

BASIC ITEMS ABOUTS WILLS, TRUSTS, AND PROBATE

Basic Steps in Making Your Will

1. Decide what property to include in your will.
2. Decide who will inherit your property. Decide any specific things you want done at your passing.
3. Choose an executor to handle your estate.
4. Choose a guardian for your children. (NOT APPLICABLE)
5. Choose someone to manage children's property. (NOT APPLICABLE)
6. Sign your will in front of witnesses.
7. Store your will safely

1. Decide what property to include in your will. – These can be as general (all my possessions to _____) or as specific (my special blue socks knitted by Aunt Mildred goes to _____) as you wish them to be. This is the opportunity to deal with all such matters that are important to you, and which you wish to clarify perhaps to avoid conflicts between heirs after you're gone.

Its wise to include all your property somewhere, either in your will, or in specific trusts which may be set up by you as well.

2. Decide who will inherit your property.-- Decide any specific things you want done at your passing. – Again this can be as specific or as general as you wish. It is specific as to whom you wish to receive certain things, or do certain things. Also, your specific wishes are addressed here (sing rock of ages at my funeral, but not the 3rd verse, or, bury me in a pine box, I don't like expensive caskets, or, scatter my ashes on the third hole of Shangri La links, or whatever).
3. Choose an executor? -- Most executors don't need special financial or legal knowledge; most people name their spouse or an adult child. Common sense, conscientiousness, and honesty are the main requirements. An executor who needs help can hire lawyers, accountants, or other experts, and pay them from the assets of the estate.

The person you choose should be honest, organized, and good at communicating with people. If possible, name someone who lives nearby and who is familiar with your financial matters; that will make it easier to do chores like collecting mail and finding important records and papers.

Many people select someone who will inherit a substantial amount of their property. This makes sense because such a person is likely to do a conscientious job of managing your affairs after your death. He or she may also know where your records are kept and understand why you want your property left as you have directed.

Legally, you can name anyone you want to be your executor. In most states, the only people who can't serve as executors are children under 18 or convicted felons. Some states do, however, impose restrictions on out-of-state executors. For example, a few require that an out-of-state executor be a relative or a primary beneficiary under your will. And some states require that a nonresident executor obtain a bond (an insurance policy that protects your beneficiaries in the event of the executor's wrongful use of your estate's property) or name an in-state resident to act as the estate's representative.

No matter who you pick, make sure the person is willing to do the job. Discuss it together before you finalize your will. When it comes time, however, an executor can accept or decline the responsibility. And someone who agrees to serve can resign at any time. If the will named an alternate executor, that person will take over. If not, the court will appoint someone to step in.

PROBATE / TRUSTS

Once you have passed away and your will takes effect, then the issue of "Probate" arises. Probate involves inventorying and appraising the property, paying debts and taxes, and distributing the remainder of the property according to the will. This legal process can be lengthy, and expensive. It is possible to minimize or avoid altogether the probate process, depending on the circumstances, by using trusts, the simplest being the living trust. When you make a living trust, your surviving family members can transfer your property quickly and easily, without probate. More of the property you leave goes to the people you want to inherit it. (Separate basic information is provided about trusts)

WILL MY ESTATE HAVE TO PAY FEDERAL TAX AFTER I DIE?

Most estates -- at least 99% -- don't. The federal government imposes estate tax at your death only if your property is worth more than a certain amount, which depends on the year of death. However, all property left to a spouse is exempt from the tax, as long as the spouse is a U.S. citizen. Estate tax is also not assessed on any property you leave to a tax-exempt charity.

Year of Death	Exempt Amount (per each spouse)
2006, 2007, or 2008	\$2 million
2009	\$3.5 million
2010	No estate tax
2011 - 2012	\$3.5 million, unless Congress extends repeal- not yet determined

ARE THERE WAYS TO AVOID FEDERAL ESTATE TAXES?

Yes, although there are fewer ways than many people think, or hope, there are. Here are some of the most popular:

- **Tax-free gifts.** You can give up to \$13,000 per calendar year per recipient without paying gift tax. You can also pay someone's tuition or medical bills, or give to a charity, without paying gift tax on the amount. This reduces the size of your estate and the eventual estate tax bill.
- **An AB trust,** where spouses leave their property in trust for their children, but give the surviving spouse the right to use it for life. This keeps the second spouse's taxable estate half the size it would be if the property were left entirely to the surviving spouse. See Tax-Saving AB Trusts for more on this type of trust.
- **A "QTIP" trust,** which enables couples to postpone estate taxes until the second spouse dies.
- **Charitable trusts,** which involve making a sizable gift to a tax-exempt charity.
- **Life insurance trusts,** which let you take the value of life insurance proceeds out of your estate.