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**When Do I Need A Will  
and  
Do I Need More Than A Will?\***

**Learn whether you need a trust, power of attorney, or health care directive in addition to a will.**

Most Americans don't have a will, to say nothing of a more comprehensive plan to avoid probate or save on estate taxes. Do you need to start planning what happens to your estate when you die? It depends on your age, health, wealth, and innate level of caution.

We've sorted our tips into broad categories of family situation and age. But keep in mind that age is an imprecise proxy for life expectancy, which is affected by all sorts of other factors -- smoking, extreme sports, and driving a motorcycle, for example. It's up to you to add or subtract a few years based on your health and lifestyle.

**You're in Your Twenties or Thirties and Single**

At your age, there's not much point in putting a lot of energy into estate planning. Unless your lifestyle is unusually risky or you have a serious illness, you're unlikely to die for a long, long time.

If you're an uncommonly rich twenty- or thirty-something though, write a will. (Bricks can fall on anyone.) That way you can leave your possessions to any recipient you choose -- your boyfriend, your favorite cause, the nephew who thinks you're cool. If you don't write a will, whatever you leave behind will probably go to your parents.

**You're Paired Up, But Not Married**

If you've got a life partner but no marriage certificate, a will is a must-have document. Without a will, state law will dictate where your property goes after your death, and your closest relatives will inherit everything. Unmarried partners generally get nothing unless you have registered as domestic partners or entered into a civil union (allowed only in some states), in which case surviving partners can inherit just like surviving spouses.

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Another option to make sure that your partner isn't left out in the cold after your death is to own big-ticket items, such as houses and cars, together in "joint tenancy" with right of survivorship. Then, when one of you dies, the survivor will automatically own 100% of the property.

## **You Have Young Children**

First and foremost, get yourself a will. A will allows you to leave your property to whomever you choose and, more importantly, names a guardian to care for your children. The guardian will take over if both you and the other parent are unavailable. If you fail to name a guardian, a court will appoint someone, possibly one of your parents.

Note that if you don't have a will, some of your property may go not to your spouse, but directly to your children. The problem with the children inheriting directly is that the surviving parent may need to get court permission to spend or invest the money -- a waste of time and money in most families. To make an online will right now, go to *Nolo's Online Will*. You simply pick a package, complete a simple interview online, and then print out your will.

Second, think about buying life insurance to replace your earnings, just in case. Term life insurance is relatively cheap, especially if you're young and don't smoke. You can shop for the best bargain online, by consulting free services that compare the rates of lots of companies.

## **You're in Your Forties**

This is the time when most people consider estate planning in earnest. Keep in mind that your assets and what you want to do with them may change in 10 or 20 years -- be prepared to revisit and change your estate plan accordingly. First, create a will, and then consider some of these other planning options:

## **Revocable Living Trusts**

To save your family the cost (and hassles) of probate court proceedings after your death, think about creating a revocable living trust. It's hardly more trouble than writing a will, and lets everything go directly to your heirs after your death without taking a circuitous and expensive detour through probate court.

While you're alive, the trust has no effect, and you can revoke it or change its terms at any time. But after your death, trust property can be transferred quickly, according to the directions you left in the trust document.

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You can make your own living trust using *Nolo's Online Living Trust*.

## Payable-on-Death Accounts

There are other, even easier ways to avoid probate for some types of accounts: You can turn any bank account into a "payable-on-death" account simply by signing a form (the bank will supply it) and naming someone to inherit whatever funds are in the account at your death. You can do the same thing, in almost every state, with securities and retirement accounts.

## Reducing Estate Taxes

If you have enough property to worry about federal estate taxes, think about tax avoidance as well. In 2008, only estates worth more than \$2 million are taxed. That amount is scheduled to increase to \$3.5 million in 2009. (The estate tax is being phased out, but its future is uncertain.) If estate tax does take a bite, it can be a big one: 45% of everything over the exempt amount. Here are some ways to reduce estate tax:

**Give your property away before death.** One way to reduce these taxes is to give away property before your death. After all, if you don't own it, it can't be taxed. Gifts larger than \$12,000 per year per recipient are subject to gift tax, at the same rate as estate tax. Still, an annual gift-giving plan can reduce the size of even a big estate, especially if you have a covey of kids and grandkids. Gifts to your spouse (as long as he or she is a U.S. citizen), direct payment of tuition or medical bills, and gifts to a tax-exempt organization are exempt from gift tax.

**Create an AB trust (also called a bypass trust).** Another way to cut estate taxes is with trusts. Many older couples use an AB trust to leave property to each other for life, and then to their children. The surviving spouse can spend trust income and, in some circumstances, principal. An AB trust can shield up to twice the exempt amount from estate tax.

**Create a charitable or other trust.** Charitable trusts, which involve making a gift to a charity and getting some payments back, can also save on both estate and income tax. There are many other complex trusts; learn about them on your own and then have an experienced estate planning lawyer draw up the documents you want.

## You're Over Fifty or Ill

Now is the time to take concrete steps to establish an estate plan. First, the basics: Consider a probate-avoidance living trust and, if you're concerned about estate taxes, a tax-saving trust. (These devices are discussed just above.) Write a will, or update an old one.

Then take a minute to think about the possibility that at some time, you might become unable to handle day-to-day financial matters or make healthcare decisions. If you don't do anything to prepare for this unpleasant possibility, a judge may have to appoint someone to make these decisions for you. No one wants a court's intervention in such personal matters, but someone must have legal authority to act on your behalf.

You can choose that person yourself, and give him or her legal authority to act for you, by creating documents called durable powers of attorney. You'll need one for your financial matters and one for health care. You choose someone to act for you (called your agent or attorney-in-fact) and spell out his or her authority. You can even state that the document won't have any effect unless and until you become incapacitated. Once signed and notarized, it's legally valid, and your mind can be at ease.

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