Wills & Estate Planning

Wills are the documents that allocate your property, money and investments after you die. As we age, wills become particularly important to ensure that our estate and our assets are distributed in exactly the way we would like.

If the person you care for does not have a will, stress the importance of creating such a document. Typically, an attorney will charge several hundred dollars to make up a will. If you don't want to hire an attorney, there is will-making software available and also simple forms you can fill out.

For people with complicated estates, setting up a trust can be a good idea. In fact, more and more people with even small to medium-sized estates are using revocable trusts in conjunction with, and as a substitute for, wills. The primary purpose of a revocable trust is to avoid probate by transferring your assets to your trust. While you are alive, you control the trust and your property as before, and you can amend or revoke the trust entirely. What is unique is that, upon your death, the trust becomes irrevocable, provides for appointment of a successor trustee, and then directs the trustee to distribute your estate to your heirs. All of this allows for a relatively quick and inexpensive transfer of your estate to your heirs, without the need for court involvement.

In addition to your basic revocable trust, you can design a variety of trusts to suit your particular estate, needs and desires. Typically, setting up a trust is more complex than creating and will, and requires consultation with an attorney or financial planner. Also, a trust is more expensive than a will, and can cost anywhere from one to several thousand dollars to set up. Here are a few of the basic kinds of trusts:

LIVING, OR REVOCABLE, TRUST

You can transfer your property to a trust while you are still alive, keeping control by appointing yourself as trustee. Upon your death, a co-trustee or a chosen successor who will follow the instructions you give in the trust agreement gains control of the estate and distributes the estate to your heirs.

CREDIT-SHELTER TRUST

In a credit-shelter trust, you will an amount of money equal to the estate tax exemption (currently $650,000) to the trust. The remaining money and estate goes to your spouse, who upon death can leave an equal amount of money tax-free to your heirs.

QUALIFIED TERMINABLE INTEREST PROPERTY (QTIP) TRUST

In a QTIP trust, upon your death your spouse will receive income from the estate—and upon his or her death the principal will pass to the beneficiaries you designate. This is a particularly popular trust in families shaped by divorces, remarriages and stepchildren.

GENERATION-SKIPPING TRUST

The generation-skipping trust allows you to transfer up to $1 million ($2 million with a spouse) to heirs that are at least two generations younger than you. Amounts over these limits will be taxed a generation-skipping transfer tax (currently 55%).

QUALIFIED PERSONAL RESIDENCE TRUST (QPRT)

The QPRT lets you give your home to your children—while you keep control of it for a specified timeframe—anywhere from five to 15 years. The main advantage of this kind of trust is that it protects your home from estate taxes.

IRREVOCABLE TRUST

An irrevocable trust names a trustee—a lawyer, bank, friend or relative—to manage your estate according to your instructions while you are still alive. Irrevocable trusts are typically used by individuals with large estates to take assets out of their taxable estate, thereby reducing estate taxes. Often a person will structure a defined income stream for themselves during their lifetime, with the remainder going to named beneficiaries, sometimes even charities, upon the person's passing. Where a charity is a named remainder beneficiary, a person may be entitled to a charitable gift income tax deduction as soon as the trust is established.

IRREVOCABLE LIFE INSURANCE TRUST

This trust protects your life insurance from the estate tax, since it effectively removes it from your estate. You will no longer own this life insurance; you will not be able to borrow against it or change the beneficiaries.