

WHAT EVERYONE NEEDS TO KNOW ABOUT WILLS AND CHARITABLE GIVING



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THE PROPAGATION OF THE FAITH**

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CONTENTS

Why you need a Will	1
If you don't have a Will	1
Some common misconceptions about Wills	2
Drawing your Will	3
Helping your lawyer help you	4
Safeguarding your Will	5
Types of Bequests	5
Charitable giving through your Will	6
Updating your Will	7
How an estate is settled	8
Remembering The Society in your Will	11

This publication is intended to provide accurate and authoritative material of a general nature. Neither the author, the publisher nor The Society for the Propagation of the Faith, is engaged in rendering legal or tax advisory service. To determine the applicability to your own situation of the principles contained herein, the services of competent legal counsel should be sought.

WHY YOU NEED A WILL

Did you know that 7 out of 8 Americans die without a Will?

Much to the detriment of their families, many individuals overlook the importance of a valid Will, and, unfortunately, never get around to writing one.

Drawing a Will is the way to assure that the fruits of your life's labors are distributed in accordance with your wishes, and that your heirs are appropriately provided for. A Will enables you to:

- *direct the distribution of your property* the way you intend
- *provide security for your loved ones*, allowing for the special health or educational needs of a family member, or to make allowances for the varying income needs of your heirs
- *select a guardian for your minor children* rather than permitting the state to determine who is a suitable guardian
- *name a personal representative for your estate* instead of having it settled by a court-appointed administrator
- *minimize taxes and administrative costs*, to preserve as much of the estate as possible, by using various cost-saving and tax-saving opportunities
- *make charitable distributions* to support programs and causes you believe to be worthwhile

Because some assets, such as life insurance or retirement plan benefits, may pass outside of a Will, your Will should be part of a comprehensive estate plan.

IF YOU DON'T HAVE A WILL

If you should die intestate—that is, without a Will—your assets will be disposed of in accordance with state law, regardless of your personal wishes or the special needs of family members.

Failure to write a Will may lead to unfavorable consequences no matter how small or how large the estate:

Management of the estate

It is unlikely that a court-appointed administrator with very limited powers and having no personal acquaintance with you or your family would be as capable of fully carrying out your intentions as someone you had personally selected. Settlement of your estate can also be unnecessarily expensive and entail long delays.

Estate distribution

If you die intestate, assets will be distributed in accordance with state law, often defeating your own wishes. Under the laws of intestacy, property must be distributed according to a prescribed formula (which varies from state to state), and the court has no discretion to correct even an obviously inequitable distribution of assets.

A widowed spouse, for instance, may receive less than her minor children do. Or the special needs of a disabled child may go unaddressed. Often, property will pass to a beneficiary who, by reason of age or inexperience, is incapable of managing it properly.

SOME COMMON MISCONCEPTIONS ABOUT WILLS

"My wife (or husband) and I own everything jointly."

In the first place, it is unlikely that this is entirely accurate. Often overlooked are company retirement and death benefits. Moreover, in some states, the laws of community property may take precedence over joint tenancies.

Secondly, if all of your assets are indeed owned jointly, a potential tax problem may result, involving gift as well as estate taxes. A competent tax advisor should be consulted about the implications.

"My estate is too small."

Your net worth may be more than you realize. Add up the value of your home and furnishings, your automobile, bank accounts, insurance policies, pension benefits, personal property, and you'll see that your estate is probably worth more than you had imagined.

Even if you have few assets, if you have minor children, you'll need a Will to designate a guardian if there should be no surviving spouse. Then, too, the smaller the estate the more important it is to avoid costly delays which can quickly deplete its value.

"My spouse already has a Will."

That's fine, but what if both husband and wife die in a common disaster? If the spouse with the Will is determined to have died first, the estate may still pass under the state's intestacy laws, producing tax problems, administrative complications, and perhaps adverse consequences for minor children.

"I don't have an attorney."

This can be easily remedied by seeking recommendations from people you know who have been pleased with the way their attorney handled the drafting of a Will.

Also, most local bar associations maintain a referral service, and will be happy to provide you with the names of several attorneys in your area who specialize in Wills and estate planning.

These reasons, too, may sound familiar:

"I'm too young to need a Will."

"Preparing a Will is too expensive."

"I have no children to be concerned about."

"My relatives are aware of my wishes."

If you have any doubts about the adequacy of your own reasons for not writing a Will, we'd suggest talking to someone knowledgeable such as your attorney, financial planner, insurance agent or clergyman.

DRAWING YOUR WILL

1. The first step is to *make a list of all the family members, friends and organizations you would like to provide for*. You should accurately record each beneficiary's full name and address, as well as their relationship to you.

2. Next, *prepare a full inventory of your assets and a complete list of your debts*. Include full descriptions, current fair market value, original cost basis, and how each asset is owned, whether separately, jointly, or as community property. Your list of debts should include full names and addresses of all creditors.
3. *Make a list of all important documents* such as birth certificates, marriage licenses, insurance policies, mortgages and deeds. Carefully record the location of these papers.
4. *Decide what specific objectives you would like to accomplish*. This would include such details as naming a guardian to care for minor children. If income continuation to family members is one of your goals, determine how much annual income will be needed after your death, and consider what steps must be taken to assure this income. Treat each separate objective similarly.
5. *Select an appropriate individual to represent your estate*. Make certain that the person is made aware of an executor's responsibilities, is capable of discharging those duties, and is willing to serve in this capacity. An alternate executor or executrix should be selected to settle the estate in the event the first becomes unwilling or unable to do so.
6. *Consult an attorney* to help you work out the details of your estate plan and to prepare the Will.

HELPING YOUR LAWYER HELP YOU

You can greatly simplify—and cut the cost of—consultations with your attorney if you undertake the preparatory work suggested in the preceding section. Since you are paying for a lawyer's time, the more time you save your attorney, the lower the cost should be.

This extra effort will help assure the thoroughness and integrity of your estate plan as well as save you money.

When you meet with your attorney, be certain to bring copies of your social security records, recent income tax returns, military service records, mortgages, deeds, insurance policies, and other important documents.

SAFEGUARDING YOUR WILL

Unless your Will can be located upon your death, it won't matter how skillfully it was drafted. It must, therefore, be kept where it can easily be found by your executor, and where it won't be lost, stolen or mislaid.

Many people choose to keep their Will in their attorney's safe or in a safe deposit box. Since, in many states, boxes are sealed upon death, you should not keep the document in your own safe deposit box, however.

If a bank or trust company is to serve as your executor or co-executor, it may hold the Will in its own vault for safekeeping.

In any event, you should keep an unsigned copy with your personal effects, along with a letter giving the location of the original. To be on the safe side, you may also wish to tell a trusted relative or close friend where the original Will is located.

TYPES OF BEQUESTS

When drafting a Will, provision for beneficiaries may be made in any of several different ways. Each has its advantages and disadvantages, and so must be discussed with your attorney:

1. A **general bequest** designates that a particular beneficiary receives a specified sum of money or a fixed percentage of the estate..

Note: If the estate is not sufficiently liquid and a bequest is stated in terms of a dollar amount, valuable assets may have to be sold in order to satisfy the bequest.

2. A **specific bequest** is used to give a specific item of property to a beneficiary.

Note: If that specific item of property is disposed of prior to the estate owner's death, the beneficiary may receive nothing unless additional provision is made.

3. A **residuary bequest** disposes of those estate assets which remain after the payment of debts, expenses, taxes, and all general and specific bequests.

Note: Any major change in the value of assets comprising the estate will have a great impact upon those beneficiaries receiving the residue of the estate.

4. A **contingent bequest** enables you to designate one or more alternate or conditional beneficiaries to receive assets should one or more primary beneficiaries predecease them.

CHARITABLE GIVING THROUGH YOUR WILL

If you have been supporting various charitable endeavors during your lifetime, you will probably want to make some arrangement to provide continued support for their programs in the future.

Above all else, you will certainly want to assure that your family is well provided for, but it is often possible to accomplish a gift to charity without affecting your family's financial security.

A **residuary bequest** may simply state that a charity is to receive the remainder of your estate *after all specific bequests have been made*.

A **contingent bequest** may be used to provide for the distribution of property *in the event one or more of your named beneficiaries does not survive you*.

Life Income Bequests

If you would like to provide a generous charitable bequest, but don't wish to deprive your heirs of income, you may wish to create a "life income bequest." This can provide the security of *lifetime income to surviving family members*, or anyone else you may wish to designate, while assuring an eventual gift to charity.

A life income arrangement may also be set up to provide *you* with lifetime income. By making your gift now, you may save income and estate taxes as well as avoid capital gains taxes and probate costs.

Use the coupon in this booklet to request information on various life income plans.

UPDATING YOUR WILL

Even if you already have a Will, it should be reviewed periodically. Changes in your personal circumstances, your financial objectives, or in the tax laws are virtually inevitable.

Yesterday's provisions may therefore not meet today's needs. Your Will should be reviewed, if, since it was last drawn:

- You have either married or divorced
- You have retired
- Any children or grandchildren have been born or adopted
- Any beneficiaries have died or become incapacitated
- Any beneficiaries have been married or divorced
- Any beneficiaries have become financially independent
- Your net worth has increased or decreased substantially
- You have incurred any substantial new debts
- Any of your retirement plan benefits have changed
- You have acquired or cancelled any life insurance
- You have purchased or acquired additional property
- You have disposed of property which you had specifically bequeathed
- There have been any applicable changes in the tax laws
- Your executor or your children's guardian has become unable or unwilling to carry out his or her duties

Not every change in your circumstances or in the tax law requires a complete redrafting of the Will. Often, the necessary changes may be made simply by adding a Codicil (an amendment) to your present Will.

HOW AN ESTATE IS SETTLED

Estate settlement procedures often seem long and unnecessarily complex. They are intended, however, to minimize the possibility of fraud, and to assure that your objectives in distributing your estate are accomplished.

Specific procedures vary from state to state, but follow a general pattern:

- Soon after a person's death, the last Will must be located and filed with the court along with a petition to admit the Will to probate.
- A notice is published for all interested parties, including those who may wish to contest the Will, and a hearing is then held to determine the Will's validity.
- If the Will is admitted to probate, an executor (usually the person nominated in the Will) is appointed by the court, or, if no executor has been named, the court will appoint an administrator.
- A notice to creditors is filed shortly thereafter, so that an opportunity to present claims against the estate is available.
- During this time, the executor must assemble, manage, and preserve all estate assets, and file an inventory and appraisal of all property.
- Unchallenged claims against the estate are paid by the executor, and hearings are set to determine the validity of other claims.
- Federal, state and local taxes must be paid, and the decedent's final income tax return must be filed.
- Finally, the court must interpret the Will, supervise final distribution of all testamentary gifts, and approve a final accounting of the estate submitted by the executor.

Your executor has significant responsibilities in settling your estate, although with the guidance of a good lawyer the task need not be unduly burdensome.

You must make certain, however, that the person you select is fully aware of his or her responsibilities and is willing to undertake them. This is your best assurance that your estate will be handled as you intended.

CONFIDENTIAL

Mail to:

The Society for the Propagation of the Faith

Dear Director:

- I have already provided for The Society in my Will.
 - I intend to include The Society in my Will.
 - I would like to receive information on:
 - giving to the The Society while receiving an income for life
 - the advantages of giving securities to The Society
 - Please have a qualified Society representative call me to discuss the best way of including The Society in my estate.
- Phone () _____

NAME _____ BIRTHDATE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

REMEMBERING THE SOCIETY IN YOUR WILL

Suggested Bequest Wording:

Outright Bequest

"I give, devise, and bequeath to The Society for the Propagation of the Faith, Diocese of _____ (address) _____ (city) _____ (state) _____ the sum of _____ dollars (or describe the real or personal property)."

Residuary Bequest

"I give, devise, and bequeath to The Society for the Propagation of the Faith, Diocese of _____ (address) _____ (city) _____ (state) _____ all (or _____%) of the rest, residue and remainder of my estate."

Contingent Bequest

"If any of the above-named beneficiaries should predecease me, I hereby bequeath his or her share of my estate to The Society for the Propagation of the Faith, Diocese of _____ (address) _____ (city) _____ (state) _____"

Designated Bequest

add: "...to be used for (describe the specific purpose or program for which the gift is intended). If, however, circumstances so change as to render impracticable a literal compliance with the terms of this gift, it may be used in such manner as will most closely carry out my original intention."

Memorial Designation

add: "This gift is made in [loving] memory of _____"

Memorial or Endowment Fund

"I give, devise, and bequeath to The Society for the Propagation of the Faith, Diocese of _____ (address) _____ (city) _____ (state) _____ the sum of _____ dollars (or describe the real or personal property) to establish a permanent fund to be known as The _____ Fund, the income of which shall be used for its general purposes (or specify the purpose or program for which the gift is to be used)."

Life Income Bequest

(Sample provisions for review by your attorney will be provided upon request.)

FOR YOUR PEACE OF MIND....

- *Keep your Will in a safe but accessible place.*
- *Don't name someone unfamiliar with probate proceedings as your sole executor.*
- *Don't include your retirement plan benefits in your Will, since additional taxes and fees may result.*
- *Remember to name a guardian for your minor children.*
- *Make sure your spouse has a Will that is coordinated with your own.*
- *Reconsider the implications of joint property ownership under the new tax law.*
- *Avoid using a beneficiary as a witness, since that person may be partially or totally disinherited.*