

Will You Plan Now or Pay Later?

Estate planning attorneys will agree, it's better to die with a properly drafted Will than to die without one. If you don't have one, consider getting one. You will want to direct your assets to those persons whom you wish to receive a legacy as opposed to relying on the alternative, which is a default plan arranged for you by the State of Texas. You will also want to name an independent executor along with successors in the event the first executor fails, refuses, or becomes unable to serve. You may also want to include special trusts to provide for family members who are disabled as well as trusts for minors and perhaps adult children.

Here are three big considerations you may not have thought of before that may require changes to your estate plan or motivate you to get one. Years ago, the exemption equivalent, which allows a person to leave a certain amount of money to beneficiaries tax-free was much smaller. The law required a person to either use it or lose it. For example, if in 1987, when the exemption equivalent was \$600,000 per taxpayer, a couple was forced to use a by-pass trust in order to shelter the first \$600,000 upon the first to die in order to take advantage of the exemption. The exemption will be \$11.58 million in 2020. Additionally, the law has changed regarding "use it or lose it". While there may still be relevant reasons to use a forced by-pass trust in a person's Will, in some cases, it may be time to eliminate it.

Secondly, consider implementing planning to exercise some control over your assets after you pass away. Let's say George and Martha have three children. George dies leaving his assets to Martha, then Martha dies leaving all of her assets to their three children. One of the children, Susan, dies after her mother. Susan's Will leaves all of her assets to her husband, Frank. Frank later remarries. The new bride may be spending Frank's money and depending on the circumstances, may burn up all of the assets, leaving nothing for Susan and Frank's children. Would George and Martha want their assets to be used by a stranger instead of going to their own grandchildren?

Thirdly, you could have a heart attack, a stroke, or an unfortunate incident, such as an auto accident. Those events can happen suddenly with no warning. You were healthy and then suddenly you become severely disabled. We should all plan like it might happen to us. Why would a person want to pass up the opportunity to prepare documents such as powers of attorney for property, powers of attorney for health care, living wills and medical privacy documents? Becoming the subject of a court supervised guardianship proceeding which becomes a matter of public record for all the world to see, not to mention the unnecessary expense and frustration of a guardianship that could have been avoided had you just taken care of preparing the appropriate documents. And why would you want to procrastinate making a Will and then die suddenly not ever having taken time to make your Will? Now your family will have to pay more for a more costly probate proceeding.

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specific case, but should be considered general information. Thank you to Wright Abshire's Summer Williamson who contributed to the article.