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A few mistakes to avoid with your will



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The simplest way to ensure that your assets and personal property will be distributed according to your wishes after your death is to prepare a will. However, simple drafting mistakes that can occur even when you work with an attorney can negate your intentions and cause big problems for your heirs.

Follow the tips below to help ensure your will accomplishes what you want it to.

Avoid mentioning dollar figures. By specifying dollar amounts in your will, you run the risk of having your estate distributed in a way you never intended.

For example, suppose that your estate is valued at \$500,000 when you write your will. You decide to make a \$50,000 gift to your brother and leave the remainder of your estate to your only daughter.

But what happens if enormous medical expenses destroy your net worth and at your death you are worth just \$80,000? According to your will, your brother still gets \$50,000, more than your daughter's share of \$30,000, clearly not the split you intended.

Using percentages rather than dollar figures gives you a better chance of achieving the distribution you desire.

Use caution when choosing couples as guardians. You love your sister and she loves your children, so you name her and her husband as your children's guardian. However, what happens if she dies before you or if the couple gets divorced?

Are you comfortable having your brother-in-law and whomever he may re-marry raise your children? If not, name your sister first and choose another person as a backup.

Never use a beneficiary as a witness to your will. Having the same person as both a beneficiary and a witness casts a shadow of doubt about what influence that person may have had on you and could open the door for your heirs to contest your will.

If you use an attorney, have his or her office staff members serve as witnesses. If you do not use an attorney, you need to find witnesses who are not named as beneficiaries in your will.

Address the possibility of simultaneous death. For married couples, if a will does not address the possibility of simultaneous death, each spouse is presumed to have died before the other. And that leads right into a tax trap because it prevents the couple from taking advantage of the marital deduction that allows one spouse to leave an unlimited amount of property to the other at death without triggering the federal estate tax.

Accordingly, in situations where there is a big disparity in the value of the estates, the will should note that in the event of simultaneous death, the partner with the greatest estate would be assumed to have died first.

Include a provision for disclaimers. This is not simply a matter for high net-worth individuals. Because a large, unplanned inheritance could put a surviving spouse in the position of not wanting to receive anything additional into his or her estate, your will needs to be worded properly to allow heirs to disclaim their inheritance.

Do not include funeral and burial arrangements. Wills should be comprehensive, but they are no place to detail funeral arrangements. In fact, in some cases, wills are not located and read until after the funeral, so it's possible that your wishes would not be known.

Draft an additional document and discuss your wishes with the family or friends you ask to keep the document.

Coordinate your will with other documents. Some of your assets, such as life insurance proceeds, 401(k) accounts and IRAs will pass outside of the will to your named beneficiaries, while property held in joint tenancy automatically goes to the other person. You should coordinate bequests you make in your will with how these assets will be distributed.

Review and update your will. While you immediately should revisit your will if you get married, divorced, or have a major change in your financial fortunes, it's wise to do a quick review every year or so. If your estate is large enough to worry about estate taxes, reviews are essential after major estate tax legislation.

Choose your executor carefully. You'll want someone who is calm, honest, organized and, most importantly, willing and qualified to serve. Be sure to discuss the job requirements with your candidate and get his or her consent. It's also wise to list an alternate or two.

Finally, although you may not want your family to know in advance what is in your will, they should at least know where to find it. Rather than leave your will in a safe deposit box that could be sealed and inaccessible upon your death, ask your executor to keep a copy.

You should always consult with an attorney when drafting any legal documents and they might want you also to consider forming a trust.

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