

What happens to your property when you die, whether it's your home, your bank account or the set of china handed down from your grandmother, depends on the decisions you make—or don't make—ahead of time.

The process of making these decisions and putting them into legal documents is called estate planning.

Why It's Important

Your estate consists of the property (assets) you own when you die. You probably have done some estate planning already, even if you didn't realize it. When you created a joint bank or brokerage account, named a beneficiary on a life insurance policy, or bought a house (perhaps with someone else), you were planning how that asset will be distributed when you die. You do estate planning when you transfer property to a living trust. Just about everything else that you own in your name is "probate" property. If you die without leaving clear instructions about your property in a will, state law will determine how your probate property is distributed to your heirs. This may, or may not, be the way you want to divide your property. Probate is the court process that determines who gets your probate property, if you don't have a will, or makes sure that your pro-

bate property is distributed as you stated in your will, if you have a will.

Pretty much everyone needs to do some estate planning. Here are some reasons why:

- To make sure your property goes where you want it to go, whether it's to your family, friends, or to a charitable organization.
- To avoid family disputes about who should receive your property.
- To legally minimize the taxes on the inheritance.

In general, the more assets you have, and the more members in your family, the more important it is to develop a formal estate plan, probably with the help of a lawyer. Your estate plan covers how much you own in each of your assets, what beneficiary designations you want, if you need to create a will, or if any of your property should be held in trust.

Probate Property

(What Gets Transferred in Your Will)

- Property you hold in your name alone
- Property you own with someone else as "tenant in common"
- Life insurance paid to your estate
- In community property states, your deceased spouse's share of marital property

Non-Probate Property

(What Gets Transferred Directly Without a Will)

- Property you own with someone else in "joint tenancy with right of survivorship"
- Joint bank or brokerage accounts
- "Pay on Demand" bank accounts
- "Transfer on Death" securities or other investments
- Life insurance paid to another individual or organization
- Property in trust
- Property in a life estate

Getting Started

Start by making a list of all of your assets and how you own them. If you own property with someone else—such as a spouse, children or a business partner—make a note of that.

Designating Beneficiaries

One way to assure that your property goes to the people you want is to simply have the property automatically transferred when you die.

If you have a 401(k), an IRA or other retirement accounts, fill out the beneficiary designation form. If you do not name a beneficiary for your IRA, the money will automatically go to your estate and will be distributed according to the terms of your will, which potentially can have some significant adverse tax consequences. To transfer a bank account to a beneficiary on your death, request a “Pay-on-Death” (POD) account; for stocks and bonds or investments at a brokerage house, request a “Transfer-on-Death” (TOD) registration.

Keep your beneficiaries current

Once a year, review the names of people you’ve named as beneficiaries for bank accounts, investments, and retirement accounts. If you get divorced, have a child, or have other changes in your family and work situation, be sure to review and make the necessary changes.

You should also make sure you know the type of ownership you have for real estate. Review the title for “joint with right of survivorship” or “tenant in common” or something else. How the title is designated determines who gets the property when you die.

Your Will

For any property you own without a named beneficiary, or for property not jointly owned, you will need a will. A will is a statement signed by you that lists your property and the individuals(s) or group(s) you want to receive your probate property when you die. In your will, you must appoint an “executor” or “personal representative” to administer your probate estate. You can appoint guardians for your

minor children and make gifts to charities. To avoid family disputes over who gets all the nice items of personal property, it’s a good idea to prepare a list of “who gets what.” This should be signed, dated and kept with your will. If you change your mind, you can write a new list. Just be sure you destroy all prior lists to avoid confusion!

Living Trusts

Setting up a living trust is more complicated and expensive than writing a will, but it may be a good idea if you have a lot of assets, such as homes in more than one state, or large bank or investment accounts. When you create a trust while you’re still alive, you put the assets you select into a separate legal entity, administered by a trustee that you choose. As long as you’re alive, you can instruct the trustee on how to manage your assets, remove property from the trust, and change beneficiaries. The trustee can also manage your assets if you become incapacitated. When you die, the property goes directly to your named beneficiaries.

Estate and Inheritance Taxes

Depending on where you live and how much you own, there is a possibility that your estate may have to pay federal and/or state estate tax on your overall “taxable” estate. Your “taxable” estate is not the same as your “probate” estate. In some states, your heirs may have to pay inheritance taxes, but under the current law, only 5,500 Americans paid estate taxes in 2009.

Federal: In 2010, the estate tax is eliminated. In 2011, the amount in your estate over \$1 million will be taxed.

State: State laws vary for both estate and inheritance taxes. To check the laws in your state, call or visit the website of your state tax agency, which you can find at www.taxesites.com/agencies.html.

Your To-Do List:

- Learn how to develop an estate plan** by going to AARP's website, www.aarp.org/family/lifeafterloss and clicking on "Guide to Planning Wills and Trusts."
- Read up on state estate taxes**, including the law in your own state, at <http://wills.about.com/od/stateestatetaxes/a/stateestate-taxchart.htm>.
- Check all your bank, retirement and brokerage accounts** to make sure you have named beneficiaries, and to update them, if necessary.
- Review your will and estate plan** periodically, especially in case of changes in your family or financial situation.
- Check out the website of the Federal Deposit Insurance Corp.** to learn about insurance coverage for joint, retirement, and Payable-on-Death accounts, www.fdic.gov/deposit/deposits/insured/ownership4.html.
- Read about Transfer-on-Death** registration on the website of the Securities and Exchange Commission, www.sec.gov/answers/todreg.htm.

This and other tip sheets provide general financial information; it is not meant to substitute for, or to supersede, professional or legal advice.

