets. The trust can express the specific wishes of the grantor to be in place for the beneficiary's lifetime, to distribute income to beneficiaries at the achievement of specific goals (for example, after a beneficiary reaches a certain age), or even terminate after a stated number of years. To fund the trust during your lifetime, you need to change the title of certain assets to your name as trustee of your living trust. Failing to fund your trust during your lifetime is a common estate planning mistake that can be very costly as to the future direction, protection, and tax-efficiency.

Many people may not appreciate that how they leave their estate can be just as important as what they leave. Springing your family from making difficult decisions—or even avoiding minor issues like searching for your life insurance policy information or computer login and password—can make a big difference in a challenging time.

BDO Wealth Advisors' planning specialists share insights on proactively addressing your will and estate plan, so you and your family are ready no matter what happens.

1 Gallup, [“How Many Americans Have a Will?”](#) June 23, 2021.

2 CNBC, [“67% of Americans have no estate plan, survey finds,”](#) May 11, 2022.

JUST ONE PIECE OF THE PUZZLE

Your will can serve as the cornerstone of your estate plan, but you should have additional documents in place, especially if you can no longer communicate your wishes due to a future accident or illness. Key documents to gather are:

- ▶ Healthcare power of attorney
- ▶ Financial power of attorney
- ▶ Advance healthcare directive

The first two documents give named individual(s) the authority to make decisions and sign legal documents on your behalf. An advanced healthcare directive, also known as a living will, states your decisions regarding medical intervention and end-of-life preferences and can spare your family the pain of making that decision in a critical medical situation.

CARE AND MAINTENANCE

A will or estate plan is never “one and done.” A general guideline is to revisit your will either every 10 years or after every major life event, such as a marriage, the sale of a business, or the arrival of grandchildren. That is also an excellent time to review your healthcare and financial POA, as changes in others' lives may make them unable to perform a stated responsibility on your behalf.

For certain assets like a 401(k) plan, the account's named beneficiary will receive the proceeds from that account regardless of whether your will mentions that individual. If there is a conflict between the will and the account beneficiary, the name on the account prevails. The same is true for a non-retirement account if it has a transfer on death (TOD) designation. It is critical to consistently revisit these details to ensure they remain true to your wishes.

ASSEMBLE YOUR TEAM

It will help if you carefully consider whom to select as the executor of your estate because that person will quarterback the estate settlement process. A trusted family member or close friend often plays this role. But some people today are turning to third-party trustee services, which—while potentially pricey—may be a good option depending on your family's situation.

In addition to an estate planning attorney who will draw up your will, you should seek input from your financial advisor and accountant.

Your spouse or partner is another critical team member who should be involved in your estate planning decisions. They may have strong feelings about the distribution of your assets and personal property and your final arrangements. Finally, your spouse should have a strong working relationship with your advisors so they are prepared to take more of a leadership role when you are gone.

NO SURPRISES

For many people, it is valuable to proactively discuss your high-level plans for your will and estate plan with your family. You don't have to disclose specific numbers, but your family should understand the how and why behind your decisions. Providing this context can help avoid uncertainty and potential disputes when you are no longer around.

While this may be an uncomfortable discussion, you shouldn't rush it. Make sure to leave room for questions. It may also help to have a third party, such as your estate lawyer or financial advisor, with you to answer more technical questions or provide a neutral perspective.

To learn more about estate and legacy planning and address your specific needs, contact your BDO wealth advisor.

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