

# Estate Planning Today

*A Guide to a More Effective Plan*



Every adult of sound mind and legal age has the right to make a will and create an effective estate plan to divide his or her estate. In that estate plan, the individual chooses how family, friends and deserving charities will benefit.

The purpose of this booklet is to point out some of the challenges encountered in estate planning today, and to explain time-tested methods of planning an effective and economical distribution of an estate. It is important to note that estate planning involves more than just executing a will. Many assets do not pass

under a will and their disposition must be separately planned. Also, we highlight how charitable intentions can be a positive and integral part of estate planning.

## **Three Basic Considerations**

One all-important consideration that must be emphasized: The basic purpose of an estate plan is to carry out your personal objectives. In addition, there are three basic factors that should be briefly mentioned.

**First**, as noted, many assets do not pass under the terms of a will. These assets are often called “nonprobate assets,” as distinguished from “probate assets” that do pass under a will.

**Second**, practically every estate faces several potential sources of depletion, possibly in the form of taxes; one purpose of a good estate plan is to avoid or minimize this depletion.

**Third**, property can be left directly to an individual or charity or to a trust that benefits several individuals or charities.



## Probate and Nonprobate Property

Let’s start by distinguishing between probate property and nonprobate property.

Robert B. has a typical estate. He is married and his house and bank accounts are jointly owned with his wife, Agnes. He holds a portfolio of stocks, bonds and mutual funds in his own name. Robert recently retired and named

Agnes the beneficiary of his retirement plan. He owns two life insurance policies, one payable to Agnes, the other to his son, William.

At Robert’s death, his property will pass as follows:

- Jointly owned property passes to Agnes automatically.
- Retirement plan assets pass to Agnes as the beneficiary named in the plan document.
- Life insurance proceeds pass to Agnes and William as the beneficiary named in each policy.
- Robert’s separately owned portfolio (e.g., stocks and bonds) passes under the terms of Robert’s will.

An effective estate plan must coordinate the disposition of each of these assets. A will is only part of a complete plan. In Robert’s case, his probate assets are only a fraction of the total value of his estate.

## The Depletion of an Estate

A typical estate faces several potential threats of depletion.

**Probate Costs.** Court costs, attorneys’ fees and executors’ commissions can add up to a considerable amount. And, if the estate is complex or ambiguous, costs can be substantially higher.

**Federal Estate Tax.** For highly valued estates, the federal estate tax could be a major source of depletion.

**State Estate and Inheritance Taxes.** It is possible the state might levy a tax on property passing from a decedent. The severity and nature of state death taxes vary from state to state.

**Sacrifice Sales.** Taxes and probate costs must be paid soon after death and they must be paid in cash. If an estate lacks the liquidity to pay these costs (and to provide for the support of the decedent’s family), it may be necessary to sell property at a sacrifice price.

An effective estate plan should try to minimize these major causes of estate depletion.

## Developing an Effective Estate Plan

The first step in developing an effective estate plan is to decide exactly what you want to accomplish. The second step is to prepare a detailed inventory of assets available to accomplish your objectives. The third step is to learn about the various planning tools which can help you accomplish your objectives.



### Step One: Determine Your Objectives

It is important to look at your ultimate objectives — not in terms of dollars, but in terms of what you want to accomplish.

If you are married, you may want to provide security for your spouse. If you are a parent, you may want to provide financial protection for your children or simply provide a token of your love. If you think about it, you also may want to remember certain friends in your estate plans or express your commitment to one or more charitable organizations whose missions you support.

Take the time to write down all your ultimate estate objectives. Again, forget about dollars. Just think about what you want to accomplish for both yourself and your beneficiaries.

Consider various contingencies that can affect your estate plan — changes in the size of your estate or the needs of your beneficiaries and the possibility of a beneficiary predeceasing you.

### Step Two: Prepare an Estate Inventory

In preparing your estate inventory, you can classify most assets as securities (stocks, bonds, vacation property and investment realty), bank accounts (savings, checking, C.D., money market), personal property (art, collections, jewelry, furniture, cars, etc.), life insurance (cash value, term, universal, group, etc.) and retirement benefits. Write down everything on your list, including jointly owned property.

### Step Three: Understand the Tools

One early decision you will need to make in developing your estate plan is whether you want to leave property outright or in trust.

Certainly, if the beneficiary is a minor or ill or incapacitated, a logical answer would be to leave property in trust. Trusts should also be considered if:

- You feel that the beneficiary might have a difficult time handling an outright bequest.
- You want to ensure that the property, or the income from the property, will be available to provide security for the life of the beneficiary.
- You want your property or the income from the property to be available to one person, but to pass to another person or institution at some later time.

Trusts are extremely flexible. Your attorney can draft a trust that will accomplish your objectives. You name the trustee, the income beneficiaries and the ultimate beneficiaries. You define what each beneficiary is to receive and also the rights and obligations of the beneficiaries and trustee.

## Do Lifetime Gifts Make Sense?

Let's assume you decide to leave part of your estate in trust and part outright. Your next decision might be whether to give the property during your lifetime or after your death.

This can be an easy decision if there is any possibility that you will need the property for your own financial security. But if your estate is sufficiently large that you can give part of it now, a current gift should be considered.

Many people find lifetime gifts are more helpful and personally satisfying to their beneficiaries than testamentary gifts. Tax savings achieved through use of the annual gift tax exclusion may also be a good reason to consider lifetime gifts.

## Consider a Revocable Living Trust

There are two basic methods you can use to direct the disposition of your estate at death.

- Your will can direct the disposition of probate assets, with separate dispositions made for nonprobate assets; or,
- You can create a revocable living trust to control the disposition of some or all of your assets.

There are advantages and disadvantages of each method. The revocable living trust, as the name implies, is a trust you create during life that can be changed or revoked at any time. In the trust agreement, you set forth exactly how trust property is to be disposed of at death, very much like a will.

As the creator of the trust you transfer properties to the trust so that the trust becomes the legal owner of the property. You can reserve the right to receive all the trust income; you can also change the trust terms, remove property from the trust, or cancel the entire arrangement at any time. You can even serve as trustee — with a substitute trustee taking over the responsibility in the event of death, disability or incapacity.

What will the revocable living trust accomplish that makes it worth your effort?

*First*, it could avoid probate costs since the assets transferred into the trust during your life are usually not subject to probate.

*Second*, the revocable living trust will avoid delays that are typical in the settlement of an estate. Income and principal of the trust can

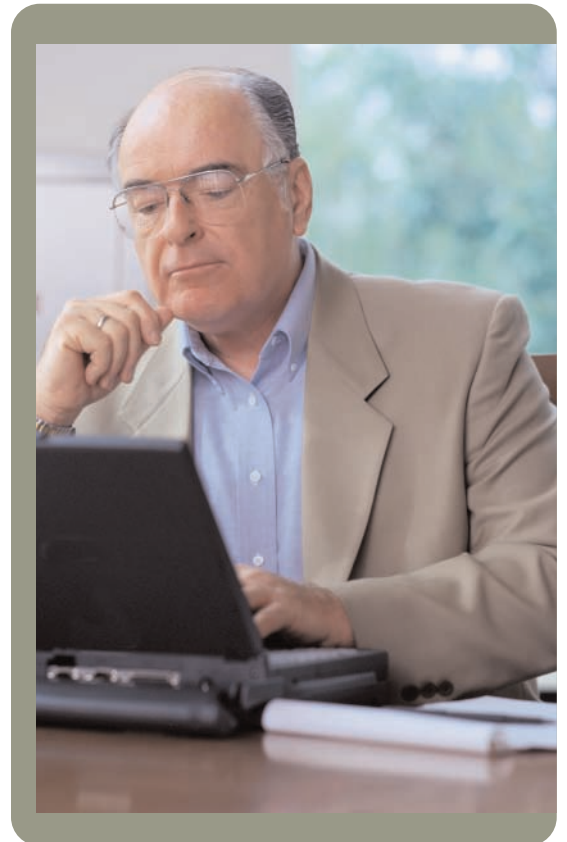
be made available to your beneficiaries immediately.

*Third*, the trust can be the cornerstone of a comprehensive estate plan. During your life, you can name the trust as beneficiary of your life insurance and retirement death benefits. You also can direct in your will that certain assets be distributed to the trust at your death. The end result: the trust will receive practically all your assets.

*Fourth*, because the trust is a private document, your estate plan does not necessarily become public knowledge as it does with a will.

What are the disadvantages of the revocable living trust? First, it may be more expensive to create and maintain compared with a simple will; and, second, there may be some complexities in transferring assets to the trust and managing the trust during your lifetime.

Still, you may want to consider the revocable living trust, especially if you have decided that trusts can be helpful to your beneficiaries or if you have substantial assets that may need professional management.



## Planning Your Will

Each state has statutes which set out the requirements of a valid will and the methods of bequeathing property. We can, however, point out that:

- Your will must meet all the technical requirements of the state where you reside and where your property is located. Consult an attorney and, if you move to another state or own property in another state, ask an attorney in that state to review your will.
- You can bequeath a sum of money or a specific property to a beneficiary of your choosing or a specified percentage of the value of your estate to a beneficiary.
- You can create a trust through your will or during your life.
- In your will, you can nominate an executor or executrix to manage the settlement of your estate. You can choose a family member, a friend, your attorney or a bank or trust company. If you wish, you can nominate co-executors and define the powers of the executor.
- You can name one or more residuary beneficiaries such as a charity to receive property not specifically bequeathed.

### YOUR BEQUEST TO CHARITY

Please consider the good you can accomplish by leaving a portion of your estate to the charity of your choice. Your charitable bequest can be a sum of money, a specific property, a percentage of the value of your estate or all or part of your residuary estate. If you would like to discuss a memorial bequest, or if you simply would like to know more about planning your bequest, please call or write us. There is no cost or obligation.

## The Rewards of Estate Planning

Effective estate planning does take time and effort. And it frequently involves making some hard decisions. However, the rewards will more than justify the costs. A carefully developed estate plan can provide greater financial security for you and your family and make it possible to support worthwhile charitable organizations.

We encourage you to consider the rewards and to contact us if we can help.