

## Why You Need a Will

It may surprise you to you know that as many as 8 out of 10 Americans never get around to writing a will. Many people think that a will is necessary only if they have considerable wealth, a family and children to provide for, or to reduce taxes.

In fact, there are many other reasons to have a will. Drawing a will is the best way to ensure that the fruits of your life's labors are distributed in accordance with your wishes, and that your heirs will be adequately provided for. A will enables you to:

- **direct the distribution of your property** the way you intend
- **provide security for your loved ones**, accommodate the specific health or education needs of a particular family member, or make appropriate allowances among others whose income needs may differ
- **select a guardian for minor children**, rather than letting the courts determine who is qualified to care for them
- **name a trusted personal representative for your estate**, instead of having the court appoint an administrator to settle your personal affairs
- **minimize taxes and administrative costs**, to preserve as much of the estate value as possible, through various cost-saving and tax-saving opportunities
- **make charitable gifts** to support charitable organizations whose work is important to you.

## What Happens Without a Will

Without a will, the property you worked a lifetime to accumulate may be distributed by the courts in a way you never intended. And the people you care about most may not receive the property and personal items you may have wished them to have.

If you die "intestate" (without a will) your

assets will be disposed of in accordance with state law, *regardless of your personal wishes* or the special medical, educational or other needs of certain family members.

No matter how small or how large the estate, neglecting to write a will can easily lead to unfavorable consequences:

### *Management of the estate*

It is unlikely that a court-appointed administrator, having very limited powers and 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 become unnecessarily expensive and may entail long delays.

### *Estate distribution*

If you die without a will, assets will be distributed in accordance with state law, often defeating your personal 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 unfair distribution of assets.

A widowed spouse might possibly receive less than her minor children. Or the special needs of a disabled child may be overlooked entirely. Frequently, property passes to beneficiaries who, due to age or inexperience, are unable to manage it properly.

In New York, if you are survived by:

- a spouse and children, then your spouse receives the first \$50,000, plus one-half of the balance of your property, and your children share the rest
- a spouse, but no children, then your spouse receives everything
- children or grandchildren, but no spouse, then the children share equally, and the children of a predeceased child equally share anything to which their parent would have been entitled

- a parent or parents, but no spouse, children, or grandchildren, then the parent or parents receive everything
- no relatives closer than the descendants of one or both parents, then the descendants receive everything in equal shares
- no relatives closer than grandparents or their descendants, then half would go to the maternal side and half to the paternal, but second cousins or more distant relatives inherit nothing if the decedent has any first cousins on that side of the family

## If You Have Minor Children

If you have no surviving spouse, but you have children under 18 at the time of your death, you will need a guardian for them. If you don't name one in the will, the court will appoint one. But even a surviving spouse can be unnecessarily burdened with legal requirements and expenses.

A bond may have to be posted, and in order to spend money from the estate to pay for education, clothing, or living expenses, your spouse will have to petition the court for permission, unless you make provision in your will to the contrary.

In addition, severe restrictions may be placed upon the investment of funds, and there will be periodic reporting requirements for ordinary income and expenses, as well as for any investments made.

All of the foregoing problems may easily be avoided with a properly drafted will.

## Thoughtful Estate Planning Can Save Taxes ...and Much More

Important as a will is, it is only part of a comprehensive estate plan. Your planning should be thorough to be truly effective. For instance, certain types of assets, such as life insurance, jointly-owned property, and retirement plan benefits, may pass outside of your will. By planning properly, you may be able to lower your estate taxes, and leave more to your beneficiaries.

There are non-financial reasons for estate planning, too. A thoughtful estate plan embodies the responsibilities we have to ourselves, our families and our communities.

By helping to improve the quality of life in our society – through bequests to schools, hospitals, health and social service agencies, emergency shelters, and other organizations that serve diverse needs – we are acting in our own enlightened self-interest. In so doing, we help to assure our own children and grandchildren of better, healthier and more fulfilling lives.

### Planning for Charitable Gifts

Estate-planned charitable giving – making charitable giving a part of your overall financial and estate planning – may enable you to accomplish important personal and philanthropic objectives at the same time. With proper planning, it may be possible to:

- reduce your current income taxes
- avoid capital gains tax liabilities
- increase your spendable income
- supplement an existing retirement plan
- lower your estate taxes and probate costs
- provide for a loved one's special needs
- increase your children's inheritance
- help preserve a family business

For information about charitable gifts, call Charles Evdos at (631) 727-6220, ext. 203.

## See Your Attorney

Making an estate plan that best meets your needs, and a will that accurately reflects your wishes, requires the knowledge and advice of an experienced attorney.

A qualified attorney can alert and advise you about guardianship for minors, trusts for children's special needs, the rights of surviving spouses, problems with the way property may be held, insurance, tax-saving opportunities, and other important matters.

The cost of not having an effective will and estate plan can't be expressed in financial terms alone. Don't fail to get expert advice.

### Free Estate-Planning Information

As a service to donors, ADD has a series of free publications that many have found helpful in planning their estates.

Our new *Wills Planning Kit*, for example, consists of two booklets. The first booklet explains the estate planning process, and the second contains worksheets to record the location of important documents and of the assets that comprise your estate. The kit is intended to speed the estate planning process, saving you time and money in working with an attorney.

For a free copy of ADD's wills planning kit, contact:

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# *The Importance of a Valid Will*

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**Aid to the Developmentally Disabled, Inc.**