



FAQS - GIFTS FROM YOUR WILL

What happens if I die without a valid will?

Some 60% of Americans die without a valid will. This is unfortunate in most cases, because state laws will take over and will distribute your probate estate in accordance to a prescribed formula — possibly in ways that you would not choose. Any charitable interests you wanted to benefit will not occur.

When do I need to change my will?

One thing is certain as we go through life and that is change. The circumstances of life change constantly. If you have taken steps to write a will, you can be certain that your circumstance and the makeup of your estate will change from time to time. It is important that you do not procrastinate to get your will amended or even rewritten as these changes in life occur. Here are some common events that should nudge you to change your will: marriage, divorce, a new baby, stepchildren, named heirs pass away, you move from a common-law property state to a community-law property state or vice versa, you dispose of or purchase significant assets, guardianship is no longer needed for your adult children, you change your mind about your bequests to heirs, you wish to add or change a charitable beneficiary.

Do I need an attorney to write a will?

Some states allow an individual to compose a will. If it is properly witnessed and signed, many Probate Courts will accept such a will. However, most people have no idea how to get started with such a task. They wonder if they will adequately cover all the bases in a self-authored document. A will is a very important legal document, and it is wise to employ the expertise of a qualified attorney. A will is one of the least expensive legal documents you would pay for, but a well-written document could save your heirs much more in dollars and hassle.

What is the role of an executor or personal representative?

An executor or personal representative is the person you assign the responsibility to manage and distribute your estate in accordance with your will. An executor's work will be monitored by the Probate Court. An executor



does not need to be an expert in finances, probate law, or taxes. He or she can and should hire such experts that are needed for assistance. A good executor will be honest and organized, possess good common sense, and be willing to serve in this capacity. Most people will name their spouse or an adult child, or some other close heir. If possible, name someone who lives nearby and who is familiar with your financial matters. That will make it easier for the person to do chores like collecting mail, selling assets, and finding important records and papers.

What is the Probate Court?

This is the court that determines the validity of a will and provides judicial oversight over the distribution of the estate. If there is no valid will, then the Probate Court will appoint an administrator of the estate to facilitate the estate's distribution in accordance with state law.

What are my non-probate assets?

Non-probate assets are any assets in your estate that will pass to heirs outside of the Probate Court. Examples include jointly held property such as real estate, jointly held bank accounts, and assets that will pass to heirs based on a death benefit beneficiary designation that are predated in a life insurance policy or qualified retirement plan (such as an IRA). Additionally, some people title all their property to a living trust, and at death, the named trustee will distribute or manage assets in accordance with the trust document. The trust and assets possessed by the trust are not reviewed by the Probate Court. In states where probate fees are expensive, a living trust can save on those costs. Also, those who own property in another state may want to consider a living trust so that they do not have to deal with two Probate Courts.

What is a codicil?

This is a simple amendment to a will, which avoids the cost and complication of rewriting an entire will. The codicil must be signed and witnessed or notarized as is the original will.