Honor the last generation. • Enlighten the next. • Leave a legacy bequest to the Museum.

Your Will

Planning for

Your Life,

Your Family,

Your Legacy

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

100 Raoul Wallenberg Place, SW
Washington, DC 20024-2126

202.314.1748

www.ushmm.org/plannedgiving

Young visitors view the Museum's Yaffa Eliach Shtetl Collection. PHOTO BY THOMASARLEDGE.COM

Statistics show us that many people don't make wills. They've heard of wills, they sense that making a will is something they *should* do, but for whatever reason, they don't.

It could be a case of simple procrastination: "I'm planning on doing it eventually, but I really don't have time right now." Maybe it seems too complicated: "How will I ever decide who should get what?" Or it seems too costly: "I'll have to go to a lawyer, and that will be too expensive." It may even be an aversion to confronting one's mortality: "I'm too young to be making those kind of decisions right now."

If these resemble your first thoughts, just remember this: A will is a *good* thing—an opportunity, not a burden.

What Is a Will?

A will is a legal instrument in which an individual directs the disposition of his or her property. The person creating the will is called a *testator* or, if female, a *testatrix*. A will has absolutely no effect until death and is entirely revocable until then. When it does become operative, it applies to all property owned by the testator at that time that is not distributed by other documents or by law, such as jointly owned property, life insurance, IRAs and pension plans.

There are two principal types of wills:

A formal will is prepared by an attorney and executed according to strict formalities.

- It should be in writing.
- It should be signed by the testator.
- It should be acknowledged that it is indeed the testator's will.
- It should be dated.
- The testator's signature must be witnessed.
- The witnesses, who may not be named as beneficiaries in the will, must also sign the will.

A holographic will is one executed without the formalities of the witnessed will. It typically must be written entirely in the testator's handwriting, dated, signed by the testator and witnessed. Not all states recognize the holographic will.

Start With These Basics

A well-drafted will offers many benefits. The most valuable feature is that your will can be tailored to make sure your exact wishes are fulfilled after your lifetime.

You can give personal items and real property to loved ones. Plus, you can name alternate beneficiaries—perhaps a charitable organization like the United States Holocaust Memorial Museum—to receive the property should your loved ones not survive you.

You can give the residue of your estate to one person or organization, divide it among several beneficiaries or place it in a trust for the benefit of your spouse or other loved ones.

Your will allows you to designate the individual or trust institution you want to settle your estate (your personal representative or executor). You can grant specific powers to your personal representative (and also to the trustee, if you have created any trusts) to conserve and manage your estate under all foreseeable circumstances. Also, if you are responsible for the care of dependents, you can name a guardian for them in case you or your spouse predeceases your dependent.

If You Own Property, You Need a Will

Many people mistakenly believe they don't have enough assets to warrant making a will. They reason that wills are only for the wealthy. Nothing is further from the truth. If you own a home, have a bank account, stocks, life insurance or any other kind of property, you need a will.

You've spent a lifetime accumulating the assets you possess, so it makes good sense to protect them by spending a little time planning for their ultimate distribution. People usually are surprised at the value of the things they own when they sit down to start the planning process. Even with a modest estate, planning is essential to ensure your estate is settled prudently.

The Consequences of No Will

Some people believe that without a will, their property will be distributed fairly anyway. For example, they may believe that relatives will be able to distribute assets amicably among themselves. But without a will, a situation known as "intestate," the distribution of everything you've accumulated over the years is determined by the law of your state of residence at your death.

To give up your right to determine who gets what, how and when is to fall into the trap of assuming that the intestacy law will do a satisfactory job for you. But that's very unlikely, or even impossible, for a simple reason: Each state has drafted its own laws of intestate succession that apply to every situation, no matter what the special circumstances.

Example #1: Jim, aged 39, is killed in an auto accident, leaving his wife, Betty, and two minor children. He had no will, so under typical state laws, the house and the bank account go to Betty. Betty also gets one-half, and the children each get one-fourth, of stock that was in Jim's name. But, Betty will have to become the court-appointed guardian for the children and get the court's approval in order to use their shares of Jim's estate for their benefit.

The state's plan gives Jim's property to his family but in a way that makes handling it unnecessarily complicated and expensive. Typically, the state laws follow a strict code of lineal descent and ignore any other beneficiaries Jim may have had in mind.

Example #2: In appreciation of a charitable organization that had cared for her husband before he died, Jane made it known that she would "take care" of that organization in her will. But when she passed away almost a year later, she had not yet executed a will. Even though her friends knew of her plans to make a charitable bequest, state law transferred all of her estate to a distant relative.

Unless you have a valid, up-to-date will, the state has no way of knowing your wishes.

The Particulars of Probate

A will is filed with a probate court at death for the purpose of being legally recognized and made effective. Probate is the court-supervised proceeding that ensures the terms of a will are properly fulfilled. During probate the executor or personal representative is appointed. The court then supervises the activities of the executor.

Be aware that if you die without a will, the estate itself does not avoid probate. The estate must still be distributed and supervised by the court. This intestate status merely makes estate administration more difficult and often more expensive.

Making Sense of Misconceptions

We've already established that a will is one way to ensure your property will go to those relatives, friends and organizations you care about most. Now let's examine some of the other important issues.

As for the cost, attorneys do charge for their skills, but a properly drafted will can save you (in taxes alone) many times the fees you pay. The unpleasantness of confronting your mortality and dividing up your possessions pales when you consider the consequences of your loved ones being deprived of the gifts you intended for them.

And by procrastinating, you are assuming there will always be time. The advantages of having a will in place most certainly outweigh any issues involved in creating one.

A Will Can Reduce Estate Taxes, Too

The most important reason for having a will is to protect your heirs by ensuring that their financial needs are met even after you're gone. In this way, your will is a final expression of your caring and generosity for others.

But in addition to designating who is to receive which assets, your will can also be used as a method of reducing estate taxes so that your heirs receive more. You can take full advantage of estate tax savings by creating trusts through your will.

A trust gives you a way to manage your investments and provide income to beneficiaries, while sheltering a portion of your assets from estate taxes. For example, instead of distributing property outright to children, a trustee can hold it for their benefit, paying them income as needed. Distributions can then be made when they may be able to handle the property more prudently.

Substantial estate tax savings can be realized when assets are placed in a properly drafted trust for the benefit of a surviving spouse. The trust will pay all of the income to the spouse, supplemented in most cases with distributions of principal, as needed, to ensure a comfortable living. The trust assets will not be included in the survivor's estate for estate tax purposes.

It's possible, and often desirable, to create a trust for the benefit of your spouse for life, with the balance going to a charitable organization like the Museum. Not only can you avoid the estate tax in the first spouse's estate, but you can entirely avoid it on the death of the surviving spouse. (The Museum can tell you more about plans that combine a trust and a charitable gift to give you income tax savings, as well.)

Another Powerful Combination

There is another plan that offers both lifetime and probate benefits.

Instead of putting trust provisions in your will, create a living trust. If you wish, you can deposit some of your assets in the trust immediately for the trustee (you can appoint yourself or another as trustee) to manage for your benefit. You receive the trust income, and if you're sick or traveling, the trustee can pay your bills. You reserve the right in the trust agreement to add or withdraw principal and to amend or revoke the trust.

At the same time your trust agreement is prepared, have a new will drawn called a *pourover* will. Up to the point of disposing of the residue of your estate, this new will is like any other. But then, instead of spelling out trust arrangements, this new will provides for adding (pouring over) the balance of your estate to your living trust.

Like a trust created through your will, your living trust can continue after your lifetime for the benefit of your spouse, children or other beneficiary. By its terms, you determine when the trust is to end and who is to share the remainder, perhaps children, grandchildren and charitable organizations. In many situations, a trust can result in substantial estate tax savings.

Any assets you put in the trust during your lifetime avoid probate, and (unlike your will) the terms of the trust are private. As your will provides, the trustee will receive the residue of your estate, to be administered under the terms of your living trust.

Make a Charitable Gift Through Your Will

You can name the Museum in your will in numerous ways.

One possibility is a bequest of a fixed dollar amount. Another is to give the Museum a percentage of the estate, allowing you to divide the estate residue in desired proportions, regardless of its size.

Your gift can be contingent—that is, the funds go to a certain individual if that person survives you. If not, they go to the Museum. Often a better alternative is to create a trust that pays an income to the individual for life, with the remaining principal to be given to the Museum thereafter.

A gift without restrictions is usually the most useful, especially one to support the Museum's Permanent Endowment Fund, because we can then utilize it for our most pressing needs. But you also have the right to specify in your will how the funds are to be used. If you wish to do this, we urge you to consult us before you execute your will to make certain the conditions are ones we are able to meet.

One of the nicest ways to make your gift is in memory of someone, either yourself or another.

You can also give property: a home, farm or other real estate; business property; life insurance policies; or prized personal possessions.

An Important Privilege

Your will is a valuable property right that should be exercised. It can help provide for the future security and happiness of those people and organizations you care about most.

To make sure your beneficiaries are protected and your assets will be distributed as you want, use the services of a knowledgeable attorney in drawing up or updating your will. To get answers to your questions about incorporating charitable gifts in your will, please call the Museum at 202.314.1748.