

# Don't Let Procrastination Get in the Way of Your Last Will & Testament – Now Is the Time to Act

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The COVID-19 health crisis has caught everyone off-guard. Along with the challenges it has presented, there are also opportunities for positive changes. One of these is the incentive to have estate planning and other documents put in place, or current documents reviewed and updated, to ensure that your personal, financial and estate matters are handled according to your wishes when you pass away or are not be able to make these decisions on your own.

A study done of Americans over the age of 50 revealed that 55% did not have a Last Will & Testament in place and of those that did, 72% had Wills that were not recently updated. The most common excuse for this was "Haven't gotten around to it." Well, no time like the present. The following is a list of actions that should be considered and addressed if you have not already done so.

## Core Documents

Do you have a **Last Will & Testament** in place? If so:

- When was it executed?
- Have you reviewed this document within the last year or so to make sure, with the changes in federal and state estate tax laws, that the intent of the original plan will still be accomplished?
- Are the intestacy laws of your resident state, which will govern the transfer of your solely-owned assets that do not have a beneficiary designation, in line with your wishes should you pass away without a Will?

Financial and tax reasons aside, if you have minor children you should have a Last Will & Testament in place to designate their legal guardian(s) if both parents are deceased.

Have you executed a **Durable Power of Attorney** to authorize another to act on your behalf with respect to financial transactions? If so:

- How old is that document?
- Is the agent you chose still the person you want to handle your affairs?
- Do you have a contingent agent listed in case the primary person chosen is unable or unwilling to act?

Do you have the appropriate healthcare documents in place such as a **living will, healthcare proxy and HIPAA release**? The provisions in these documents will state your wishes regarding health care, allow an agent to make these decisions on your behalf, and allow a chosen individual to communicate with medical providers as well as have access to your medical information in case of your incapacity to do so. Consider:

- How up-to-date are these documents?
- Is the agent chosen on the healthcare proxy still the person you desire to have making these decisions for you?
- Do you have a contingent agent named in the document?
- Does your healthcare proxy allow your agent to communicate with medical providers electronically?

If you do have all of the above documents in place and they are up-to-date:

- Is anyone else aware of where these documents are located?
- Do you have the contact information for the attorney who drafted the documents included with them?

Having the documents in place is clearly very important, having the appropriate person or persons aware of their existence and able to quickly access them in an emergency is equally important.

**Please note:** Due to the COVID-19 pandemic, many states are now allowing remote online notarization (RON) in which a signer personally appears before the Notary at the time of the notarization using audio-visual technology via the internet instead of being physically present in the same room as the Notary. This, in addition to electronically signing documents, would allow you to get the core documents discussed above updated or put in place while avoiding physical contact with the professionals involved.

### Designated Beneficiary Forms

Very often the owner of a life insurance policy, retirement plan or annuity has lost or misplaced their copy of the designated beneficiary form showing who they have chosen to inherit these assets. Since a beneficiary designation will take precedence over the terms of your Will, it is very important to have a copy of the most recently completed form and to share copies with the professionals involved in your estate planning.

As with the documents discussed above, these forms should be revisited to ensure that the originally chosen beneficiary is still the one you want. There are various reasons for wanting to change the original designation such as divorce, death of the designated beneficiary, personal reasons, tax implications, etc.

### Review Asset Titling

In addition to beneficiary designations taking precedence over the terms of your Will, asset titling will do so as well. A jointly-owned asset will go to the named joint tenant despite any direction for this asset that is in your Will. A review of how your assets are owned is important in making sure that they will be transferred as you intended upon your passing.

### Important information

In addition to having the right documents in place, you should have a file containing a **descriptive list of your assets** including:

- Titling,
- Copies of designated beneficiary forms for life insurance policies, retirement plans and annuities,
- Copies of important policies such as life, homeowner and auto,
- Deeds to real estate, titles to automobiles, etc.

The list of assets should include, for example:

- Financial institution name, account numbers and financial advisor contact information for brokerage accounts and retirement plans,
- List of bank accounts with account numbers, safe deposit box information,
- Policy number and insurance agent contact information for insurance policies, etc.

This list will make it easier for your appointed estate representative to handle your estate or your designated power of attorney agent to handle your affairs depending on the circumstances.

A list of login and password information should also be in this file to allow others to access information when you are not available to do so. All too often this information is known only to the person who is either incapacitated or deceased leaving those who are supposed to carry out their wishes in the dark as to the whole financial picture and how to handle it.

## Contact Us

While it is not possible to address the particular concerns and circumstances for each individual in one article, we hope that the information provided here is helpful to you and incentivizing in getting your own planning done or updated. Please contact us to discuss your circumstances and concerns.

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