

# THE GREATEST GIFT

*OUTLINE  
YOUR WISHES  
WITH AN  
ESTATE PLAN*



COMMUNICATING YOUR VALUES AND GOALS TODAY  
CAN HELP YOUR LOVED ONES THROUGH TOMORROW.





***While designed to provide valuable information, this material is not intended to offer specific legal or estate planning advice. Your unique situation will dictate the specific legal documents and strategies appropriate for your situation. Individuals are encouraged to consult with a qualified professional before making any decisions about their personal situation.***

For many of us, the word “estate” conjures images of great wealth; we may mistakenly believe that the word belongs only to those with an abundance of wealth to be passed on to their heirs. But any adult who owns assets — young or old, married or unmarried, at any income — is the keeper of an estate.

What happens to that estate when you die? It’s an often uncomfortable but always important question. Estate planning involves creating a strategy for how those assets will be handled when you’re no longer able to handle them. The process encompasses a range of tasks, from the creation of wills and trusts to preplanning for your funeral. A good estate plan can address a wide range of issues, including distribution of money, guardianship of minor or special needs children, disposition of real estate and more.

Many people don’t have an estate plan in place because they perceive estate planning as time-consuming and requiring lots of effort. And you’re not required by law to have an estate plan in place; there are legal processes and procedures to distribute assets of individuals without directives in place.

However, establishing an estate plan communicates your wishes, outlining how you want your assets distributed and to whom. Your estate plan can also protect your loved ones from having to make hard decisions about your health or your property when the time comes. It also helps your loved ones avoid the onerous task of untangling the details of your personal affairs.

One of the greatest gifts we can give to our loved ones is a plan of action for distributing or disposing of our assets after we die — allowing them to focus on healing and life after loss.



The great use of life is to spend it for something that will outlast it.  
~William James



## WHERE THERE'S A WILL ...

The most basic tool in an estate plan is a will, a legal document providing instructions about how you wish for things to go after your death. A will can include a variety of things: It can express your wishes to divide all your belongings up among your living children or dictate that your grandmother's pearls go to your sister. Your will can outline whether you want your home to be sold or if you want your car to be donated. Your will can provide direction as to how all your "stuff" should be handled.

A will is also used by parents to express guardianship of a minor child or a child with special needs. Where will the child(ren) live? How will they be provided for? The will specifies your wishes about who cares for the kids if you're unable to do so.

The person writing a will — the testator — chooses an executor, the individual who will be responsible for carrying out their final wishes. The executor is usually someone the testator trusts and who is at least generally familiar with the testator's affairs.

After the testator's death, the first step in taking care of the estate is to move the will into probate. During the probate period, the courts will determine if the will is authentic. If it's determined to be authentic and no one challenges the will's directives, the executor will begin the process of fulfilling the wishes expressed in the will.<sup>1</sup>

**While it is theoretically possible for you to write your own will, we strongly suggest that you use an experienced estate planning attorney.**

## Community Property<sup>2</sup>

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In some states, assets acquired during a marriage (with the exceptions of gifts or inheritances) belong to both parties and are considered "community property." Therefore, they are required by law to be split equally in the event of divorce or death.

The following are community property states:

**Arizona**  
**California**  
**Idaho**  
**Louisiana**  
**Nevada**  
**New Mexico**  
**Texas**  
**Washington**  
**Wisconsin**

## A Matter of Will<sup>3</sup>

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About **3 in 10** U.S. adults have a will

**48%** of people age 55 or older have a will

**30%** of people without a will say they don't have enough assets to leave someone

**36%** of people without a will say they just haven't gotten around to it



## TRUST THE PROCESS



A trust is a legal entity that can own assets or be named as a beneficiary for life insurance policies, IRAs and other accounts. Like a will, a trust is set up with legal documentation, usually through an estate planning attorney.

There are two main types of trusts. The first type of trust, an irrevocable trust, cannot be modified or terminated without agreement from its beneficiaries, the people or entities that will ultimately receive the proceeds of the trust. The person(s) establishing the trust — the grantor(s) — can then shift ownership of their assets to the trust, removing the assets from their taxable estate. An irrevocable trust protects assets from creditors, since the assets are now owned by the trust and not by the grantor.<sup>4</sup>

The second type of trust, a revocable trust, is changeable as long as the person(s) who set it up — the grantor(s) — are still alive. With a revocable trust, grantors can receive income from the trust, but the assets are also included as part of their taxable estate and not protected from creditors. After the grantor dies, the revocable trust usually becomes irrevocable.<sup>5</sup>

As with a will, a trust also dictates how the grantor wishes for assets to be distributed and to whom they will be distributed. The grantor names a trustee, who is responsible for fulfilling the terms outlined in the trust documents. The trustee then distributes the assets of the trust to beneficiaries.<sup>6</sup>

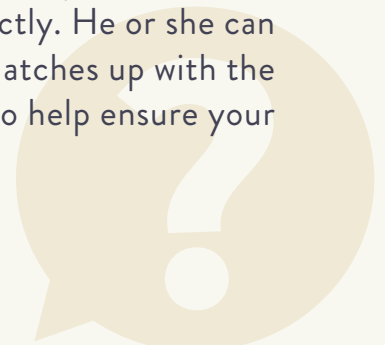
Probate is generally required when a decedent owns assets in his or her own name at death. The probate process transfers those assets to heirs. With a trust, probate is usually avoided when the trust owns the assets rather than the decedent.

A trust can be used in a variety of ways, including reducing the grantor's tax liability, preventing beneficiaries from misusing assets or gifting a principal residence to grown children.<sup>7</sup>

A trust can own life insurance or annuity policies and be its own beneficiary, either primary or contingent. As a hypothetical example, the Joe Louis Revocable Trust is the owner of a life insurance policy, and Joe Louis is the insured. Joe would like his daughter to receive the proceeds of the life insurance policy directly, so he names her as the primary beneficiary. He names the Joe Louis Revocable Trust as the contingent beneficiary, in the event his daughter is unable to receive the benefits. Then the trustee can distribute proceeds from the life insurance policy as the trust directs.

A trust and a will can help reduce family drama after a death. They outline your specific wishes, helping your loved ones avoid making tough decisions about what you wanted. If you suspect there may be drama, such as children fighting over who gets what, naming an impartial third party to be the trustee may be a good choice.

Legal documentation for wills and trusts should be completed by a qualified estate planning attorney. Your financial professional can help you identify which assets should be moved into the trust and how to register them correctly. He or she can also work with your lawyer to verify your account paperwork matches up with the trust or will documentation, double-checking the details now to help ensure your heirs avoid a messy situation later.



## Choosing the Right Trustee or Executor

Selecting the right person to act as trustee or executor can be a tough decision, but it's crucial for making sure your wishes are carried out. A few of the questions to ask when choosing the right person include:

- ✓ Do I want to use an individual or a company (such as a trust company) to be my trustee?
- ✓ Is the person responsible, and do I trust them to follow my instructions?
- ✓ Is the potential trustee in good financial standing?
- ✓ Is there someone I can name as a successor trustee, in the event of the trustee's death?
- ✓ Can the potential trustee handle all the paperwork and personalities involved?

## MAKE IT OFFICIAL



Establishing a will and a trust doesn't mean that all your assets are guaranteed to be distributed at your death in the way you intend. Sometimes assets pass automatically at death because of the way they are titled — joint tenancy with right of survivorship, as a hypothetical example. A will would have no effect on such assets. Other kinds of assets — such as life insurance or annuities — have beneficiary designations. Those designations supersede the instructions of a will or trust.

Here's a hypothetical example: Say that Donna is the owner of a life insurance policy she established when she was married to her now-ex-husband, Jack. Donna was required to keep insurance on her life as part of the divorce settlement, and Jack was required to be the beneficiary. The purpose of the life insurance was for

Jack to take care of the kids while they were young. Now assume Donna's youngest child had just turned 22 when Donna died unexpectedly. Unless she changed her beneficiary designation before her death, the proceeds of the policy will probably still be paid to Jack, even though her kids are grown. This is a potential result, even if Donna's will states she wants all assets split equally among her kids.

If assets are being moved into the trust, ownership paperwork will also need to be updated to reflect the name of the trust as the new owner. Neglecting to update either ownership or beneficiaries on accounts intended to be paid out to trusts can create a massive headache — and unintended consequences — for your heirs.

Your financial and legal professionals can help you identify which assets are available to move into the trust and which ones need to be updated for new beneficiaries, as well as assist you with obtaining and completing paperwork for the necessary changes.

## TIME TO REVIEW

It's important to review the provisions of your will and trust, as well as your trustees, executors and beneficiaries, regularly to make sure they still align with your wishes. This is especially important in the event of a major life change, including:

- 🕒 Marriage
- 🕒 Divorce
- 🕒 Children reaching age of majority
- 🕒 Birth or adoption of a child or grandchild
- 🕒 Death of a beneficiary, trustee or executor
- 🕒 Disposition or acquisition of assets in trust or mentioned in will
- 🕒 A substantial change in estate value
- 🕒 You've changed your mind

# A LIVING LEGACY



Let's face it: Sometimes you don't want to wait. It's especially true when it comes to giving gifts; we want to see someone receive and use the gift we've given them.

The good news is the IRS allows you to gift money to an individual, generally, without creating additional taxes for you or the recipient. The gift not only allows you to help someone out, but it also reduces the amount of money in your taxable estate.

For 2020, one individual can gift another individual \$15,000 with no tax consequences. A spouse can also gift that same individual \$15,000, for a total of \$30,000.<sup>8</sup> As a hypothetical example, Rick and Rita have a daughter, Sarah, who is married to Tim. Rick and Rita can give a combined \$30,000 to Sarah without taxes being owed. They can also give \$30,000 to Tim, for a total of \$60,000 given to the younger couple.

Other types of gifts are also considered non-taxable. The IRS allows you to pay tuition or medical expenses for another individual under the educational and medical exclusions, but the payments must be made directly to the providing institution.<sup>9</sup> Gifts to your spouse or to a political organization are also not taxable. Gifts to qualifying charities are deductible, as long as you itemize your deductions.<sup>10</sup>

Starting at age 72 (or 70 1/2, if you turned 70 1/2 during or before 2019), you must generally take required minimum distributions (RMDs) from IRAs and other qualified accounts. You may be able to have your RMD directed to a qualified charity and avoid having to recognize it as income.<sup>11</sup>

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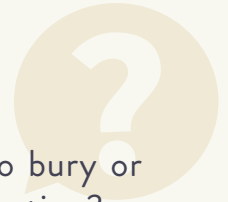
It is up to us to live up to the legacy that was left for us and to leave a legacy that is worthy of our children and of future generations.

~Christine Gregoire

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# DEARLY DEPARTED



The death of a loved one creates the need for so many decisions: To bury or cremate? Type of casket or urn? Graveside service or memorial celebration?

Preplanning your funeral can seem morbid, but it removes the burden of making these decisions from the loved ones who are mourning your absence. Take some time to write down your wishes for your final send-off. These wishes could include:

- Where would you like to be buried or have your ashes scattered?
- Would you prefer to have your body donated to science?
- What kind of music would you like played at your memorial service?

Many funeral services can be chosen in advance and prepaid, including cemetery plot, casket or urn, headstone and more. In lieu of prepaying, you can also assign a life insurance policy to a funeral home. The funeral home takes its share of the life insurance proceeds first to pay for the funeral, and the remainder of the proceeds, if any, are paid to the other named beneficiaries. Taking care of funeral expenses beforehand means your loved ones don't incur costs related to your final resting place.

As you're planning your funeral, it's important to consider the needs of your family or friends. What will they want or need from a service? It's also crucial to share your plans with the person(s) who will be handling your affairs after your death. Your loved ones will appreciate the time and effort you made to make their burden lighter.

Your financial professional can help you create a strategy for covering funeral costs as part of your overall financial plan. In many cases, your financial professional may be available for your family after you're gone, helping them navigate the uncharted waters of life without you.



## END-OF-LIFE EXPENSES

Funeral costs can be a major blow to families, especially when a death is sudden and unexpected. Some of the costs associated with a death include:

- ✦ Planning and preparation of funeral services
- ✦ Securing permits
- ✦ Obtaining copies of death certificates
- ✦ Casket, urn or other burial container
- ✦ Burial plot or vault
- ✦ Embalming or cremation
- ✦ Possible services from outside vendors, such as florists, officiating clergy or musicians

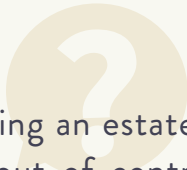


## THE GIFT THAT KEEPS ON GIVING



After your death, your loved ones will be coping with your loss and navigating the financial picture you leave behind. The best thing you can do is to leave a clear picture of your assets and your wishes as to how they should be handled.

Good communication is key to ensuring your final instructions are followed. Keep your executor, trustee and beneficiaries apprised of changes as they are made, and provide them with information about whom to contact or where to find documents when they need them.



Creating an estate plan empowers your family, giving them a sense of control in an out-of-control situation. Although we don't know when our final day will arrive, we can show our families how much we love them by being as prepared as possible.

Your financial professional can help coordinate the process of estate planning for you — and work closely with your attorney, particularly with regard to coordinating your legal estate planning concerns with your financial concerns and objectives — but it's important to get started today.

The last gift you give to your family can be the best gift, an understanding of the values you held dear and that form the foundation of your legacy for future generations.



<sup>1</sup> Julia Kagan. Investopedia. June 25, 2019. "Estate Planning." <https://www.investopedia.com/terms/e/estateplanning.asp>. Accessed Feb. 27, 2020.

<sup>2</sup> FindLaw. "Community Property Overview." <https://family.findlaw.com/divorce/community-property-overview.html>. Accessed Feb. 27, 2020.

<sup>3</sup> Caring.com. "2020 Estate Planning and Wills Study." <https://www.caring.com/caregivers/estate-planning/wills-survey>. Accessed Feb. 27, 2020.

<sup>4</sup> Julia Kagan. Investopedia. Jan. 21, 2020. "Irrevocable Trust." <https://www.investopedia.com/terms/i/irrevocabletrust.asp>. Accessed Feb. 27, 2020.

<sup>5</sup> Julia Kagan. Investopedia. June 21, 2019. "Revocable Trust." <https://www.investopedia.com/terms/r/revocabletrust.asp>. Accessed Feb. 27, 2020.

<sup>6</sup> Julia Kagan. Investopedia. Jan. 21, 2020. "Irrevocable Trust." <https://www.investopedia.com/terms/i/irrevocabletrust.asp>. Accessed Feb. 27, 2020.

<sup>7</sup> Ibid.

<sup>8</sup> IRS. Jan. 16, 2020. "Frequently Asked Questions on Gift Taxes." <https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes>. Accessed Feb. 27, 2020.

<sup>9</sup> Ibid.

<sup>10</sup> IRS. Feb. 11, 2020. "Topic Number 506 – Charitable Contributions." <https://www.irs.gov/taxtopics/tc506>. Accessed March 13, 2019.

<sup>11</sup> IRS. Jan. 28, 2020. "IRA FAQs – Distributions (Withdrawals)." <https://www.irs.gov/retirement-plans/retirement-plans-faqs-regarding-iras-distributions-withdrawals>. Accessed Feb. 27, 2020.



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Content prepared by Advisors Excel.