

# Why You Need a Will

It may not be pleasant to plan for a future that won't include you. However, that future could be even more unpleasant for your loved ones if you haven't prepared for it ahead of time. As part of those preparations, you should make a will.

## A Will Protects Your Loved Ones

A will is a legal document in which you specify — among other matters — who will receive your property, as well as how and when it will be distributed. You also name a guardian(s) for any minor children you may have. A lawyer should prepare your will for you to ensure that it accomplishes your objectives and meets all legal requirements.

## What Happens If You Don't Have a Will

If you die without a will, your state's intestacy laws will determine how your estate is settled. This could lead to unpleasant consequences, such as:

**Your assets not being distributed as you'd like.** The intestacy laws may not reflect your intent or what is best for you and your family.

**A person you don't know acting as your personal representative.** The probate court will choose an administrator to oversee your property. The designated administrator may not be the person you would have wanted to serve in that role.

**A guardian you wouldn't have chosen being named to raise your children.** The probate court will also choose a guardian for your minor children. The court will choose a person *it* feels will best serve your children's needs.

**Missing out on tax-saving opportunities.** Your heirs may receive less from your estate because you didn't make a will that included certain tax-saving provisions.

**Your children receiving their inheritance earlier than you'd like.** Minor children typically receive an inheritance outright upon attaining the state's age of majority. If they're financially

inexperienced, your children may not manage their inheritance wisely or carefully. With a will, you could incorporate a trust with different payout provisions.

## You Control the Distribution of Your Property

A will allows you to control who will receive your assets, how those assets will pass to your beneficiaries, and when those assets will be received. Even if you and your spouse own all your property jointly (with rights of survivorship), you should still have a will. Joint ownership alone doesn't provide the other planning that a will can accomplish. It also doesn't provide for the possibility that the other joint owner may die before you and leave you without a plan.

## You Name Your Executor

In your will, you name an executor or personal representative to carry out the provisions in your will. You can choose your spouse, a relative, a friend, an attorney, or a professional representative. You should also name a contingent executor who will take over if, for some reason, your primary executor can't do the job.

An executor is responsible for:

- Collecting, managing, and securing assets
- Notifying creditors and paying all valid estate debts
- Collecting any money owed to the estate
- Selling estate assets as authorized to pay estate expenses or legacies

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- Keeping detailed records and accountings and submitting the information to beneficiaries and/or the probate court as required
- Distributing assets to beneficiaries according to your will
- Filing all required tax returns

## You Name a Guardian

If you have children who are minors, it's important that you name a guardian in your will. When choosing a guardian, ask yourself the following questions:

**Who knows your child well?** That person may be a relative or a close friend or neighbor.

**Who can best take care of your child?** A single sibling who works long hours and travels frequently may not be the best choice.

**Where does the person live?** If you think that moving away from school, friends, and relatives would be stressful for your child, you may want to choose someone who lives nearby.

**Is age a factor?** Before choosing grandparents as guardians, think about their age and whether they're healthy and active enough to care for young children again.

**Would the person want to raise your children?** Make sure the guardian you choose fully understands and accepts all of the responsibilities of caring for your children.

You also should select a contingent guardian in case your first choice isn't able to act as guardian. Another consideration is how your property will be managed to provide for your children's financial needs.

## You May Reduce Estate Taxes

A properly drawn will can help reduce or even eliminate estate taxes. For example, the federal estate-tax law generally allows you to leave an unlimited amount of property to your spouse free of estate tax. However, leaving everything to your spouse may result in unnecessary estate taxes when your spouse dies. Instead, you might want to consider other tax-saving options.

## Establishing a Trust

For example, your will might provide that certain property be placed in a trust. Your spouse would receive trust income and principal, if needed, and, when your spouse dies, the trust assets would pass to your children. The goal of this type of trust is to shield the value of the trust property from estate taxes in both your and your spouse's estates by making use of your federal estate-tax exclusion amount.\*

In addition to achieving estate-tax savings, a trust can serve a number of other purposes. For example, you can direct that a trustee hold and manage certain assets for the beneficiaries you have named. A trust can be as flexible as you wish. For instance, you can give your trustee the discretionary power to invade the trust principal for your spouse or children. If you establish a trust during your lifetime, you may want to include a "pour-over" provision in your will directing that assets be transferred into the already existing trust.

\* A 2010 tax law provision generally makes the estate-tax exclusion portable between spouses for 2011 and 2012. However, the trust strategy offers potential advantages compared to use of the portability election.

**Review your will regularly. Significant changes in your life — such as births, deaths, marriages, or divorces — or changes in your financial situation or the tax law may provide reasons for you to revise your will.**

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