

WILLS AND ESTATE PLANNING "SAVE MONEY AND PROVIDE FOR YOUR LOVED ONES " By Kenneth A. Vercammen, Esq.

As average Americans, we work 80,000 hours in a lifetime, or 45 to 55 years. In spite of all the resources and assets we earn, the vast majority of us do not take the time to create a will.

National statistics indicate that 80% of Americans die without leaving a will. There are several reasons for this: fear of death; procrastination; and misinformation (people presume that only the rich need to have wills). Whatever the excuse, it is clear that people would benefit from having a will.

In the absence of a will or other legal arrangement to distribute property at death, the state must step in to administer the estate. The result can be lengthy delays before the rightful heirs receive their property. And because the state has no instructions from the deceased, no charitable gifts will be made.

IF YOU HAVE NO WILL:

If you leave no Will or your Will is declared invalid because it was improperly prepared or is not admissible to probate:

- * State law determines who gets assets, not you
- * Additional expenses will be incurred and extra work will be required to qualify an administrator
- * Judge determines who gets custody of your children
- * Possible additional State inheritance taxes and Federal estate taxes
- * If you have no spouse or close relatives the State may take your property
- * The procedure to distribute assets becomes more complicated- and the law makes no exceptions for persons in unusual need or for your own wishes.
- * It may also cause fights and lawsuits within your family

When loved ones are grieving and dealing with death, they shouldn't be overwhelmed with Financial concerns. Careful estate planning helps take care of that.

THE FOLLOWING IS A SAMPLE OF A VARIETY OF CLAUSES AND ITEMS WHICH SHOULD BE INCLUDED IN A WILL:

- 1ST: DEBTS AND TAXES
- 2ND: SPECIFIC BEQUESTS
- 3RD: DISPOSITION TO SPOUSE
- 4TH: DISPOSITION OF REMAINDER OF ESTATE
- 5TH: CREATION OF TRUSTS FOR SPOUSE
- 6TH: CREATION OF TRUST FOR CHILDREN
- 7TH: OTHER BENEFICIARIES UNDER 21
- 8TH: EXECUTORS
- 9TH: TRUSTEES
- 10TH: GUARDIANS
- 11TH: SURETY OR BOND
- 12TH: POWERS
- 13TH: AFTERBORN CHILDREN
- 14TH: PRINCIPAL AND INCOME
- 15TH: NO ASSIGNMENT OF BEQUESTS
- 16TH: GENDER
- 17TH: CONSTRUCTION OF WILL
- 18TH: NO CONTEST CLAUSE

A will must not only be prepared within the legal requirements of the New Jersey Statutes but should also be prepared so it leaves no questions regarding your intentions.

WHY PERIODIC REVIEW IS ESSENTIAL

Even if you have an existing Will, there are many events that occur which may necessitate changes in your Will. Some of these are:

- * Marriage, death, birth, divorce or separation affecting either you or anyone named in your Will
- * Significant changes in the value of your total assets or in any particular assets which you own
- * A change in your domicile
- * Death or incapacity of a beneficiary, or death, incapacity or change in residence of a named executor, trustee or guardian of infants, or of one of the witnesses to the execution of the Will
- * Annual changes in tax law

MAY I CHANGE MY WILL?

Yes. A Will may be modified, added to, or entirely changed at any time before your death provided you are mentally and physically competent and desire to change your Will. You should consider revising your Will whenever there are changes in the size of your estate. For example, when your children are young, you may think it best to have a trust for them so they do not come into absolute ownership of property until they are mature. Beware, if you draw lines through items, erase or write over, or add notations to the original Will, it can be destroyed as a legal document. Either a new Will should be legally prepared or a codicil signed to legally change portions of the Will.

SAVE MONEY

Your estate will be subject to probate whether or not you have a Will and in most cases, a Will reduces the cost by eliminating the requirements of a bond. With a well-drawn Will, you may also reduce death taxes and other expenses. Don't pinch pennies now to the detriment of your beneficiaries. We have attempted to briefly explain in this article some of the issues, techniques, and decisions involved in Wills, Estate Planning, and Administration of an Estate. Because the matters covered are complicated and the Federal and New Jersey laws frequently change, this article can only outline some of the many legal issues you should consider.

The proper preparation of a Will should involve a careful analysis of the client's assets, family and his/her desires.

Estate Planning is the process of examining what will happen to your property when you die and arranging for its distribution in such a manner as will accomplish your objectives.

The cost of a Will depends on the size and the complexity of the estate and the plans of the person who makes the Will.

A properly drawn Simple Will without Trust costs approximately \$200.00 to \$500.00. It is one of the most important documents you will ever sign, and may be one of the best bargains you will ever have.

Be sure your Will takes into account the 1997 Federal Tax changes and all New Jersey Inheritance Tax changes. Also, ascertain if your Will is "self-proving", which would dispense with having to find the Will's witnesses after death.

WHAT IS A WILL?

"A Will is a Legal written document which, after your death, directs how your individually owned property will be distributed, who will be in charge of your property until it is distributed and who will take care of your minor children if the other parent

should die ". You should remember that the term "property" under the law includes "real estate as well as other possessions and rights to receive money or items of value." Everyone who has at least \$3,000 in assets should have a Will. You do not have to be wealthy, married, or near death to do some serious thinking about your Will.

ADMINISTRATION OF AN ESTATE

If you are named the executor or executrix, you must visit the County Surrogate to probate the Will. You will need the following items:

1. The Death Certificate
2. The Original Will
3. Names and Addresses of decedent's, next of kin and will beneficiaries
4. Minimum of \$80.00 for Surrogate fees

A state inheritance tax return must be filed and the tax paid on the transfer of real or personal property within eight months after death.

OTHER ITEMS OF CONCERN TO BE PREPARED BY YOUR ATTORNEY

- Trusts (and Medicare Trusts)
- Power of Attorney- to allow a trusted person to administer your assets during your lifetime, either upon disability or now
- Living Wills- to state your wishes concerning medical care in the event of your serious illness

Kenneth A. Vercammen is a Middlesex County trial attorney who has published 125 articles in national and New Jersey publications on litigation topics. He has been selected to lecture to trial lawyers by the American Bar Association, New Jersey State Bar Association and Middlesex County Bar Association.

Call our office to schedule a confidential appointment 732-572-0500