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# Trusted Advisor

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## Who's who in your will?

A will does more than say who gets what. You must also decide who is best qualified to fill some important job assignments. Everyone who accumulates any amount of money and property — an “estate” — needs a will. Even if you have moved most of your assets into a revocable living trust, you need a will to dispose of your remaining assets and tie up any loose ends in your estate plan. In a will — or with a combination of a will and a living trust — you specify how and to whom your estate is to be distributed. However, that's not the end of your “will power.” In your will, you can name a guardian for children, if they are minors. You can say who is to settle your estate. And, if you have not already created a living trust, you can provide for a testamentary trust, whose trustee will manage all or part of your estate for the benefit of your children, your spouse, or others. All three job assignments call for careful thought.

### **Guardian for children**

Usually, the best choice for the guardian of young children is one of their aunts, uncles, or a close family friend. Don't forget to check with the person you choose to be sure that he or she is willing to accept the responsibility.

A guardian of a child may also be named the guardian of the child's inheritance. However, the individual may not have money management skills or the time to learn the job. Also, laws that govern how a guardian may spend or invest money for a minor can be extremely restrictive. The better solution, when a child's inheritance is sizable, is to leave it in trust. You, not state law, determine the terms of that trust. Rather than having everything not previously expended for the child's support and education handed over as soon as the child comes of age, you might prefer to have the balance of the inheritance

delivered in installments — at ages 25, 30, and 35, for example.

### **Executor/personal representative**

Traditionally, an executor is named in a will to settle the estate. If no executor is named or able to serve, the court names an administrator to handle the job. Nomenclature in some states may include the variations “executrix” or “administratrix.” Increasingly, however, those assigned the job of settling an estate are referred to by an all-purpose, gender-neutral term: personal representative.

It is sometimes supposed that the position of executor/personal representative has become a more or less honorary position, but that's not so. Estate assets must be assembled, inventoried, and safeguarded. Creditors must be notified, and debts paid. Investments must be evaluated and monitored. Heirs must be counseled and advised. And tax work — reams of tax work — must be completed in a timely fashion. Even if the bulk of an estate is held



in a living trust, all requirements relating to federal and state death taxes, if any, must be complied with.

Spouses, siblings, or adult children are often named to settle estates of nominal value. For larger, more complex estates, it's usually more practical to name a trust institution such as ours. Our estate specialists are equipped with administrative skills, investment experience, tax know-how, and good business sense. What's more, as a corporate executor, we're sure to be available when needed.

### Testamentary trustee

Trusts continue to have a crucial role in minimizing estate or inheritance taxes for married couples. In addition, leaving property in trust is helpful whenever it's desirable to leave someone the benefits of an inheritance without imposing managerial burdens.

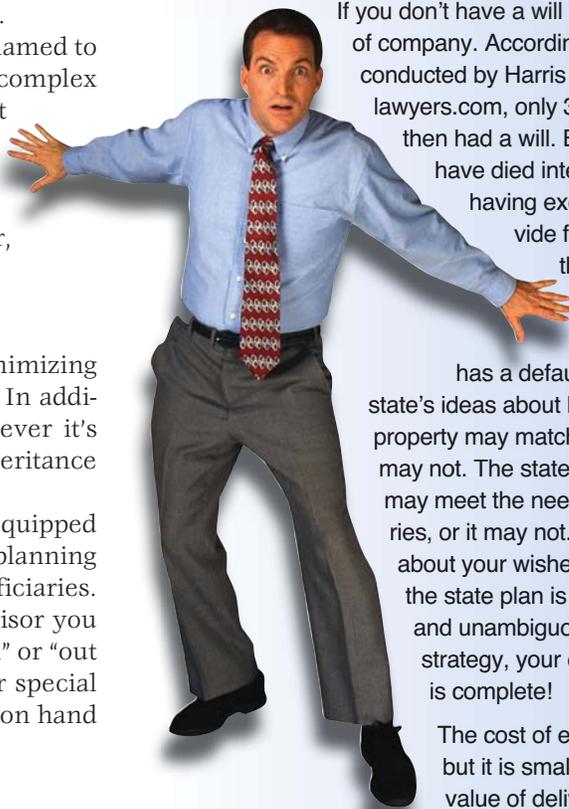
Trusteeship, of course, is our business. We're equipped to handle all aspects of the job, from investment planning through keeping records and reporting to beneficiaries. And, unlike any family friend or individual advisor you might name as trustee, we're never "on vacation" or "out sick." Whenever a beneficiary has a question or special request, one of our trust specialists is sure to be on hand to help.

### Successful wills

The success of a will usually depends upon two factors: the care with which the will has been planned and kept up-to-date, and the ability of those named to positions of responsibility to carry out their duties in a manner that produces optimum results for the will's beneficiaries.

Full information about our trust and estate services is yours for the asking. Call on us. □

## What, you don't have a will?



If you don't have a will yet, you have a lot of company. According to a 2009 study conducted by Harris Interactive® for lawyers.com, only 35% of Americans then had a will. Even some Presidents have died intestate; that is, without having executed a will to provide for the disposition of their property.

If you don't have a will, the state has a default plan in place. The state's ideas about how to divide up your property may match your own, or they may not. The state-mandated approach may meet the needs of your beneficiaries, or it may not. Subjective questions about your wishes don't enter into it; the state plan is specific, objective, and unambiguous. If you like that strategy, your estate planning is complete!

The cost of executing a will is real, but it is small compared to the value of delivering certainty and financial security to your heirs.

Given the rapid flux in the death tax laws at the federal and state levels in recent years, some hesitancy in seeing an attorney and incurring the expense of an estate plan is perhaps understandable. Nevertheless, anyone who has assets and heirs should do the responsible thing and have a will drafted.

## Is the estate tax an efficient tax?

As Congress is mulling over reforms to the Internal Revenue Code, everyone is in favor of changes that will support increased employment. Trouble is, no one can agree on what tax changes promote economic growth, and which ones slow it down.

A new study on the economics of the estate tax, underwritten by the American Family Business Foundation, applies "dynamic" scoring to the effects of changes to the federal estate tax, rather than employing the static models currently in use by the Congressional Budget Office (CBO). Dynamic scoring estimates the behavioral responses to tax changes and, hence, the economic growth potential. A reduction in the

estate tax would more than repay itself in greater growth, according to the report. Under a dynamic estimating model, the study concludes, a complete repeal of the federal estate tax (but not the gift tax) would lead to a short-term revenue loss offset by much larger long-term gains.

Specifically:

- Gross Domestic Product would grow by 2.26% more than under the current law, over the next 10 years.
- The cumulative dollar gain in GDP over 10 years would come close to \$3 trillion.
- The CBO static analysis projects that eliminating the estate tax would increase the deficit by 6.54% over 10 years, while the dynamic model shows the deficit declining by 5.19% from the same action over the same period.
- Repeal of the federal estate tax

would cover more than 30% of the deficit reduction that the "Super Committee" was charged with finding.

However, the Super Committee is not, as of this writing, shifting to dynamic scoring of the revenue effects of tax law changes.

The report also compared extending the 2011-2012 tax law, adopting the President's proposal of the 2009 estate tax rules (\$3.5 million exemption, 45% top tax rate), and a system in which the top tax rate is the same as that on long-term capital gains (15%), coupled with a \$5 million exemption. Elimination of the estate tax produced the most economic growth.

The report concluded: "Elimination of the estate tax is as close as one gets to a free lunch in economics. It is time to take advantage of it."

# Remembering charities at year-end

Nonprofit organizations are making their final push for the year, a development that dovetails nicely with those who are doing their year-end tax planning. This year, those who are older than age 70½ may want to consider the somewhat unorthodox gift of a direct distribution from their IRAs. Up to \$100,000 may be transferred to charity in this manner. Couples may transfer up to \$200,000 if each partner has an IRA. In contrast to normal IRA distributions, amounts transferred directly to charity won't be included in ordinary income (and, therefore, no charitable deduction is appropriate).

Some taxpayers simply opt to direct their required minimum IRA distributions to charity. The distribution requirement will be satisfied, even though the amounts distributed don't get taxed. The choice of making a direct transfer from an IRA expires at the end of this year. The tax break might be renewed, as has happened in the past, but in this era of major deficits and talk of tax reform, renewal is far from certain.

## Extra tax advantages

In some sense, the income tax exclusion for a transfer to charity from an IRA might not seem like such a big deal. After all, one has always been allowed to follow an IRA withdrawal by a charitable contribution and claim an income tax deduction. However, the full benefit of that deduction is not available to all taxpayers.

- *Nonitemizers.* There are a great many taxpayers who do not itemize their deductions, even in the upper tax brackets.
- *Top-bracket taxpayers.* At the highest income levels, the value of itemized deductions is "phased out," so less than a 100% deduction will be allowed for a charitable gift.
- *Big donors.* Percentage limits on the charitable deduction mean that some donors can't take a full charitable deduction in the year that they make a gift.
- *Social Security recipients.* An increase in taxable income may cause an increase in the tax on Social Security benefits for some taxpayers. The direct gift from an IRA avoids this problem.

Accordingly, if you are 70½, you should consider a charitable gift from your IRA if:

- You do not itemize tax deductions;
- Your charitable deductions have been maximized;
- You do not need the additional income made necessary by your minimum required deduction;
- You live in a state that does not allow charitable deductions; or
- You are subject to the 2% rule that reduces your itemized deductions.

As welcome as this tax planning opportunity is, every taxpayer's situation is unique. See your tax advisor before taking any action. □

## Top 10 charities

According to *The Chronicle of Philanthropy*, the nation's top 400 charities seem to be pulling out of the recession. They expect contributions to have grown by a median of 4.7% this year, helping to offset the unprecedented 11% decline experienced by all charities in 2009. Giving to smaller organizations, in contrast, appears flat.

Here are the top 10 U.S. charities by total support in 2010, as well as their change from 2009.

Charity	2010 private support (\$ millions)	Percentage change from 2009
United Way Worldwide	\$3,859	0.4%
Salvation Army	1,807	5.1
Fidelity Charitable Gift Fund	1,321	38.7
Task Force for Global Health	1,144	14.8
American Red Cross	1,076	63.6
Food for the Poor	1,037	-3.7
Schwab Charitable Fund	926	92.1
American Cancer Society	903	0.6
AmeriCares Foundation	795	-33.5
Catholic Charities USA	794	-2.2

Source: *The Chronicle of Philanthropy* (October 20, 2011)

## Inflation adjustments

Inflation has been shallow during the recession and early recovery, so the tax tables haven't been changed much in the past few years. That's going to change for 2012, according to a series of releases from the IRS and the Social Security Administration. Here is only a partial list of the changes, most of which help taxpayers.

**Estate and gift taxes.** The amount exempt from federal estate tax goes up from \$5 million this year to \$5,120,000 next year. The annual gift tax exclusion will be unchanged at \$13,000.

**Social Security.** Nearly 55 million Social Security beneficiaries will receive a 3.6% cost-of-living adjustment, beginning in January. The average monthly benefit will therefore rise from \$1,186 to \$1,229. The maximum benefit for a worker retiring at full retirement age goes up from \$2,366 per month to \$2,513. On the other side of the coin, the maximum amount of earnings subject to Social Security tax rises to \$110,100 from \$106,800. Also, the reduction of Social Security taxes by two percentage points, effective in 2011, expires at the first of the year, unless it gets renewed by Congress.

When one retires before normal retirement age, one dollar in benefits is withheld for every two dollars earned above the "earnings limit." The earnings limit will increase from \$14,160 this year to \$14,640 next year. In the year that an individual reaches full retirement, the earnings limit rises from the current \$37,680 to \$38,880.

**Retirement savings.** The limit for elective deferrals to 401(k), 403(b), and most 457 plans goes up to \$17,000, from \$16,500. However, the additional catch-up contribution permitted for those aged 50 and older is unchanged at \$5,500. Effective January 1, 2012, the annual benefit limit for defined benefit plans will be lifted from \$195,000 to \$200,000.

The phaseout range for the IRA deduction jumps \$2,000, beginning at \$58,000 for singles and \$92,000 for married couples. The phaseout range for permitting contributions to a Roth IRA gets a bigger boost and will be \$173,000 to \$183,000 for marrieds, \$110,000 to \$125,000 for singles and heads of households.

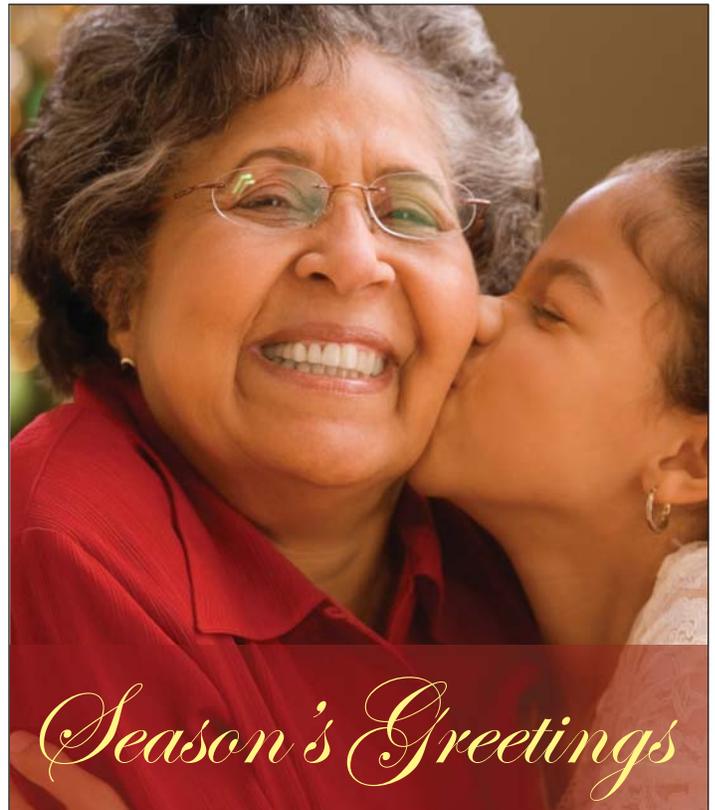
**Income taxes.** The personal exemption goes to \$3,800 next year. For those who do not itemize, the standard deduction will be \$11,900 for marrieds filing joint returns, \$8,700 for heads of households, and \$5,950 for singles and marrieds filing separate returns. □

## Notable

Found at the irs.gov Web site:

"People who complain about taxes can be divided into two classes: men and women."

— Unknown



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