

the trustee may make distributions to those persons to provide for needs over and above the basic needs for food, clothing and shelter, which SSI provides.

A fully discretionary trust may make distributions for any purpose at the trustee's sole or absolute discretion. As one author explains, it "usually contains (and should contain) a statement requesting the trustee, in exercising its discretion, to take into consideration whether the proposed distribution would have a negative effect on the beneficiary's eligibility for benefits."

You can set up either trust as a testamentary trust in your will or as a living trust during your lifetime.

We know your first responsibility is to provide a will that meets the needs of a child with a disability. To accomplish this goal, you should always seek the advice of professionals knowledgeable in this area.

5. You Want to Make Gifts to Your Grandchildren

Grandparents worry about their grandchildren. Among other needs, the cost of higher education is often a concern. Your immediate goal is to set up a program in your will that would enable money to grow for their future educations.

Trusts are a common solution to this problem, with your children as trustees on the grandchildren's behalf. But another solution combines your gifts to them with a charitable trust. For example, a \$50,000 charitable lead trust, established by will, could provide income to your favorite charitable organization for a set number of years and after that period transfer the trust's principal amount (which had grown through the years) to a grandchild. Suppose you created a \$50,000 charitable lead annuity trust or charitable lead unitrust with a 15-year term. If you set the income payout to the charitable organization low enough to permit

the vested income to grow at 7 percent, the principal amount would reach almost \$120,000. The exemptions that apply to generation-skipping transfers can substantially reduce the tax burden for charitable lead trusts to grandchildren. This twofold gift, one to your favorite charitable organization and one to your grandchildren, is a testamentary trust that puts your grandchildren first.

6. You Want to Leave Charitable Bequests

We have shown that charitable giving through your will can often assist in special will circumstances. It is natural for people to want to provide for nonprofit causes that have benefited their lives. This is illustrated by the fact that Americans gave nearly \$260 billion outright to charitable organizations in 2005. Those who left money to charitable organizations when they died (by wills, trusts and insurance) directed their giving to causes that were dearest to them.

Motivation for giving comes in many forms:

- Pure altruism
- A family desire not to make the children rich or richer
- An awareness that there is an unlimited charitable deduction available to any estate

If you do want your will to reflect your life's meaning, remember that a will provides the easiest, safest (it is totally revocable at any time) and surest way for you to contribute assets and be certain that your gift will be used as you wish.

Vigilance is the watchword when selecting the charitable organizations you wish to benefit. Research your potential recipient organization until you are confident of your choice. While one major and emotionally appealing charitable organization spends 60 cents of every donated dollar on administrative expenses and salaries, another

spends as little as 27 cents per dollar. Studies show that one of the main reasons for selecting one organization over another as a recipient of charitable planned gifts—such as gifts by will, trusts, insurance and annuities—is the result of contrasting how much of each bequest will go to its actual intended purpose. Charitable organizations often can provide reports to individuals who are interested in donating to their charitable cause. These reports state how much of donated funds is spent on day-to-day operations and how much is spent on actual mission-directed programs.

Conclusion

Solutions for each of the six "will circumstances" mentioned here may require family discussions, legal advice and professional planning. You may have other special circumstances that are specific to your needs. To ensure that your will addresses the needs of your family and your special circumstances, consult an experienced estate planning attorney and be detailed in outlining the unique circumstances prompting the meeting.

Procrastination need not make a mockery of your good intentions. Act now to secure the future for your family and loved ones.



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Given the opportunity, who would not like to write his or her own life story? To immortalize the values you have come to adopt? To demonstrate your love for your family? To show you care for them in every way imaginable?

You can, you know. Not by writing a novel, but by writing your very personal will. If you look upon your will as one last act of love in your life's story, this document takes on a very different hue. Unique as your life, your will can not only pass property to individuals you choose, but it can also provide specific instructions for unique situations. There are as many situations as there are individuals, and each person needs a personal will to accommodate his or her specific circumstances. Discussed in this brochure are six common, but different, situations that can occur throughout life. Each circumstance has with it an explanation of how your will forms a valuable foundation for your other estate planning goals.

1. You Are Single

According to 2000 figures from the U.S. Census Bureau (the latest year completed figures are available), there were 27.2 million householders living alone. Of those, 9.7 million were age 65 or older. A total of 12.9 million unmarried women made up 12.2 percent of all households, and 7.6 million were raising children younger than 18.

Regardless of why you are single, you need a will to distribute your property to those you wish to receive it. If you do not make a will, the state of your domicile has one for you, and it will probably not represent your personal wishes. Among other things, your state-drafted will doesn't provide for:

- Your choices for distributing your property after your life
- Your choice for providing a guardian for those under your care
- Your ability to make charitable gifts

State statutes do the best they can. The example of a farmer who died without having made a will illustrates their problem: Three years after his death, his estate was finally settled. His assets were divided, not among the relatives and friends who lived near him, cared for him and were loved by him, but among 29 blood relatives, many of whom he had never met and most of whom he had never known. He attended his church on a regular basis and consistently supported its endeavors, but upon his death, his church received nothing and his regular donations ceased. If he had made a will, he most certainly would have made very personal choices that mimicked his lifetime of giving. Why didn't he have a will? Let's hope other "single" people learn from him.

While planning your will, keep in mind that your estate plan should also include establishing a health care power of attorney, durable power of attorney and a living will to ensure your care and financial well-being should you become incompetent.

2. You Are Divorced and Remarried

Let's say you were divorced and have since remarried. Your old will left your entire estate to the spouse you divorced. You were told when you divorced that according to the laws of your state, divorce did not cancel that will. It did cancel provisions favorable to your first spouse and removed him or her as executor of your estate. Now you want a new will. You are required, however, to provide alimony for your first spouse for a term of years.

After you write a new will, you can imitate a man who chose to use a charitable trust as a method of paying alimony to his former wife. He set up a charitable remainder annuity trust with her as its beneficiary and his favorite charitable organizations as its remaindermen. Because a charitable remainder

annuity trust pays a fixed dollar amount per year for the life of the trust, he chose to have the annuity trust pay her an amount equal to his monthly alimony requirement. After her life, the principal amount remaining in the trust would be given to the charitable organizations he had named as the irrevocable remaindermen in his trust instrument.

3. You and Your Spouse Have Children From Different Marriages

In many cases, remarriage comes with extended family. It is important to discuss with your spouse the needs for each of the children and how to provide for both sets of your children after your lives. Several options are available from which you can choose; you will want to pick the best option for your circumstances.

A postnuptial agreement may be one way to avoid serious inheritance problems, depending on your estate. That agreement permits you to spell out how much each would inherit from the other (you would surrender your rights to the amounts provided for spouses by state statute) and how your assets would be distributed to your own children.

Another alternative is to set up qualified terminal interest property (QTIP) trusts, which would enable each of you to leave income for life to your surviving spouse. You may also allow them to invade the principal in the event of need. The remaining principal, after that spouse's life, would go to your children. This plan enables you to care for your surviving spouse while directing certain assets to your children.

Here is an example of how one couple solved this problem. Each spouse sets up a separate charitable remainder unitrust designating his or her favorite charitable organizations as beneficiaries with the lifetime income going to his or her children. The couple received immediate income tax charitable

deductions and avoided capital gains tax on the transfer of appreciated assets to the trusts. The income percentage assigned for the lives of their children was set low enough to permit the invested trust assets to increase year after year—the income payable to the children would increase proportionately. In addition, because the capital remaining after the lives of their children would go to the designated charitable organizations, the couple would also receive estate tax deductions enabling their estate to distribute even more to their children.

In any scenario, however, your will should contain provisions for the care of the children and for the presumed order of death should you both die simultaneously in an accident.

4. You Have a Child With a Disability

Thoughts of death can be deeply disturbing when you have a child with a disability. You can care for the child as long as you are alive, but what happens after you are gone? Who will provide care? Will there be enough money to provide care for as long as the child lives? Under these circumstances, you want to write your will to be fair to the other children and still give special assistance to the child who requires special care.

A special caution: If you give this child an outright bequest by will, be careful that it doesn't make him or her ineligible for Supplemental Security Income (SSI) benefits providing for lifetime food, clothing and shelter.

If you place funds in a special trust for the child's benefit, however, he or she would not be disqualified. Ask your attorney to explain whether a supplemental needs trust or a fully discretionary trust would be better.

A supplemental needs trust is an irrevocable trust for persons with disabilities. It states that