

ESTATE PLANNING TIDBITS

BY BONONI & BONONI, P.C.



Michele Bononi, Esq., and Eric Bononi, Esq., CPA

QUESTION: What will happen if I die without a will?

ANSWER: If you leave no will, you will have given up your right to decide who inherits your property. Your property will be distributed according to state law, which might be quite different from your preferences. And without a will, you can't disinherit heirs. Also, you lose the opportunity to select a guardian for any minor children and an executor for your estate. Court-appointed administrators and guardians may not be the family members or friends that you would have chosen to handle your affairs. In short, dying without a will can be costly and may complicate the transfer of your property to your heirs.

QUESTION: Can I make changes to my will once I have signed?

ANSWER: Yes. You may need to change your will if

you move to a new state, marry, divorce, have a child, acquire substantial property, or suffer the loss of a loved one. Tax law changes can also be a reason to change your will. You should read your will at least once per year to determine whether any changes are required. You can make changes by writing a new will or by preparing an amendment to the existing will. This is called a codicil. A new will is best if there are many changes. A codicil may be appropriate for a small change, but it must be made with the same formalities as a new will. Crossing out or writing inserts might invalidate your will.

QUESTION: Do I have to appoint an executor?

ANSWER: You should appoint an executor. An executor locates heirs, lists property, pays debts, handles taxes, and distributes property to your heirs. A relative or friend can serve as your executor,

but you should consider using an institutional executor (such as a bank or trust company) or a professional executor (an attorney or accountant) if you have a large or complicated estate. An executor should be someone who is familiar with managing property, financial matters, and record keeping. Before naming an executor, be sure that person is willing to serve as executor.

QUESTION: When should I appoint a guardian?

ANSWER: If you have children under the age of 18, you should appoint a guardian in your will. Otherwise, if you and your spouse die at the same time without such an appointment, the court will select a guardian to care for your children and manage their inheritance until they become adults. You can create a trust to control the property transferred to your children. A trust is very useful if you feel that the children lack the maturity to handle their inheritance after the age of 18.

QUESTION: Where should I keep my will once it is completed?

ANSWER: Your will should be kept in a safe place so that it can be promptly located when you die. You may wish to have your lawyer keep the original to protect it from damage or loss. You should also tell your executor and a trusted family member where your will is stored. You may store your original will in a safe deposit box.

QUESTION: Do I need a living will?

ANSWER: In addition to ordinary wills that state your wishes for your property when you die, the laws of some states permit "living wills" that instruct health care providers to withhold life support equipment while you are alive. A living will is important if you become comatose with no hope of regaining consciousness. Your living will should be written in a document separate from your ordinary will, and you should re-sign and re-date it every few years to comply with your state law and to reaffirm your preferences. Give a copy of your living will to your doctors and a close family member.

Bononi & Bononi, P.C., a partnership of Michele Bononi, Esq., and Eric Bononi, Esq., CPA, offers a full range of both legal and accounting services. For further information, visit www.bononiandbononi.com.

The firm is located at 20 North Pennsylvania Ave., Suite 201, Greensburg, PA 15601. Phone: 724-832-2499; Fax: 724-836-0370; E-Mail: Eric@bononiandbononi.com or Michele@bononiandbononi.com.

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