

THE *WILL* BEHIND THE WILL

Personal Considerations in Making or Revising Your Will

It has been said that life's least answerable question is, "What is the meaning of life?" Nevertheless, it's an important question, and one that we all seek to answer.

The meaning of your life is what you will it to be. It is shaped by the way you choose to invest your moments and years, your energies and resources. By the way you touch the world around you. The way you transform and pass on everything that comes into your mind and heart and hands.

Viewed from this perspective, your "last will and testament" is much more than a legal document. It is a testimony to your *inner will* – the central values and commitments that have emerged from a lifetime of learning, growing and working. Through the provisions of that document, you express what you have come to believe about the meaning of your life.

In this article, we raise some personal considerations for your reflection as you prepare to write or revise your will.

TO WHOM WILL YOU LEAVE YOUR POSSESSIONS?

One thing we know for sure: we can't take it with us! But because we know that, we can begin experiencing, even now, the once-in-a-lifetime joy of giving gifts to those we love without any thought whatever of our own personal needs! That's what making a will is all about.

You'll think first of those closest to you: your spouse, or perhaps a lifelong friend or companion; your children, or the children of your siblings or closest friends – all of those who make up your own unique family circle. In some cases that family circle will extend to an aging parent, or an aunt or uncle with whom you feel a special bond. It may also include grandchildren or other members of the newest generation to whom you'd like to give a special boost in the early years of their life journey.

But not all of our parting gifts need be to individuals! Groups and institutions, too, play a large part in our lives.

[You may wish to replace the following paragraph with wording more specific to your institution]

Think of those that have been important to you: the schools that educated you, the health care institution that may quite literally have saved your life. Think of the religious and fraternal communities who surrounded you with friendship and sustained you through difficult times; the local symphony or museum, theatre or ballet company that enriched your life. A bequest to such an organization will enable it to serve others as it has served you.

There may be other organizations that have not benefited you directly but in whose purposes you deeply believe. This may be the time to demonstrate your support for them. Naturally, this list of possibilities is purely suggestive. Only you can decide who belongs on your list.

HOW MUCH WILL YOU GIVE TO EACH?

This may seem at first to be a difficult question, partly because, as you write or revise your will, you do not know just what the total of your assets and other possessions will be at the time of your death. Don't worry too much about that. You probably know enough to place a dollar value on the most important gifts, and others can either be contingent upon the total available or else designated as shares of the residue remaining after dollar-specific gifts and estate costs are covered.

You will want to think first of those persons and institutions who need or deserve significant financial support from your estate. If you are married, your spouse will be included here, but it is important to bear in mind that some of "your" property may already be co-owned by your spouse and will pass to him or her at your death. Your concern at this point is whether a portion of whatever separate property you hold should also be designated for your spouse's lifetime needs. The next section of this article mentions some possible methods for accomplishing that goal.

Other individuals for whom you wish to provide some measure of lifetime support through your will may include a long-time friend, companion or housemate, or another relative or friend who needs financial security.

What is best for the children?

As parents, we naturally want to do "what is best" for our children, but as we all know, determining just what *is* best is not so simple! How much should we give them? (Bear in mind that if their other parent is living, your own will may represent only a portion of their eventual inheritance.)

When our children were small, "best" did not always mean giving them all they wanted or all we could afford. We wanted them to be healthy and secure, but also to learn responsibility and self-reliance. The same is true in their adulthood.

The most treasured gifts *we* received from *our* parents were not always those of great dollar value but those that reflected *who they were*. The same will be true of the legacy we leave to our children. The gifts they value most may well be personal items like photos and diaries, heirlooms and mementoes. The dollars we leave to the institutions and causes we believe in may also, in a sense, be gifts to our children, making better the world in which they live and reminding them, by our example, of the deeper meanings to be found in life.

Should children receive equal shares?

Another delicate question! When they were small, we loved them equally--but that did not always mean treating them alike, because their needs differed. Is it any different now that they are older?

Because of limited earning potential, health problems or disabilities, or the size of their own families, some of our offspring may have significant monetary needs. Others will be financially self-sufficient and pleased to inherit personal items of lesser dollar value. Our bequests to our children need not be, and perhaps should not be, identical, so long as they reflect our sense of fairness and the equality of our love.

The institutions and causes you wish to support by bequest may be included either for specific dollar amounts or fractional shares of your estate or its residue. We can provide sample language for either kind of bequest to *[Full Name of Charity]*.

For simplicity and effectiveness, you may wish to limit the number of such charitable beneficiaries so that each gift will be of meaningful value relative to the size of your estate and the nature of the recipient organization.

IN WHAT FORM WILL YOU GIVE IT?

This question moves us toward the more technical, tax-sensitive considerations in writing or revising your will, many of which lie beyond the scope of this article. We mention however, some of the general possibilities you may want to explore in detail with your lawyer.

Bequests to those persons for whom you wish to provide financial support may, of course, always be made in a lump sum, but depending on your goals and the circumstances, other methods may be preferable. For example, leaving everything to your spouse, while an expression of trust and affection, may not be the best course. If the spouse is not skilled at investing, or if you want to make sure the principal is preserved for children, it may be better to establish a spousal trust. Whether appreciated property is given outright to the surviving spouse or placed in a spousal trust, the deceased realizes no capital gain at death. In both cases, tax on the gain would be deferred until the spouse's death.

Likewise, your children's capacity for handling money will determine the form of your gifts to them. Some children would invest a lump sum prudently. Others lack self-discipline, or have no idea how to manage property. For them, the best course may be a trust that pays a regular income.

There are plans that enable you to provide both for family and charity. For example, in your will you could create a special type of trust, sometimes referred to as a charitable remainder trust, that would pay income to a sibling, children or others, then at the end of their lives distribute the remaining principal to *[Full Name of Charity]*. With this kind of arrangement, the taxes payable on your final income tax return could be less than the total payable if you had simply given the property outright to these persons. Moreover, you leave a lasting legacy after helping those close to you.

The possibilities are as varied as family circumstances. Simply be aware that you need to consider not just the amount to give each person, but also the best way to give it.

WHO WILL MANAGE YOUR ESTATE?

If your written will is to be administered in a way that faithfully reflects your inner will, you should think carefully about whom to designate as your executor. You can choose a surviving spouse or other relative, a trusted friend or advisor, whose age and circumstances make it likely that he or she will be available to serve when needed.

You can also choose a bank or trust company. An individual may be willing to serve without pay and is likely to be more attuned to your wishes and family needs. On the other hand, a trust institution probably has more expertise, and has the advantage of neutrality in case of family disputes. The important thing is that you have confidence in the competency, trustworthiness, and sensitivity of your executor, and that the executor be able and willing to serve.

FOR FURTHER HELP

We sincerely hope these thoughts and suggestions will be useful as you write or revise your will. If you are considering a bequest to *[Full Name of Charity]*, we would be pleased to confer with you and provide sample language for your bequest provision. ***[Refer to booklet or other information piece if one is offered.]***