LAWYER FOR *Life*

KEEPING YOUR FAMILY HEALTHY, WEALTHY & WISE

IN THIS ISSUE
Second Quarter 2018

A WILL IS A KEY COMPONENT OF ANY ESTATE PLAN, BUT IT'S NOT ENOUGH

A will can help you accomplish a number of important planning goals. For instance, it allows you to control how your assets are distributed after you pass away. Without a will, your assets will be distributed according to what is known as intestate succession, in accordance with strict guidelines set by the state. What you "would have wanted" is irrelevant to the state. Your assets must be distributed, and the state has devised a formula to do so.

A will also gives you control over how your minor children will be raised if something terrible happens to you and your spouse. Your will allows you to name people of your choosing—people you trust—to raise and care for your children if you cannot. Without a will, the court will decide who has control over your children. The court's decision could lead to your children being raised in a place and manner you never would have wanted.

(CONT.)

Est8Planning COUNSEL LLLC
Estate Planning & Administration

201 Merchant Street, Suite 1800
Honolulu, Hawaii 96813
(808) 587-8227
www.Est8Planning.com

A Will Is A Key Component Of Any Estate Plan, But It's Not Enough (Cont.)

In short, a will allows you to accomplish important goals *after you have passed away*. However, it does not allow you to manage your affairs if you become incapacitated. To accomplish that, you need additional planning documents such as a power of attorney and advanced medical directive. These empower one or more individuals to make decisions about your assets or medical care when you are unable to make them on your own. Without these critical documents, a court will appoint someone to make decisions and act on your behalf. This could very well be someone you would not have chosen yourself. Similarly, doctors would have the authority to take actions *they believe* are in your best interest regardless of what you would or would not have wanted.

Another reason a will isn't enough is that the ownership of many assets transfers outside the will, including life insurance, annuities, retirement accounts like IRAs and 401(k)s, jointly-owned property and more. The beneficiary designations of these assets, not the will, determine how they will be distributed.

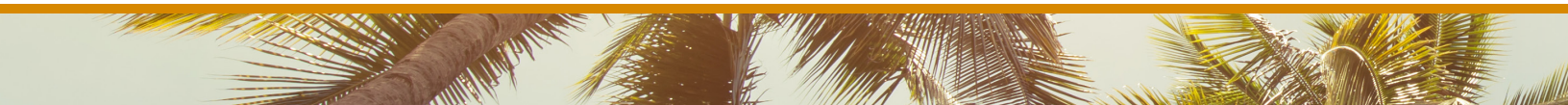
Many IRS rulings and court cases have concluded that the owner's statements and intent in his or her will do not matter if they contradict what was written on the beneficiary designation form. This is why it is so important to review your beneficiary designations periodically to ensure they reflect your wishes now, not what you wanted when, for example, you opened the IRA 20 years ago.

Many families utilize trusts in their estate plans. These provide a greater level of protection and flexibility than what a will alone can provide. For instance, a revocable living trust allows your estate to avoid probate entirely—and the public scrutiny that accompanies it. Trusts can also protect your assets against creditors and other threats. In addition, they can protect your heirs' inheritances against creditors, predators, remarriage, and even their own poor decisions if they are not yet mature enough to handle an inheritance on their own.

The bottom line is this: While a will can help you accomplish important goals, additional planning tools and strategies can help you accomplish a great deal more, both after you have passed away and while you are still alive.

Visit Our Site: www.Est8Planning.com

Call us today: (808) 587-8227



How To Avoid Challenges To Wills And Trusts

Challenges to wills and trusts are more common than you might think. These disputes can turn very ugly, very quickly. Resentment between family members can last a lifetime, and the financial consequences can be devastating for all parties involved. Here are several ways to prevent potential disputes from arising in the first place, avoid estate litigation, and help ensure your wishes are carried out.

Try to treat siblings as equally as possible.

In some family situations this may seem easier said than done. However, the principle is sound and can help avoid a number of potential problems. If you have two children, leave each of them the same amount. This "equality principle" doesn't just apply to money. There is also the issue of control. If one of your children seems better able to manage money and you name him or her as executor of the estate (or trustee of the trust), the other child will likely feel slighted. Naming a corporate executor or trustee can nip this thorny issue in the bud. Another potential problem is when inheritances are left to grandchildren, and one sibling has more grandchildren than the other. Even then, if you follow the equality principle, many conflicts can be avoided.

Never underestimate the emotional value of certain family heirlooms and other tangible property.

That vase in the foyer or the old sofa in the living room might not seem valuable to you, but to certain members of your family it could hold special meaning… and value. A statement in a will or trust that essentially says 'tangible personal property should be divided as my heirs see fit' can lead to a host of conflicts. By putting specific items that you believe are of interest to certain family members in writing, and discussing these decisions in advance, many emotionally charged disputes can be prevented.

If you gave money to one heir in the past, don't forget about it in your plan.

Let's say that several years ago you gave one of your sons $20,000 to help with the down payment on a home. Since your goal is to treat all of your children equally, you might want to address this gift in your will or trust. For example, it can be classified as an advancement, with the $20,000 counting as part of the money you ultimately leave to that particular son.

Consider putting a no contest clause in your will.

If you suspect that one of your children, or his or her spouse, might make trouble over your will, a no contest clause can help avoid potential problems. In essence, this clause makes the risk of challenging your will outweigh the potential benefit of doing so. A no contest clause typically stipulates that if a beneficiary contests the will's validity or its provisions, his or interest in the will is forfeited. Of course, you have to leave the heir in question enough of an inheritance to motivate him or her not to challenge the will.

Prove that you are of sound mind.

This might sound "crazy," but it's not. Challenges to wills often involve allegations that the maker of the will (the testator) was not of sound mind when the will was signed. This tactic is particularly common when changes have been made to the will shortly before the testator's death. You can help prevent this type of challenge by obtaining an evaluation from a treating physician *and* a psychiatrist right before you sign or make changes to your will.

If you are going to disinherit someone, make sure it is noted clearly in your will.

Our children can and sometimes do disappoint us. Sadly, the level of disappointment may be so severe, the behavior so egregious, that the only solution seems to be disinheriting the son, daughter, or grandchild entirely. If you find yourself in this situation, make sure your decision is noted in your will. You don't want to give a reason for your decision, as this could become the foundation for a potential lawsuit. However, you need to make it clear that your decision was intentional.