



ESTATE PLANNING GUIDE

Do You Need an Estate Plan?

Anyone who owns property, a car, a bank account, investments, business interests, a retirement plan account, collectibles or personal belongings needs an estate plan. An estate plan enables you to direct how and to whom your property will be distributed after your death. If you have no estate plan at all, your property could be distributed according to your state's intestacy laws without regard to family needs or your desires.

Under the laws of Texas, you may dispose of your property by will, provided you are of sound mind and legal age. Neglecting to make a will could be a costly and painful mistake if you own, either in your name alone or jointly with someone else:

- Any real property, including real estate of any kind, whether it's a vacant lot, a residence, oil and gas assets, a farm or improved income-producing property
- Personal property, including anything of value that is not real property, such as furniture, jewelry, automobiles, stocks, bonds and bank accounts

Estate planning is an ongoing process. For a young, single person, an estate plan may consist of a will only. A couple just starting out might each have a will and own a home and bank accounts jointly. When children arrive, naming a guardian and arranging to provide for them in the event of unexpected death or incapacity become estate planning concerns. And once an individual starts to achieve financial goals, asset preservation and tax management become important factors in estate planning.



Why Should You Make a Will?

If you don't make a will, you can't direct who will receive your property when you die. It will be distributed by law, which is necessarily inflexible and cannot take your wishes or your family's needs into account. Part of your property may go to your children instead of passing entirely to your wife or husband as you might suppose; part may go to relatives you barely know or don't care for. Someone who needs financial help and for whom you wish to provide for may get less than he or she needs, or perhaps nothing at all.

Instead, your estate will be settled by a court-appointed administrator or personal representative. You can't be sure in advance who this person is. It may be a relative whose business judgment you don't trust, or someone who is difficult for your family to work with.

By making a will, you can make sure that your property goes to the people or organizations you want to benefit in the proportions and manner that will help them most.

Facts You Should Know About a Will

A will has no force or effect until its maker dies. No requirement exists to file or record the will before that time. It may be revoked or rewritten at any time, but only the most recent will prevails at death.

A will controls only the property that you own individually. Any real or personal property that you own jointly with another person under the right of survivorship or any property for which the proceeds are payable to a named beneficiary will likely pass directly to the co-owner or the beneficiary. Because this property ordinarily will not pass under your will, it will not be governed by the will's terms and provisions.



EXAMPLES OF JOINTLY-OWNED PROPERTY:

- A bank account that you hold jointly with another person on which either of you can draw, and which will be payable to the survivor if one of you dies
- A U.S. savings bond that is registered in your name with someone else as co-owner, or in your name alone but payable on your death to someone else you have designated
- An insurance policy on your life, the proceeds of which will be payable on your death to someone you have named rather than to your estate
- Real estate (or any other property) that you own jointly with someone else and that will pass to the surviving joint owner at your death

A will does not become effective immediately upon the death of its maker; it must first be proved and admitted to probate. As a consequence, you may consider omitting certain items from the will and instead plan for them while you're living. These include:

- Purchase of a cemetery plot
- Funeral arrangements
- All other items that require immediate attention



If you have definite plans or ideas about these matters, you can leave a simple letter of instructions or an informal memorandum of your wishes to guide your family in their decisions. Some planners call this a letter of wishes. You do not have to currently own a cemetery plot or have detailed funeral plans in place to create a will. Instead, consider moving forward with creating a will now and writing a letter of wishes with these details when ready.

Planning Your Will

First, list all the property you own over which your will can have no control. The amount of such property, to whom it will go and in what manner will naturally influence the provisions to be made for the disposition of the rest of your estate.

Now consider each of the following points in light of your overall objectives. By recording your decisions as you go along, you automatically build a usable outline for the basic provisions to be included in your will.

THE DISPOSITION OF YOUR PERSONAL EFFECTS

Clothing, jewelry, furniture, automobiles and articles of personal use are usually left specifically to particular members of the family or to friends. If you do not explicitly define how these articles will be disposed, they will become part of your residuary estate which remains after the payment of specified legacies or bequests.



CASH GIFTS TO INDIVIDUALS OR CHARITIES

If you leave a stated amount of money to a particular person or charity, that bequest must be paid in full before any distribution is made to those entitled to the remainder of your estate. If your estate proves to be smaller than you anticipated, the amount your principal beneficiaries receive may be unduly reduced. Therefore, you may decide that such bequests to beneficiaries of secondary importance be paid only if the total estate exceeds a specified minimum. Similarly, you might also decide that cash gifts—likely to represent a substantial portion of the total estate—are better made in fractions or percentages of the total rather than in fixed dollar amounts.

GIFTS OF INCOME

Do you wish to leave a regular income instead of a lump sum to a parent, other relative or friend? You may do so through a trust set up in your will. You can set aside a specific sum, specific assets or a stated proportion of your estate. Then you can direct that the income, or periodic payments of stated amounts, be paid to the individuals you specify for a certain time period or for life. The remaining principal will then pass to others after it has fulfilled its purpose.

THE GIFT TAX ANNUAL EXCLUSION

Each year, you can gift assets to as many people as you choose, up to the annual gift tax exclusion amount without triggering any federal transfer tax—gift, estate or generation skipping. The annual tax exclusion is available in addition to your gift tax credit exclusion amount and is adjusted for inflation. Joint gifts given with your spouse will raise your tax-free gift amount.

Because the laws are complex and your personal circumstances are unique, always check with your tax advisor to ensure you have complete information about any applicable law and how it might affect you.



PLANNING STRATEGIES FOR BUSINESS OWNERS

If you are a business owner, you will want to arrange in advance for the transfer of your business or partnership interest at your retirement, incapacity or death. If family members will continue operating the business after your death, you will need to ensure enough cash will be available to cover estate tax (if applicable) and expenses. Otherwise, they may be forced to sell part or all of the business. Will your partners or fellow shareholders buy your interest? A buy-sell agreement can help avoid unexpected surprises and make the transaction smoother.

When using a binding purchase-and-sale agreement, you may also make specific advance arrangements for the sale of your interest in your business at your death for a dollar amount that reflects its true value as a going concern. This agreement may be between you and key employees, between you and your partner or partners, between you and other principal stockholders, or between you and the company, if it is a corporation.

As an alternative you may wish to preserve your interest in the business for the benefit of a child or others. If you choose this option, ensure that proper provisions are included in your will; otherwise there may be complications and extra expense. Carefully consider the cash available in your estate that will be used to pay estimated taxes and settlement costs and the possible effect on your family's future security of continuing the business.

These decisions are complex and require careful consideration and the counsel of legal and tax professionals. Otherwise, your family may face penalties that are unintended and unnecessary.

Choosing an Executor and Trustee

To settle your estate and ensure the timely and accurate distribution of your property, you must name an executor (and, in some cases, a trustee). This person is responsible for carrying out the provisions of your will, attending to the numerous details required for settling the estate, and managing and protecting your property until it is turned over to your beneficiaries.

Who you choose to be your executor can have significant consequences on the success of your will and how efficiently and economically your estate is settled. As a consequence, you will want to choose your executor prudently and thoughtfully, with the understanding that whomever you choose should be able to manage the often tedious, difficult and time-consuming job duties. You can choose almost anyone who is an adult and is legally competent to serve as executor—your spouse, sibling, friend, business associate or financial or legal advisor, for example. You can also name a corporate executor, such as a bank trust department.

BEFORE MAKING YOUR CHOICE, CONSIDER THESE FACTS CAREFULLY:

- Duties of an executor include time-consuming work, often spread over many months and potentially years.
- Ideally, an executor should always be available, located relatively near you and in good health.
- Depending on the extent and complexity of your assets and the potential for disputes among heirs, the job may involve more than 50 separate steps. Many of the executor's duties are highly complicated, technical procedures beyond the average person's common experience and knowledge.
- In many cases, serving as an executor requires a combination of training, experience and varied knowledge found only in a specialist that makes estate settlement a business.

THE FOLLOWING ARE COMMON DUTIES THAT MAY BE PERFORMED BY AN EXECUTOR OR PERSONAL REPRESENTATIVE:

- Collects and provides safekeeping for the estate's assets
- Notifies creditors and pays all valid debts to include final expenses such as funeral, burial, medical bills, etc.
- Collects any sums owed to the estate
- Files claims for retirement plan benefits, Social Security benefits and veterans benefits
- Manages the estate's assets during administration
- Sells assets, as directed by the will or required by state law, to pay estate expenses or legacies
- Keeps detailed records of all estate transactions and submits records to beneficiaries and/or the probate court as applicable
- Distributes assets to beneficiaries and settles the estate per the will
- Works with an attorney to ensure the will is filed for probate
- Works with a tax preparer to gather information and file the final 1040
- Works with a tax preparer to gather information and file federal estate tax returns if necessary
- Works with a tax preparer to gather information and file income tax return(s) for the estate

Before choosing someone to serve as your executor or personal representative, give serious consideration to how well he or she will be able to handle these duties and responsibilities.

You might expect such specialized, dependable service to be expensive, but your estate will generally pay no more for the services provided by Frost than for those of a completely untrained individual who has never served as an executor.

Understanding the Federal Estate Tax

Estate planning has become simpler for many people thanks to a higher estate tax exemption amount and relatively low top estate tax rate. But that doesn't mean that the estate tax is no longer a concern, particularly for higher income individuals with larger estates.

ESTIMATING POTENTIAL ESTATE TAX

For a general idea of how much federal estate tax, if any, would be due on your estate, estimate the current value of your estate. Completing the worksheet below can help you estimate the value of your gross estate. Then subtract allowable deductions. These deductions may include, but aren't limited to:

- Estate administration fees
- Funeral expenses
- Valid debts, such as your mortgage and unpaid property or income taxes
- Transfers for public, charitable and religious uses
- Bequests to your surviving spouse

ASSETS	MARKET VALUE
Certificates of deposit, money market accounts and other cash	\$
Stocks, bonds and mutual funds	\$
Mortgages and other debts owed to you	\$
Other investments	\$
Employer-sponsored retirement plan benefits	\$
Individual retirement accounts	\$
Personal residence	\$
Vacation home/time share	\$
Other real estate	\$
Business or partnership interests	\$
Life insurance proceeds	\$
Automobiles and recreational vehicles	\$
Jewelry	\$
Collectibles	\$
Other (furniture, personal belongings, etc.)	\$
TOTAL GROSS ESTATE	\$

EXEMPTION PORTABILITY

The personal representative of a deceased spouse's estate can elect to transfer any unused estate tax exemption to the surviving spouse. The surviving spouse generally can use the transferred amount in addition to his or her own exemption to protect the assets from estate taxes. This portability provision simplifies estate tax planning for married couples.



THE GENERATION-SKIPPING TRANSFER TAX

Another tax that could be a concern for individuals with larger estates is the generation-skipping transfer (GST) tax. This tax could come into play if you want to leave your assets as a benefit to your grandchildren or others more than a generation younger than you. The purpose of the GST tax is to prevent families from sidestepping a generation's worth of estate taxes by transferring assets to grandchildren rather than to children.

CAPITAL GAINS TAX

Capital gains taxes are more a financial planning consideration than an estate planning one. But it's prudent to understand how they might affect property you transfer as part of your estate plan.

You pay capital gains tax on gains realized when you sell property that has increased in value. Your gain (or loss) for capital gains tax purposes is usually determined by using your basis in the property. Basis generally refers to the amount you paid to acquire the property, plus or minus various adjustments that may be required after acquisition (for items such as depreciation, reinvested dividends and the cost of capital improvements). Your gain is the value of the property in excess of your basis.

When you give someone appreciated assets during your lifetime, your basis on the gift date is carried over and becomes the recipient's basis. If the recipient later sells the gifted assets, he or she is liable for capital gains tax on the assets' appreciation both before and after you made the gift.

Inherited property is treated differently. It generally receives a step-up in basis to its fair market value at the time of the owner's death. So, if you leave property to your son and he later sells it, he'll be responsible for capital gains tax only on the appreciation generated after your death.

THE UNLIMITED MARITAL DEDUCTION

The estate tax marital deduction generally allows you to give your spouse an unlimited amount of assets free of both estate and gift taxes. The assets may pass either outright or in trust. So, if you leave your entire estate to your surviving spouse, no estate tax will be due on your estate.

While the idea of passing all your assets to your surviving spouse tax free may sound attractive, this planning approach isn't always the best strategy. You may have other estate planning objectives that can be better accomplished with other strategies.

If you're a resident of a community property state and you have only community property, the marital deduction generally isn't needed unless your assets are more than double the estate tax exemption.

Assuming you've made no taxable gifts, your credit will eliminate all estate taxes on your estate regardless of who inherits your assets.

What To Do About Life Insurance

Life insurance plays a part in most estate plans. Make sure you have sufficient coverage for family members to maintain their current lifestyle after you're gone. For larger estates that may be subject to tax even when family trusts are used, life insurance can provide the funds needed to pay estate taxes without liquidating estate assets.



Your life insurance may be made payable in any of the following ways:

- In a lump sum to a named beneficiary or beneficiaries
- In installments by the insurance company to a designated beneficiary (or series of beneficiaries), under one of several methods of settlement
- To your estate to be disbursed in accordance with the terms of your will
- To a trustee to be invested and managed for the benefit of your family or others, under an agreement of trust which would contain your instructions about the manner in which the funds are to be invested and would also define to whom, at what time and under what circumstances the income and capital are to be paid to your beneficiaries

The best settlement method for you can be determined only by a thorough study of all the facts that relate to your estate and your family situation.

Factors that could have a bearing on your settlement method decision include:

- The amount and nature of your other estate assets
- The ease with which they can be converted into cash
- The ages and overall physical condition of your dependents
- The total face value of all your insurance policies, together with the specific guarantees combined in each
- The extent to which your estate objective requires flexibility in the disbursement of funds to your beneficiaries

Because each should supplement the other, consider your insurance program and your will at the same time.





When to Review Your Estate Plan

Personal and family changes can make yesterday's well-devised estate plan wholly inadequate today. Consequently, you should be aware of events that may signal the need for an estate plan review and possible revision.

EVENTS TO LOOK OUT FOR:

Births: You may want to consider the needs of a new child or grandchild in planning your estate.

Deaths: The death of your spouse or another beneficiary can greatly affect your plan. Likewise, the death of your executor, your children's guardian or your trustee should prompt a review.

Marriages: If you marry, you will want to review your estate plan. When your children marry, you may also want to revise your plan.

Divorces: Most people review their estate plans if they divorce. But many fail to consider the effects of a beneficiary's divorce on that beneficiary's inheritance. For example, if your will gives your son and his wife joint ownership in your home, consider the problems that could arise if they divorce and you don't revise your will.

Moves out of state: If you move to a new state, your estate will be settled according to the laws of that state. Certain provisions of your estate plan that are valid in your current state of residence could be invalid under the laws of the new state. Also, if your executor and witnesses to your will reside in a state hundreds or even thousands of miles away, the administration and settlement of your estate could be hampered.

Changes in estate composition: A substantial increase or decrease in the value of your estate after you design your estate plan may make a review or revision necessary.

Business changes: Certain business changes signal the need for an estate plan review. These changes include starting, buying or selling a business; entering into a buy-sell agreement that provides for the sale of your business interest when you die; changing your business' legal form; and the death of a business partner or another important member of your firm.

Tax law changes: On average, the tax law changes every couple of years. Any changes in the law may make your estate plan outdated.

Where to Keep Your Will

Your signed will is a valuable document which should be kept in a safe place where it will be readily available when needed. If it is kept at home, there is always a possibility that something may happen to it. Your will may be unintentionally destroyed or even thrown away with other papers by mistake.

Some wills, hidden carefully from prying eyes, have been concealed so successfully that they have never been found.

Wills in which Frost is named executor or trustee may be deposited with us for safekeeping. We will issue an official receipt indicating the location of the original will. The will may be withdrawn at any time, but only by the maker or on his or her written order.

Your attorney will retain an unsigned copy, and you may wish to keep another among your personal papers for reference purposes. If the original of your will is in a safe deposit box at your bank, be sure to leave a memorandum indicating where it may be found in case of emergency.



Estate Planning Checklist

Does the estate plan include an up-to-date will?

Have family circumstances changed since the last will was executed?

Has the composition of the estate changed significantly since the last will was executed?

Are beneficiary designations for life insurance and retirement plans up to date?

Does the will include specific bequests of property that is no longer owned?

Is there a health care directive?

Does someone have a power of attorney?

Should a living trust be considered for the owner of the estate?

Does the estate plan take advantage of lifetime gifts?

What steps are being taken to minimize death taxes?

Which beneficiaries should receive their inheritance in trust?

Who will be the trustee?

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