

15 Questions to Consider Before Preparing Your Will

1. Who will be the executor of your will?

If you are married, your primary executor is typically your spouse. Other primary or successor executor options might be one child, all of your children together, a sibling, etc., or a bank/trust company, which can be named in case of a common disaster (all immediate family members die before your estate is distributed).

2. Will you use a “By-Pass Trust” to save taxes?

If you are married, an advantage of using a By-Pass Trust is that it passes assets estate tax-free to your heirs immediately upon the passing of the last spouse. One disadvantage is that while your spouse can be a trustee of his/her own trust, you must have a co-trustee to decide on any encroachments on principal for the benefit of a spouse.

3. When you die (or if married, when the last spouse dies), will your estate go directly to your children/beneficiaries, or will you use a trust? If you use a trust, who will be designated as the trustee?

If considering an individual as trustee, consider naming two for accountability, and specify who will be the successor trustee if one trustee fails to serve.

4. If you use a trust (whether a living or a testamentary trust), when will the children/beneficiaries be entitled to receive the principal of the trust?

You could choose to have them receive it all at a certain age (for example, age 25) or stagger the payments (for example, ages 25, 30, and 35.)

5. If you have children, will you treat them differently in your will?

Some of your children may have greater financial burdens, such as a child with special needs. You may have children who have not used good judgment in choosing a marriage partner, or children

who are “spendthrifts” for whom you may want to continue the trust for life.

6. Will you put special provisions in your will for your grandchildren?

One thing to consider is if you will undermine your children’s authority over their children by leaving a large inheritance to your grandchildren. If you do leave your grandchildren an inheritance, you may want to use an Educational Trust to help them with college, or stipulate requirements before they receive their inheritance, such as taking a mission trip or finishing college. Most importantly, give your grandchildren clear instructions on what it is you feel God has intended for the use of these assets.

7. Will you include charitable giving in your will?

Have you considered including a bequest for those ministries you have faithfully supported during your lifetime? Have you also considered the use of a Charitable Remainder Trust, Charitable Lead Trust, or Charitable Gift Annuity? Or establishing a private foundation, supporting organization or donor-advised fund?

8. Will you fund a charitable giving vehicle in your will (e.g., a private foundation, donor-advised fund, or supporting organization)?

A giving vehicle such as the ones listed above can help you execute your stewardship responsibility in a strategic and systematic fashion even after your death.

9. Who will you name as guardians of your minor children in your will?

Don’t name a couple if you only want one of them to serve, and be sure to name a successor. Don’t count out a generation above you. Naming your parents could be a smart option.

15 Questions to Consider Before Preparing Your Will (CONTINUED)

10. How will you handle the disposition of your closely held business?

Is there a buy-sell arrangement with your partners or co-shareholders? Does the life insurance funding the buy-sell go to an escrow agent, your partner, or the business? If it goes to the business, be aware of the possibility of your partner keeping the proceeds, or the company using it to pay creditors. Do you have children receiving stock who are not involved in the company? Watch out for family problems that such an arrangement can cause. Is the right child in control of the business, or would it be better to have a committee of your children involved? Should you establish an independent Board of Directors to run the business for a time after your death? If you are leaving the stock to your spouse, is she or he prepared to handle the tough decisions, or do you need to make other arrangements?

11. Do you need to deal with children from a prior marriage?

Not doing so may cause severe problems for your spouse after your death and create hard feelings among your children.

12. Do you have a method of distributing items of personal property or heirlooms in order to avoid a family fight? Have you already had conversations with family members so that this is not surprising at your death?

Many states legally permit you to incorporate the provisions of a separate letter into your will so you can clearly identify your intended distribution of these items and if you later change your mind, you only need to change the letter (and not your will).

13. Do you have a plan in the event of a common disaster (all family members die at once)?

Many people list their church and favorite ministries as successor beneficiaries in the event of a common disaster.

14. Will your spouse know what your assets and liabilities are after your death?

One wise thing to do is to keep one file drawer at home dedicated solely to assets, and one to liabilities, and show your spouse where they are now. Make sure your spouse knows where all personal vital documents are stored and how to access them.

15. Do you have unique circumstances that might require special provisions in your will, such as a QTIP Trust, a QDOT Trust, generation skipping provisions, Personal Residence Trusts, and Family Limited Partnerships?

These are separate issues which you should thoroughly discuss with your professional advisor before making decisions, as they can have severe ramifications for your spouse and family.