



Your Will

A PLANNING GUIDE

A publication of the United Way of Greater Fall River



Your Will

THE IMPORTANCE OF DECLARING YOUR INTENTIONS

If the thought of writing a will makes you uneasy, you are not alone. Over 50 percent of all Americans never make a will. Here are some reasons why *you* should:

- A valid, up-to-date will is the foundation of any estate plan. It is perhaps the single most important document you will ever create. A will that is properly prepared becomes a mandate. Your wishes for your assets become irrevocable.

- If you are interested in having your assets left to your family, a charity, or an organization after you die, you will need a legal document to certify your intentions. After a lifetime of accumulating assets, why leave these important decisions to others?

- Without a will, the laws of your state will determine who receives your property and in what shares. Those statutes probably will not reflect your wishes or follow the directions you might have expressed, leaving no provisions for loved ones, friends, or organizations that you care about.

- It's a common misconception that only wealthy people need to make a will. Even if your estate is modest, your heirs are few, and your wishes are simple, you should declare your intentions in a will.

What will having a will do for me?

- Having a will gives you control over your assets after you die. You spent your life building your legacy. You want it to be distributed according to *your* wishes.
- You are able to appoint a personal representative to act on your behalf.
- A carefully drafted will can minimize your taxes and/or assure funds are available for their payment.
- You are able to appoint someone as guardian to care for your minor children or provide trusts for children or grandchildren which will reduce estate taxes.
- You can provide for a favorite charity or non-profit organization, such as the United Way.



■ THE CORNERSTONE OF YOUR ESTATE PLAN

The first and most basic purpose of a will is the **distribution of your assets** at death. You can direct how your property is to be given out to your family in a variety of ways: fractions (“*half of my estate to my wife*”), percentages (“*25 percent to each of my living children*”), or specific amounts (“*\$10,000 each to my two nephews*”). As a planning note, the percentage method can guard against changes in your estate, ensuring equitable distribution of assets. You can also endow specific assets to certain people (“*my jewelry to my daughter*”). In some states you may accomplish the same purpose with a separate memorandum authorized in your will. You may also designate particular property, percentages, or dollar amounts for organizations and charities you care about, such as the United Way.

Estate administration is the second major purpose of a will. You appoint a personal representative, or executor, who understands your wishes and will properly carry out your directions after you pass away. This personal representative may be a spouse, a son or daughter, a trusted family member or friend, an attorney, or a bank. You may also name an alternate should your first choice be unable to serve. You can direct that no bonding be required, thereby minimizing expenses in states where a bond would otherwise be required. In many states you may also request that the estate be administered without court supervision.

Tax planning is the third reason for having a will. There are a number of planning tools available to reduce your taxable estate. For example, your estate can deduct the full value of charitable contributions made in your will. With proper planning, your entire estate can be willed to your heirs free of federal estate taxes. In effect, tax money could pay for your charitable contributions. Talk to your attorney about how the unlimited marital deduction, the unified credit, and various trusts can help reduce or eliminate your tax liability. Keep in mind that living trusts are not subject to probate and can provide income to heirs while the estate is being settled.

Appointment of a **legal guardian** is a very important purpose of your will if you have minor children. Make sure that you choose a potential guardian that understands your wishes and expectations for the care of your children. Your attorney may suggest trust arrangements that can help them, too.

Although not really one of the purposes of having a will, perhaps the most meaningful benefit in obtaining such a document is the **peace of mind** in knowing your affairs are in order. Keep in mind that your personal will is more than a plan after death. The opportunity to take charge of your legacy is one of life's greatest privileges.

The Role of a Personal Representative

- Obtains death certificate and provides copies to your insurance company, the Social Security office, and others.
- Notifies banks where you have accounts or safety deposit boxes.
- Arranges for appraisal of your property, if required.
- Safeguards your property.
- Presents your will to the probate court.
- Defends your will if challenged.
- Locates witnesses to your will, if necessary.
- Collects debts due your estate.
- Advertises for any just claims against your estate and pays them in order of priority.
- Provides interim management for business interests, if necessary.
- Inspects and maintains your real estate.
- Collects rents if and when due.
- Completes and files state and federal income tax returns, as required by law, in time to avoid penalties.
- Defends your estate against improper tax assessments.
- Establishes any trusts created by your will.
- Secures any payments due such trusts.
- Disperses your property according to your instructions.
- Prepares final accounting and obtains receipts and releases from heirs, if appropriate.

■ PLANNING AND PREPARING YOUR WILL

It seems that much of the reluctance about writing a will stems from the preparation fees an attorney will charge. Nevertheless, such fees may become the best investment you will ever make.

A qualified attorney can translate your wishes and directions into the proper legal language format. Paperwork, city and state documents, and other important requirements may be better addressed and explained by such a professional. In addition, an attorney will know when to recommend trusts or other special arrangements that suit your individual situation. An inexpensive fill-in-the-blank computer program might seem attractive, but it lacks the ability to interact with you to discuss a question or concern. Your will is too important for a “cookie-cutter” approach.

Taking the time to organize your affairs will ultimately make the best use of your attorney’s time and *your* money. Discuss your plans with your spouse and family. Visit in advance with your proposed personal representative. Talk to the person you want to appoint as guardian of minor children.

PEOPLE. List those for whom you would like to provide income and/or assets now or in the future. The list may include relatives, friends, or others. You may also wish to add favorite charitable interests. Be sure to include the full names, ages, and addresses of each person. If you choose to include an organization, be sure to get its legal name (i.e. United Way of Greater Fall River, Inc. instead of just United Way) as not to cause later confusion.

PROPERTY. Complete a list of all assets you own or expect to own in the future. Include information such as the cost basis and current market value of each asset, how long you have owned the asset, and if you are the sole owner of the asset. Subtract mortgages and other debts to arrive at your net worth. This is important when estimating estate tax liability, if any. Consider whether or not property will have to be sold in order to pay for the taxes. Also, list all sources of income that may continue in the future.

PLANS. Think about how and to whom you wish to leave your property. Pay special attention to timing as well as amounts, especially in the case of younger heirs. For instance, it is possible to designate the income from an investment to your spouse, with the principal passing to your children at a later date.

Do not forget insurance policies and retirement plans, making sure that beneficiaries are up-to-date. You may want to consider naming the United Way of Greater Fall River, Inc. as a contingent beneficiary; an excellent way to make a planned gift.

PLANNERS. Make a list of persons other than your attorney on whom you rely for advice, such as a friend, an accountant, banker, life insurance professional, or investment advisor. Your attorney may act as the coordinator of your planning team, but others often play vital roles in helping you to accomplish your desires.

After doing your “homework,” assemble all prior estate planning documents because they may need to be revoked or destroyed. Meet with your attorney and review your list of *people, property, plans,* and *planners.* Be frank in discussing your feelings and motivations. Keep in mind, discussions with your attorney are entirely confidential.

After an initial overview, your attorney will be able to give you a realistic estimate of the amount of time and expense involved in completing your plans. Make sure you ask about these preparation costs and any other legal fees before any action is taken.

Once your attorney has drafted your will, the next step is to carefully review the proposed plans. When you have approved the final language, you will be asked to sign the final documents. After signing, you will be given a copy. The original documents should be kept in a safe place. Advise those you trust of the location. Before storing your will in a safety deposit box, check to see if it will be readily available to your executor.

■ UPDATING OR REVISING YOUR WILL

If you already have a will, good for you! There are, however, numerous circumstances which may prompt you to revise it. Once you have made your will, you should not just put it away and forget about it. Review your will every three to five years to make sure it still accomplishes your desires. It may be necessary to review it even more frequently if your situation has changed.

Some of these situations include:

- Death of a spouse or loved one
- Changes in your financial situation
- Divorce, marriage, or other relationship change
- Changes in charitable interests
- Changes in major property or real estate
- Birth of children or grandchildren
- Changes in tax, gift, or inheritance laws
- Moving out of state
- Change of guardianship or maturity of children
- Personal representative cannot serve
- Changing needs of relatives or friends

When an update is in order, you may decide to revise your entire will and revoke any earlier wills. You may also choose to make changes by adding to the existing document with a **codicil**, an amendment to a will that explains, modifies, or revokes a previous will provision or that adds an additional provision. A codicil must be signed and witnessed with the same formalities as those used in the will's preparation. You should never scratch out or mark up words on your will. It is important to consult an attorney to properly make such revisions so that the will remains valid.

A will can be changed, revoked or replaced by a new will at any time, so long as you are competent. To be considered competent, you must understand the nature of your act, know the extent of your estate and know who the people are that you want to receive your legacy.

TAX CREDITS AND YOUR ESTATE

Your estate may be subject to federal estate tax when you die. It's important to understand when these taxes apply and when they do not. For example, most relatively simple estates with a total value under \$1,500,000 with a date of death in 2004 or 2005 did not require the filing of an estate tax return.

Congress has created uniform tax rates for gifts and estate transfers of wealth (also known as the Unified Gift and Estate Tax Rates). However, since 2002, the federal government has provided different tax credits to gifts and estate taxes.

The Estate Tax Credit allows American citizens to pass a certain amount of their estate to heirs tax-free. With the *Taxpayer Relief Act of 1997* and the *Tax Relief Act of 2001*, the Estate Tax Credit has gradually been increasing. At the same time, the top tax rate will be decreasing until 2010, when estate and gift taxes are fully repealed. However, in 2011, estate taxes return to their 2002 levels until further notice.

Year	Max. Estate Tax Credit	Max. Gift Tax Credit	Max. Unified Rate
2005	\$1.5 Million	\$1 Million	47%
2006	\$2 Million	\$1 Million	46%
2007	\$2 Million	\$1 Million	45%
2008	\$2 Million	\$1 Million	45%
2009	\$3.5 Million	\$1 Million	45%
2010	Tax Repeal	Tax Repeal	0%
2011	\$1 Million	\$1 Million	50%

The purpose of this publication is to provide general information only. It is not intended as legal, accounting, or other professional advice. For assistance with estate planning and will preparation, the services of appropriate advisors should be obtained. Tax information within this publication is subject to change without notice.

CHARITABLE GIFTS THROUGH YOUR WILL

Many long-time friends of the United Way of Greater Fall River, Inc. have provided for the United Way through their wills. Large or small, these caring contributions continue to strengthen our ongoing efforts to combat hunger, homelessness, domestic violence, and numerous other health and human service concerns that challenge our community.

Though the best time to include the United Way is when you first write your will, you can always change your plans through a revision or codicil. In the same way you pass property to a family member and friends, your bequest can be a specific asset or dollar amount, a fraction or percentage of your estate, or a contingency provision in the absence of primary heirs.

There are a number of advantages to these charitable provisions, often called **planned gifts**. As mentioned above, the full value of charitable gifts can be deducted from your taxable estate. In fact, charitable trusts have become very powerful tools to help reduce estate and income taxes.

The Board of Directors of the United Way has established *The Endowment Builders' Society*, which recognizes and thanks those who have included the United Way in their wills and estate plans and/or made a contribution to build up the Endowment Fund through Campaign Millennium. Please let us know if you have made or are considering such a planned gift. We would be honored to include you as an *Endowment Builders' Society* member.

ENDOWMENT BUILDERS' SOCIETY

\$125,000 +	Architects	\$15,000 +	Surveyors
\$75,000 +	Contractors	\$5000 +	Electricians
\$50,000 +	Engineers	\$2500 +	Carpenters
\$25,000 +	Artisans	\$1500 +	Masons

* Gifts of \$10,000 or more received within 12 months of your pledge are eligible for membership in the national *Alexis de Tocqueville Society*.

United Way of Greater Fall River
80 North Main Street
Post Office Box 2550
Fall River, Massachusetts 02722

Phone: 508.678.8361 Email: uwgfr@aol.com
www.uwgfr.org