Fast & Easy
Learning Collection

How to do a WILL

Learn everything about Last wills

Leave property and appoint guardians

Save Money on Legal Fees and Taxes

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HOW TO DO A WILL

By

MaxEditZ

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How To Do A Will

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IMPORTANT NOTE
ABOUT SELF-HELP BOOKS

This book is a general guide to inform and educate you about last wills and testaments. Before using a self-help book, you should take in consideration all the advantages and disadvantages of composing a legal document and understand the challenges and diligence that this may require. The information and documents in this book can be used by an average reader with little legal knowledge and can be used in the vast majority of cases. Most people handling their own simple legal matters never have a problem, but everybody's personal situation is different and your personal circumstances might impact the effectiveness of the information or documents included in this book and they may not be suitable for everyone. This book cannot cover every conceivable eventuality that might affect each one of its readers. Keep in mind that your state, county, or judge may have a requirement, or use a form, that may not be included in this book. If while handling your case you are in any doubt whether some of the documents or advices in this book are suitable for use in your particular circumstances and if you feel that you might need further guidance consult an attorney.

Self-help books simplify the law, in order to make the law rapidly and easily understandable to everyone. However, this simplification necessarily leaves out many details and nuances that would apply to special or unusual situations. The following book and all the will samples and documents it contains are designed to illustrate the structure and content of the types of wills that are commonly used in the United States today.

This book covers the law for the entire nation, provides a general overview of the laws in the United States and cannot cover all of the various procedural nuances and specific requirements that may apply from state to state and include every procedural difference of every jurisdiction, in every state or county. Each state, each county and even each judge may require unique procedures and forms. The information and forms included in this book are general in nature and are designed to give an idea of the type of form and requirements that will be needed in most locations. This book will serve you as your guide, often giving you specific information and helping you to find out what else you need to know. Use this book as your guide and do some work and research on your own, to check if there are any local rules of which you should be aware, or local forms you will need to use.

Nothing in any self-help book including this one should be taken as legal advice for a particular person or issue. Laws change from time to time and vary from state to state. The courts and legislatures of all fifty states are constantly revising the laws. The law can change at any time and is subject to local rules and practices; Laws and their interpretation are constantly changing, and you are advised before implementing any of the strategies or advices discussed in this book, to get ensured that they fit your personal case or to consult with personal legal and financial adviser or an attorney who is certified as a specialist in estate planning by your state's bar association.

The purpose of this book is to educate, it is not meant to provide legal or financial advice. This book is not supposed to create any attorney-client or advisory relationship. This book is not a substitute for legal advice obtained from an attorney you've hired to counsel and represent you. There are so many variables that affect a lawyer's advice and these variables may well mean that the planning advices in any self-help book may not affect you or suit your personal situation. There is no such a will form that can fit everybody's circumstances. Even in the most simple of estate plans (I leave all to my spouse). It's tempting to save money by setting up your own Last

Will and Testament, but good drafting can save you and your heirs even more money. For that reason if your circumstances are complicated we recommend that you seek professional legal advice to create a Last Will and Testament. For example: a) If your estate is not simple, you want to set up trusts, you have large amounts of real estate and are a partner in a business. b) If you have a beneficiary or family member, a partner who is unable to care for themselves and is financially and physically dependent on you. c) If you have been married before or have children from a previous marriage, or are in a blended or de facto family situation. d) If you are not a citizen of the country you reside in at present or you have property, assets or funds located overseas, you run a business or a part owner of a business and you want to avoid taxes that may be applicable at death in your country. In this case you need to consult a professional adviser to create a Last Will and Testament that specifically suits your circumstances.
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ATTENTION : This book addresses U.S. Law only.

INTRODUCTION

The importance of a Last Will and Testament which is the expression of one's final wishes is only equaled by the requirement that it be properly written and executed. The term "last will and testament" appeared in 16th century when Personal property was bequeathed in a testament. For the first time in 1540 the English statute of Wills allowed landowners to dispose of their land in a written and witnessed will. This term was lately shortened in modern usage to the word "will". It's your will that determines how, when, how much, and even why, you want your estate apportioned between your relatives, friends, and charities. If you have bought this book it means that you want to take care of your family and people you love even after your death. You already have an idea how to secure your possessions and make sure that it will go to the right persons. A testament will not only ensure that your assets will be distributed in accordance with your wishes; but will also enable you to make arrangements to reduce your inheritance tax liability and what is most important save your family the emotional difficulty and expense of trying to sort out your personal affairs. Without a will, all of these decisions are left to a court to determine in accordance with state law. You should do it while you can because after your death putting your affairs in order can be nerve-racking, time-consuming and expensive for your family Take steps now to ensure that your wishes are respected when important decisions must be made. Decide now what will happen if for example you have a fatal accident, how would your property be distributed, who would be in position and have legal rights to manage your financial affairs or to make legal decisions for you. Once you have attended to these matters, you will be relieved and pleased that you have met your legal obligations to yourself and your loved ones. But how exactly should you do it in practice? If you are in the kitchen with a piece of paper and a pen writing: "hi I'm Jeff from the third floor, after my dad kills me, cause I've failed on my exams I'd like my fridge to go to my pet and my ashes to be spread on uncle Bob"; Guess what ? You've got it all wrong and your will most certainly will be declared invalid. There are some rules to follow and some laws to respect, if you want your will to be valid. Attention a badly drafted wills can lead to much confusion and can even be declared invalid. You should try to be as clear as possible in stating your intentions in the will. Obtaining the services of a lawyer will greatly reduce the likelihood of any difficulties to do with the validity or the interpretation of your will.

If you don't want it to be invalid or contested, your will must be drafted in such a way that the intents and desires of the maker are not only clearly shown, but also legally sufficient under state laws. A carefully drafted will can avoid challenges and minimize death taxes, estate taxes, estate and taxes transfer costs and even the general costs of probate and administration. The vast majority of the Wills are not contested and even fewer are overturned but this doesn't mean that you do not need to make it right.

You must also expect that in the future you might need to introduce some modifications to your will. Some events like changes in the law, variations of your estate value, and changes in your family situation or concerning your beneficiaries may force you to update your will even if you don't want it.

In this book you will learn everything you should know about wills; we will show you how valid wills are usually written and how it can be contested.

CHAPTER ONE : What is a Will ?

1) Will and its main components

A will or testament is a legal declaration by which a person, names one or more persons to manage his estate and provides for the transfer of his property at death.
In the strictest sense, a "will" has historically been limited to real property while "testament" applies only to dispositions of personal property thus giving rise to the popular title of the document as "Last Will and Testament", though this distinction is seldom observed today.
Historically the development of Roman law furthered the modern understanding of wills and led to the development of the law of estates in many European states, greatly aided later by ecclesiastics versed in Roman law. The testaments spread in the West with the wills of crusade, written by the Crusaders before their departure. It is by a testament of a crusade that Louis VIII of France creates the first appanage for his younger sons, Alphonse de Poitiers, Robert d'Artois and Charles of Anjou.
In order for a will to have legal effect it must respect some legal requirements in relation to the wording, witnessing and signing of wills. To ensure that your wishes are carried out these rules of law must be strictly observed.
Usually standard wills are comprised of a number of essential components. These Components are supplemented and personalized by a number of ancillary clauses that are specific to the testator's own particular circumstances.

These clauses are:

a. *Will be present in every will:*

Preamble: part were you(the testator) give your name and address
Revocation: the testator revokes previous testaments and testamentary documents,
so if you had some ulterior wills they are no longer legal.
Executor: part of the will where the testator appoints a person known as an executor (or a personal representative) charged to manage the testator's affairs after his death.
Residue: The residue of the estate is all of your property that is not used to pay your debts or given as a specific gift. It distributes all assets passing through the residuary estate to any number of beneficiaries in fractional or equal shares
Executive powers : Identify the powers to be granted to executor
Attestation : Here signs the testator
Witnessing : Here the witnesses sign

b. *Won't be present in every will*

Survivorship: This clause makes clear that anyone not surviving the testator by a fixed period of time of 30 days, should not be included as a beneficiary, after what they can inherit under the testator's will.
Family Information : Identify Testator's immediate family
Real Property: Distribute real property by specific and/or general bequests or allow items to pass through residuary estate.
Cash gifts: act of giving cash as gift
Intangible Personal Property : Distribute intangible personal assets by specific or general bequests

Estate administration and expenses : debts, expenses, taxes and costs of estate administration to be paid
Cancellation of Indebtedness - Cancel all or a portion of debts owed to Testator
Guardianship : appoints guardians for the testator's minor children
Child trusts and UTMA : creates children's trust to manage gifts made to minor beneficiaries
Executors Fees :determines the terms of his compensation and responsibility
Charitable Donations : make bequests to charitable organizations

2)Types of Wills

There are several different types of wills described below. States differ in the types of will used; you should check your local legislation to make sure the type of will you are making is accepted in your state if you are doing your own will.
Simple Will: A simple will is one of the most popular types of wills. It provides for the outright distribution of assets for an uncomplicated estate
Statutory Will: Here you just have to fill a blank and check some boxes form. It's probably the most easy and cheap way to make a will but it's also very limited and not legal everywhere.
Pour-Over Will: It means that after your death your property will be "poured over" into a trust. The trust fund will provide for the management and distribution of your assets.
Testamentary Trust Will: It sets up one or more trusts for distribution. It arises upon the death of the testator, and which is specified in his or her will may contain more than one testamentary trust, and may address all or any portion of the estate
Self-Proving Will: A self-proving will, is notarized and certifies that the witnesses and testator properly signed the will that makes it easy for the court to accept the document as the true will.
Holographic Will: This is the will that you prepare in your own handwriting. In some states, no witnesses are required
Oral Will: This will is also called a noncupative will, it's verbally spoken and not written. To be recognized this will must be made during a final illness and concern a property of a relatively low monetary value and even then only few states accept this kind of wills.
Joint Will: Two people make this will together, each leaving all of their property and assets to the other. The will also determines what will happen with their assets after the second person dies. The surviving person is very limited in his ability to modify the will after the first person's death.
Mirror will: Two people make very similar wills but unlike joint wills, mirror wills are made on two separate documents and there are no restrictions if one of the parties changes his mind and decides to change the terms of his will.
Mutual will: Wills made by two persons. If one testator dies before the other; the surviving Testator is bound by the arrangements of the mutual will and cannot change the will.
Deathbed will: These are drawn up hastily and often contested wills.
Video will: A video will is read in front of a video camera by the testator
Conditional will: Conditional wills only go into effect when a certain act or condition happens. This means that after the death of the person who wrote the will, the beneficiaries won't inherit directly and there will be some conditions to fulfill before they could get something
Unsolemn will : This type of will in has an unnamed executor of your estate
Mystic will: A mystic will is the term for a will that is sealed until your death

International will : a will written in any language and executed in accordance with procedures established as a result of an international convention so as to be valid as to form regardless of the location of its execution or the assets, nationality, domicile, or residence of the testator
Soldiers' and Sailors' Wills: Several states have laws that relax the execution requirements for wills made by soldiers and sailors while on active military duty or at sea. In these situations a testator's oral or handwritten will is capable of passing personal property. Where such wills are recognized, statutes often stipulate that they are valid for only a certain period of time after the testator has left the service. In other instances, however, the will remains valid
Online Diy Will: When you use a website to help draft a DIY Will. This form of Will-writing is more often than not pretty limited, as the questionnaires rarely make provision for the myriad situations a testator encounters in his or her estate.

3)What is not a Will ?

Living will: Despite its name it is not a will and is not used to leave property at death. It applies while the author is still alive. A living will is a document that allows you to state what type of medical treatment you do or do not wish to receive should you be too ill or injured to communicate your wishes. It may also be referred to as an advance directive or a declaration. These wills are valid in most states.
Codicil: (from Latin codicillus, literally, writing tablet) It is a supplement to a will. A codicil is basically a formally executed document made after a will that adds to, subtracts from, or changes the will. A codicil is signed and witnessed (executed) in the same manner as a Will.
Health Directive: A Will is used to distribute your property after your death while a Health Care Directive allows you to define your health care preferences for the time when you no longer will have capacity to do so and because a will cannot be used to specify what type of medical treatment you want. The difference between it and the living will is that health directives are oral and written instructions about future medical care. A living will is one type of advanced health care directive. It takes effect when the patient is terminally ill, but a living will is a more limited type of health directive because you only make decisions about life¬ sustaining procedures in the event that your death from a terminal condition is imminent despite the application of life¬ sustaining procedures or you are in a persistent vegetative state. The health directive provides you with many more options, for example the naming of a health care agent. With the Health directive, you can also make decision about life¬ sustaining procedures in the event of terminal condition.
Will substitute :A device (as a trust) used instead of a will to transfer property upon death. Will substitutes are functionally indistinguishable from a will because the death beneficiary receives assets at the death of the donor and will substitutes convey no lifetime benefits to the death beneficiary during the lifetime of the donor. However, they differ in one way: in a will substitute, the title of the asset transfers to the death beneficiary during the lifetime of the donor, whereas in a will there is no asset title transfer before death of the donor. Because the title is transferred before death, will substitutes avoid probate court.
Gifts : A gift is the transfer of a property made voluntarily and without consideration, by one person, called the donor to another, called Donee and accepted him during his lifetime and while he is still capable of giving. You can make gifts in your will.
Trust: A Trust is not a will it is an arrangement designating a person to manage his assets for a certain beneficiary. It may either be a person or an organization and is usually utilized if the

benefactor does not believe that the beneficiary is capable of handling the trust creator's assets. Upon the person's death the designated person or the trustee will then arrange distribution of the person's assets to the beneficiary according to the trust creator's instructions. The property held by the trust doesn't need to go to probate;

CHAPTER TWO : Why make a Will?

1)Why should I have a Will?

You don’t have to make a Will, it’s not a legal obligation, but it is prudent to do it because it ensures that your final wishes in regard to the distribution of your estate are carried out. There are many good reasons for making a will. A will records who you (the "testator") wish to benefit from your estate (your assets). You can provide for people you love, who may not be entitled to anything from your estate if you died without a will or on the contrary disinherit someone who would receive a part of your estate if you died intestate.

•*Decide who will get your property after your death*
•*Decide how your property will be divided among your various beneficiaries*
•*Give specific items of property to specific people*
•*Appoint a representative to administer your estate*
•*Appoint guardians to take care of your minor children*
•*Choose how you want your debts will be settled and assets distributed*
•*Make property management arrangements to cater for minor beneficiaries*.
•*Assist in preserving or even enhancing the value of your estate through the incorporation of tax and/or estate planning techniques*.
•*If you die without a will, the law dictates who will receive your assets after you die*

2)Benefits of a prepared estate plan

A Will can help you protect the value of your property or savings for future generations, by minimizing the effect of Inheritance Tax or residential care fees upon the value of your estate. Many people have estates much larger than they realize when life insurance, retirement benefits, home or other real estate, savings and securities are taken into account. Structure your will to avoid the unusually high estate taxes. You minimize estate taxes.
If you really want your will to make your life easier and get some real benefits out of it you should make your will part of a well prepared financial plan.
Your estate plan should at least contain these four documents: a last will, a living will, a living trust and power of attorney.
That’s where you will have to deal with trusts. If you are hoping get some serious tax reductions you should include some trusts in your estate plan.

A. Save money on unnecessary taxes :

Death taxes, both state and federal, must be paid within nine months of the date of death unless the estate can qualify for an extension. Often the actual tax is paid at the nine month date but the tax returns themselves are put on extension. Extensions are available for six months, which would make the return filing 15 months after the date of death.
If done correctly, in your Will you have the option of excusing your personal representative from posting a bond. The expense of a bond often exceeds the cost of the Will itself. Eliminating this expense leaves more assets in the estate for your beneficiaries.

There are some other simple ways to avoid unnecessary taxes for example by gifting items to your loved ones or creating trusts. If your assets exceed Estate Tax exemption levels, having the right clauses in your Will can help you avoid unnecessary taxes. Don't let the IRS be one of you beneficiaries. We will analyze it in greater detail further in this book.

B. Save money on probate : Revocable Living Trusts

When you die, your property must go through a court proceeding in the Probate Court it does not automatically pass to your beneficiaries. Before the Probate Court permits your assets to go to your beneficiaries it must determine that all of your bills have been paid. The Probate System is designed to be an orderly way of winding up your affairs, making sure that all of your medical, funeral and other bills are paid, and that your property passes to your loved ones according to your wishes.

Even if the Probate System protects your heirs, it is often time consuming and costly for everyone concerned.

Probate System is very time consuming. During the probate in order to proceed to an accurate inventory of your assets, validate your Last Will and Testament, and get your final medical and funeral bills paid, your assets will be frozen. During the whole time of probate your family, beneficiaries and representatives will have very little control over the assets. Every case is unique and depending on the complexity it can take different time periods. In order for your assets to pass to your beneficiaries and for the administration of the estate to deal with your case it takes, on the average, from one to three years.

The Probate System is expensive. It can cost you from 4% to 10% of the entire value of your estate according to a recent AARP study, You will have to pay attorney fees, court costs, bond premiums, and fiduciary fees. These fees must be paid before your assets can be fully distributed to your family and loved ones. For example, if your property is worth $500,000, Probate fees of only 5% would cost your loved ones $25,000

Probate proceedings must take place in each state where you own property. This means that if you own property in two stats you will have two probate proceedings in two states. For example, if you own property in Montana and in Colorado, your beneficiaries will go through the Probate Court process in Montana and Colorado. This means double expense and delay or even triple if you own property in three states or more.

Probate System provides no privacy or confidentiality. Every detail of your finances will be on file at the Probate Court. Anyone can look at the court file and learn every detail of what property you have, the value of your assets, and who will be inheriting your property. The process "invites" disgruntled family members to contest your Will, and can serve as a source for leads for unscrupulous salespersons.

Having a last will and testament does not avoid probate system nor does owning jointly the property with someone your spouse for example.

Having a Last Will and Testament guarantees a trip through the Probate System, with its high costs and delay. A Last Will and Testament is a legal document in which you set forth your wishes as to who will inherit your property when you die. However, it is not binding until validated by the Probate Court. Therefore, you must go through the Probate System before your property passes to your loved ones. And that means court costs, lawyer's fees, and delay.

If you die without a last will state law and not you will determine who will inherit your property.

Your family has no control. The Probate System will determine much it will cost to settle your affairs, how long it will take, and what information is made public.
If you add your children’s names on your house and bank accounts you will give them an ownership interest in your assets and won’t be able to do whatever you want with it without their consent, plus by giving them an ownership interest in your real estate while you are alive, you may be exposing them to a significant amount of capital gains tax when they sell the home.
If your children run into a financial problem, divorce or die your home or bank accounts can get involved, be taken to pay their debts or distributed to their heirs.
But it can be even worse than, when you die, the asset goes to whomever's name you put on the real estate deed or bank account. It does not matter that your Will directs that the property is left to someone else so your heirs could be de facto disinherited even if they are in your will.
The best way to avoid probate court altogether and save your family the accompanying difficulties and stress is through a fully-funded Revocable Living Trust
A properly prepared estate plan, including a Revocable Living Trust, will enable you and family to totally avoid the Probate System, and permits you, and not the courts, to take control. It is quickly replacing a Last Will and Testament as the document of choice for individuals who wish to avoid court interference with their affairs and large legal bills when they die or become incapacitated. A Revocable Living Trust, like a Last Will and Testament, contains instructions about what should happen to your assets when you die. But that is where the similarity ends. Unlike a Will, a properly funded Revocable Living Trust avoids the Probate System, with its high legal costs and delay, when you die, and prevents the Probate System from controlling your assets at incapacity.
Unlike a will, which comes into play only after you die, the living trust can start benefiting you while you are still alive. The trust is revocable in nature, which allows you to make changes to fit your personal situation.
The revocable living trust is established by a written agreement or declaration that appoints a trustee to manage and administer the property of the grantor. As long as you're a competent adult, you can establish an RLT. In essence, the trust is like a rulebook for how your assets are to be handled when you die. As the grantor, or creator of the trust, you can name any competent adult as your trustee; some people prefer to choose a bank or a trust company to fill this role.
But living trusts, which are often peddled as estate planning cure-alls, aren't for everyone. At $2,000 to $3,000 a pop, they're more expensive than wills. And to make them effective, all your assets your house, your brokerage accounts, everything must be transferred into the trust. Finally, unless it is teamed with a tax-saving bypass or QTIP trust, a living trust won't save a dime of estate taxes.

Advantages of the Living Trust
Let’s look at some of the advantages of having a revocable living trust in place:
•***Avoidance of Probate***: Probate is the legal process for transferring your property when you die. Establishing an RLT can be especially useful in avoiding expensive multiple probate proceedings when you own real estate or other property in several states. Assets named in trust avoid the costly courts and typically take precedence over the property designated in your will.
•***Changeable or Revocable***: The living trust allows you to make changes to the trust document while you are still alive.
•***Privacy Preservation***: Trusts allow the transfer of your personal assets to remain private within the constraints of the trust document. The probate process may expose your estate to the public.