Estate Planning Fundamentals

A Glass Slipper for the Stroke of Midnight

We all know the story of Cinderella. When the clock struck midnight, her wishes, so it seemed, vanished. However, she had left behind a glass slipper. And, soon enough, all that she ever wanted came true. Are you living your own fairy tale? Do you have a financial "glass slipper" in place, to carry out your wishes and secure your family's future, especially after your death?

In recent years, "estate planning" has become one of the more popular financial catchphrases; and, rightfully so. Estate planning encompasses the management of assets while alive in order to help ensure the proper disposition of those assets at death. In some situations, it can also include strategies to *minimize* taxes and *maximize* asset transfer to heirs.

As is the case with any type of planning, there is a process. And, in that process there lies a beginning. One fundamental estate planning document is a **will**, and it can serve as a foundation for the present, as well as a springboard for future planning.

The What's and Why's of a Will

A will is a formal legal document providing instructions for the settlement of your estate. It provides you with the opportunity to legally designate your own **executor**, select **guardians** to raise minor children or care for incapacitated elder parents, name other **fiduciaries**, and state your intentions for the distribution of assets. Without a will, (being **intestate**) the laws of your state will determine the distribution. As a result, your heirs may experience needless legal disputes, damage to personal relationships, and in some cases, financial hardship.

Dying without a will brings into effect your state's intestacy rules which specifically describe *how* your estate will be distributed and *to whom*. Generally, intestacy results in one-third to one-half of your estate being distributed to your surviving spouse and the balance to your children. The state will receive the entire distribution if there are no next of kin.

Unless specified in a will, no portions of an estate will be awarded to non-relatives or charities when blood relations (no matter how distant) can be found. This point is especially important for non-relative beneficiaries, those adopted into a family, and charities. In such cases, dying without a will can result in needlessly expensive and personally damaging legal work clarifying these disputes.

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Wills are also important to those who have made personal and emotional commitments without a marriage contract. In addition, making a will is the only means to designate *alternative* beneficiaries if your designated heirs do not survive. Even those who have shifted assets into **trusts** designed to *bypass* **probate**, or who use **joint ownership**, should draw up a will because a probate estate can be created inadvertently.

The laws governing the drafting of wills vary considerably from state to state. **Holographic wills** (those written in a person's own hand) are considered perfectly legal in some states, but not in others. Some states, such as California, have recognized a **simplified universal will**, which is a prepared form written by the legislature that can be used in lieu of a formal will. A word of caution—in most cases, "do-it-yourself" wills are considered an unacceptable legal substitute for a formal will.

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