

Overview

Planning Your Legacy



A Guide to Planning Your Will and Trust

**Saint Luke's Episcopal Parish
2000 Shepherd's Lane
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*Inside of all of us
there is the need
and the desire to be heard,
to have our innermost thoughts,
feelings and desires expressed
for others to hear,
to see and to understand.
We all want to matter to someone,
to leave a mark . . .*

- Victor Alexander

*But lay up for yourselves
treasures in heaven,
where neither moth nor rust destroys and
where thieves do not break in and steal.
For where your treasure is,
there your heart will be also.*

- Matthew 6: 20-21

Table of Contents

1. Introduction

Planning Your Legacy 4

Estate Planning Documents 7

2. Planning Your Estate

Choosing your Estate Plan 10

The “Right Amount” Inheritance 11

3. Frequently Asked Questions 12

4. Sample Bequest Language 15

5. Making a Bequest to Saint Luke’s Parish 16

Planning your Legacy

A Guide to Planning Your Will & Trust

Welcome to *A guide to Planning Your Will and Trust*. You may have already taken steps to protect those you love through an estate plan. This guide may be useful as a means of review of what you have already planned, particularly if you wish to make adjustments or additions to your estate plan. For those of you have no such plan, this guide will help you to get started. A plan is important, yet an estimated 50% of Americans don't even have a will. This guide will help you by making the process easy and understandable.

A person may work 40 years to accumulate assets and spend 10 to 20 years conserving that accumulation, but often take two hours or less to plan for distribution of the assets. Through good planning, a wonderful chapter in the book of your life can be completed. However, too many times there has been little planning, or sometimes no planning, and the last chapter in the book of your life can become burdensome for your family members.

This guide is designed to help you move forward with a plan that writes a very good chapter in the book of your life. Through proper planning, the legacy of love and care that you leave for your family and friends can be encouraging and even inspiring. We will show you how to update your estate plan with a will and also make plans for your potential medical decisions.

A Guide to Planning Your Will and Trust is designed to encourage you to think about how you want your assets to be distributed at death and to assist you in gathering the information your attorney will need. With this guide, the process will be much easier, less expensive, and a comfort to your family while fulfilling your desires for family and friends.

What are the benefits of an estate plan?

Peace - An estate plan is designed to help you provide for those you love and protect, both you and your family.

Provision - You have spent most of your lifetime gathering assets and making plans. But many people spend more time planning their vacation than planning their estate. With a good estate plan, you can give love ones, the property you have acquired in the right way, at the right time and at minimal cost. We encourage you to include Saint Luke's in your planning.



Protection - In addition, a good plan will protect you in your senior years. It may be important to designate a specific person to manage your property, help doctors and other medical staff with important decisions, and make certain that you are receiving the best possible care.

How do I get started?

We have designed *A Guide to Planning Your Will and Trust* for your benefit. Initially it is best to move fairly quickly through the different sections simply to get an overview. You will then need to come back later and fill in some of the information. Most of this information you will know or have readily available.

What if I have questions about some of the information?



When it comes time to decide on the distribution of your property, you may have some questions. There are two resources that will help you. In addition to the explanations within this guide, there is a wealth of online estate planning information on the internet. Saint Luke's Parish will periodically hold information sessions that are open to all.

What good things can happen with an updated will?

With an updated will, you can transfer specific property or assets. In addition, you will be able to direct the residue of your estate. For those with larger estates, there could be substantial estate tax savings. In addition, you know that the executor or personal representative you select (not the one a probate judge chooses) will be managing your property. A good will is able to carry out your plan and may save your estate thousands of dollars while transferring property quickly and inexpensively to your loved ones or other designees.

What is accidental disinheritance?

All too frequently, the "wrong" persons end up receiving property. An "accidental disinheritance" occurs if you either have no will or the will doesn't function properly. Sometimes a will is unclear and the estate goes to distant relatives or is simply paid to CPAs and attorneys who are representing family members fighting over the estate. You can avoid an "accidental disinheritance" by creating a plan to protect your loved ones and other intended recipients.

Estate Planning Documents

The three basic steps in the estate planning process

1. Write down what you own

It is important to understand that property you own and what property will be transferred through your estate.

2. Know how property is transferred

Some property is transferred by will and some is transferred by a beneficiary designation or other form. You need to know how your property will be transferred in order to avoid an accidental disinheritance (as described earlier in this guide). With a good plan your property will be transferred as you desire.

3. Sign your Will and Medical Directives

Finally, it is important to sign the documents that correctly express your will and desires, both for your property and for your potential future personal care.

Basic Planning Documents

Let's start by reviewing the three basic estate planning documents—the Will, a Durable Power of Attorney for Finances, and a Durable Power of Attorney for Healthcare.

1. Current Will

Your will is a written document signed by you and by two or more witnesses. In Arizona your will must be witnessed by a Notary Public. If the will is believed to be authentic by the probate court, it is used to determine the distribution of your property. If the will is not valid or you do not have a will, the court will follow state law as it applies to those without a will. Court decisions may be completely contrary to your desires.

With a valid will, you are able to choose who will inherit your property and who will administer your estate as executor or personal representative. If you have minor children or other legal dependents, you can choose a person to raise your children or care for a legal dependent. With a trust, you are permitted to decide who will manage the trust for family members.

A valid will is an essential part of transferring your property at the right time to the right people at the lowest cost. Without a valid will, costs, delays and the probability of expensive conflict increase. You can provide a wonderful legacy for family with an updated will and sound estate plan.

Durable Power of Attorney for Finances

You are probably a very good financial manager. As long as you are able to manager your affairs, things will be fine. However, there may come a time when you are in poor health or perhaps in the hospital. While lying on your hospital bed, you do not want to worry about your property being neglected or bills going unpaid.

A Durable Power of Attorney for Finances is the solution that protects your property and yourself. If you are no longer able to manage your property, the person that you select in this durable power has the right to act as your agent. Even if you are disabled or incapacitated, this person will have the legal authority to manage your property. If you do not have a Durable Power of Attorney for Finances, it will be necessary for the court to appoint a conservator.



The court may select any person as conservator and there often will be expensive reports, audits and costs in the management of your property. If you sign a Durable Power of attorney for Finances, the person that you select may manage your property without all the expense of a court-appointed conservator.

Healthcare Directives

There are two general types of healthcare directives—a Durable Power of Attorney for Healthcare and a Living Will. In some states they are combined into one document called An Advanced Directive.

The Durable Power of Attorney for Healthcare allows you to select a person who can assist your doctors in making healthcare decision while you may be incapacitated. You may have a serious medical condition and the doctor will need the advice of another person regarding the best possible care for you. Your designated holder of the Durable Power of Attorney for Healthcare can help the doctors ensure that you have high-quality care.

The Living Will is a second document (in most states) and covers the time before your probable death. In the last days and weeks of life, there are a number of decisions regarding care, nutrition hydration and resuscitation that need to be made. The Living Will gives you the opportunity to direct medical staff regarding the types of care to be provided to you at that time.

Your Benefits with Other Planning Options

Living Trusts

If you have a moderate or large estate, you may find it desirable to create a Living Trust. A Living Trust is completely within your control during your lifetime. You can add property to the trust or remove property from the trust at any time. During your lifetime the trust income is taxable to you.

There are at least three major benefits of a Living Trust. If you are sick or in the hospital, your designated successor trustee can take over and manage your property for your benefit. Secondly, if you pass away, the property in the Living Trust will avoid probate and potentially save thousands of dollars in costs. Third, the Living Trust typically is a private document and is not made public during the probate process.

Custom Estate Plan for Business, Investments, or Special Needs Child

If you own a family business, substantial real estate holdings or a large estate, then a custom plan that considers your special property goals and requirements should be created. Another custom plan option is important if you have a child with special needs. A child with special needs may be provided for through a Special Needs Trust. A Special Needs Trust will facilitate care of the child by providing resources and directions. In some cases, a child may qualify to receive federal or state benefits if that is helpful in providing care for the special needs child.

IRA, 401(k) or Other Retirement Plan

Your IRA, 401(k), or other retirement plan is transferred by a beneficiary designation. Normally, the beneficiaries should be name on the IRA, and it should be given directly to family or charity, and not to your estate. The IRA or 401(k) custodian should provide a form for you to select a primary and contingent beneficiary. Because your retirement plan may represent a major portion of your property (30% - 70%), your beneficiary designation should be reviewed every two to four years.

Life Insurance

Life insurance is usually permanent (whole life or universal life) or term. The insurance policy is a contract, and there is a beneficiary designation form. You will select the primary and contingent beneficiary to receive the death benefit if you pass away with a valid insurance policy.

Charitable Remainder Trusts

A Charitable Remainder Trust is an excellent way to benefit yourself, your spouse or other family members. It combines substantial tax savings with the ability to produce a very good income for you or your family members. Charitable remainder trusts are especially helpful for individuals who retire and would like to sell land or stock tax free and receive a generous income.

Charitable Gift Annuity

Many people, especially those age 70 and above, are very interested in fixed payments from a charitable gift annuity. If you fund a gift annuity, you receive a substantial income tax charitable deduction and fixed payments for life. A gift annuity may be for one life or for two lives. For a husband and wife annuity, the payments will last until both have passed away.

Donor Advised Funds

Many families find that a Donor Advised fund (DAF) is a simple and efficient way to help charitable entities they love. By establishing such a fund, you can time the gifts you make (for investment or tax reasons) and you can select the charitable organizations you wish to benefit from your gifts. You receive the income or estate tax deduction and the opportunity is there to make distribution decisions later. Many families may use a donor advised fund as an estate beneficiary so that they can allow their children or friends to continue supervising the gifts from their fund for years to come. Parents appreciate the way that their DAF encourages children to be involved in philanthropy.

Charitable Endowments

Another option that you may prefer is to leave property or money in an endowment form so that the charitable organization does not spend the principal. Instead, the charitable organization pays the endowment income (as the donors often have done throughout their lives. Endowments may be left to community or religious organizations or often directly to the charity with specific instructions for their use.

See Appendix for forms to list pertinent personal information

Choosing your Estate Plan

When you are planning your estate, there are several decisions that must be made. First, you may select one of three options for a single person or for a married couple. After selecting your desired estate planning option, you will be able to enter the information for that plan.



Single Person

1. **Simple Will**
With a simple will, you may transfer specific property, then give away what is left (the “residue” of your estate). Your simple will may transfer your property to your family members, friends or to charitable organizations.
2. **Will with Trust for Minor Children**
If you are a single parent with minor children, it will be important to select a guardian and a trustee to manage assets for their benefit.
3. **Will with “Give it Twice” Trust**
As a single person, you may desire to benefit children, nephews, nieces, friends, or other relatives and also assist charitable organizations. A “Give it Twice” Trust pays income to family with the remainder to charitable organizations.

Married Couple

1. **Simple Will**
If you pass away first, your estate is transferred to your surviving spouse. If you are the survivor, with a simple will you may transfer specific property, then give away the residue of your estate. Your simple will may transfer your property to your family members, friends, or to charitable organizations.
2. **Will with Trust for Minor Children**
If you pass away first, your estate is transferred to your surviving spouse. If you are the survivor and have minor children, it will be important to select a guardian and a trustee to manage assets for their benefit.
3. **Will with “Give it Twice” Trust**
If you pass away first, your estate is transferred to your surviving spouse. If you are the survivor, you may desire to benefit children, nephews, nieces, other relatives or friends and also give to charitable organizations. A “Give it Twice” Trust pays income to family with the remainder to charitable organizations.

The “Right Amount” Inheritance

What is the “right amount” to leave for children, nephews or nieces? Here are three guiding principles for deciding on that amount.

1. Everyone should provide for the needs of his or her family.
2. This means that the inheritance provides a reasonable level of increase in the standard of living for the child, niece or nephew.
3. There are many children who have received an inheritance large enough to cover both needs and wants. An inheritance that covers too many “wants and desires” may lead to unhappiness, greed, and lack of incentive to be a productive person.

Some parents have been careful with their resources and have accumulated a significant estate. How can a large estate be transferred with good results for children. The following guidelines are offered:

1. A larger inheritance will be used more wisely if it is distributed over a longer time and at a later age. A lump sum at one time may be unwise. Many younger children who receive a large inheritance at an early age spend it within 18 months. When asked where the inheritance went they may reply, “Well, I spent it on cars boats and vacations, and wasted the rest.
2. Transfer a larger inheritance over a period of years. A good plan includes a partial distribution of principal when the parents pass away, income for a period of years and a second payout of deferred principal.
3. Set up a target number for the inheritance. The total inheritance can then be designed to pass that amount to a child, nephew or niece. A target number is the sum of the principal and income given through the inheritance plan. With careful thought, the plan can move a substantial amount to family while still permitting your child to learn to know the joy and rewards of work.



See Appendix for Forms for Various Estate Plans.

Frequently Asked Questions

1. Why is estate planning more than a will?

A will, and for some persons a trust, is important for the management of your property. Caring for your personal welfare involves creating a durable power of attorney for healthcare and a living will so that you can plan what care you want provided during your final weeks or days.

2. How can I avoid probate?

In many cases, property can be transferred without probate. For example IRAs, insurance policies and some other assets may be transferred through a beneficiary designation. If you are on the title with another person as joint tenant with right of survivorship, under state law property rules the real property will be transferred to the trust beneficiary. Finally, many trusts hold real estate and that property will be transferred to the trust beneficiary.

3. Who are the primary beneficiaries of a will?

One of the first decisions that you make is who will receive specific land, home, or personal items. These heirs are your primary beneficiaries.

4. When should you select a contingent beneficiary?

If you have given a primary beneficiary a specific item, such as a family heirloom, it is a very good idea to select a contingent beneficiary. However, if you do not, then the property simply is a part of the residue of your estate. After distribution of specific property and payment of costs and taxes, the balance of the estate property is called the residue.

5. Why should you create a trust for minor beneficiaries?

Receiving property at a young age frequently leads to indulgence and serious problems. If you plan to leave property to minors, it is important to select a trustee to manage the property.

6. Should you forgive your children's debts?

Many parents pass away with outstanding loans to children. If you do decided to forgive debts to children or other family members, you may also want to include an offsetting gift of cash or other property to those family members who do not receive any debt forgiveness. In this way, you can keep the total benefits under the will even among your children or other heirs.

7. Why is selecting a guardian for minor children so important?

The guardian will perform most of the functions of a parent in teaching the child, selecting his or her school, providing ethical or religious education and many other aspects of the child's life.

8. If you have minor children and a substantial estate, should the same person be guardian of your children and trustee of their trust?

If there is a substantial property inheritance for the child, it is quite risky to transfer both the guardianship and the property to the same individual. After the parents pass away and the guardian has control of the property, the temptation to spend income and principal for personal benefit rather than for the care of the child is extremely strong. A better plan is to select another person or commercial institution as trustee to manage the property. The trustee performs an important check and balance role. He or she can also distribute income, and if needed, principal for the benefits of the children.

9. Should medical papers and a living will be kept in your safety deposit box?

If you are ill and in the hospital, the durable power of attorney for healthcare or advance healthcare directive will need to be available to your healthcare agent. They may not have access to your safety deposit box. Your healthcare powers should be given to a friend or advisor so they are available to you if you are in the hospital and need their assistance.

10. Is it important to express your preferences on end-of-life care through an advance directive or living will?

Yes. While each state may use different forms and have different names for the document, all permit you to express your healthcare preferences for end of life.

11. Is a family member who lives in your area a good choice for your healthcare agent?

While you can select any family member who lives in another state as your healthcare agent, it is helpful to select a person who is in the area so that he or she is available if you need an immediate healthcare decision.

12. Will your personal preferences on pain management have substantial impact on your end-of-life care?

If you desire a high comfort level even though that leads to less mental clarity, or prefer a more moderate or even low comfort level with greater mental clarity, that will have great impact on the level of pain medication provided to you.

13. For a young person with a modest estate, is a will a better option than a trust?

For a young person with a modest estate, it is important to get started in the estate planning process. A will is the basic step and is much more reasonable in cost than a living trust. However, if you own substantial real property, a trust may be a good addition, even for younger person

14. If you use IRA beneficiary designations, joint tenancy with right of survivorship and other types of non-probate transfers, do you still need a will?

While a majority of property can be transferred through non-probate methods, your estate will require a will. If you have minor children, your will is used to select their guardian. But your estate invariably will include some personal items and other assets that are subject to the will. You may also receive an inheritance or lose your life in an accident that provides a large judgment to your estate. In all of these cases, it is essential to have a will to transfer your property as you choose, not as the court determines.

15. Does a living trust protect you in your very senior years?

With a living trust, you normally serve as the initial trustee and select the successor trustee. Your chose successor will be able to take over if you are in your very senior years and are ill or otherwise unable to manage your property. This is a great comfort and protection for both you and your property.

Sample Bequest Language

Please change the numbers and percentages in these samples to fit your desires.

1. Bequest of Cash

I bequeath the sum of \$10,000 to (organization, address, city, state, Tax ID number).

2. Bequest of a percent of the estate

I devise and bequest 20% of the remainder and residue of property owned at my death, whether real or personal, and wherever located to (organization, address, city, state, Tax ID number).

3. Contingent Bequest

If my brother John Doe survives me, I devise and bequeath 20% of the remainder and residue of property owned at my death, whether real or personal, and wherever located to John Doe. If John Doe does not survive me, then I devise and bequeath 20% of residuary estate, whether real or personal property and wherever located to (organization, address, city, state, Tax ID number).

Disclosure on Attorneys and Saint Luke's Episcopal Parish

We offer this information and forms to you as an educational service. While we attempt to provide helpful estate and financial background, we are not able to offer specific legal advice on your personal situation. Because you may have special needs, we know that you will want to contact your own attorney. He or she will be your independent advisor and will have an obligation of trust and confidence to you. With the advice of your independent attorney, you may have a customized estate plan that truly fulfills your unique family, healthcare, estate and planning circumstances.

Making a Bequest to Saint Luke's

One way for you to support the mission of Saint Luke's Parish is to leave a bequest. A bequest is a gift made to a charitable organization in your will or trust. One significant benefit of making a gift by bequest is that it allows you to continue to use the property you will leave to the charitable organization during your lifetime. Another benefit is that by making a bequest you are able to leave a lasting legacy.

Types of Bequests

There are a number of ways you can make a bequest to Saint Luke's. You can leave what is called a "Specific Bequest". A specific bequest involves making a gift of a specific asset such as real estate, an automobile, other property or gift for a specific dollar amount. For example, you may wish to leave your home or \$20,000 to Saint Luke's.

Another kind of specific bequest is called a "Residual Bequest." A residual bequest is a bequest that is made from the balance of an estate after the will or trust has given away each of the specific bequests. A common residual bequest involves leaving of a percentage of the residue of the estate to a charitable organization. For example, you may wish to leave 10% of the residue of your estate to Saint Luke's.

Bequest Benefits

There are no limitations on bequest gifts. Bequests may be made for a general or specific purpose. All bequests are exempt from Federal estate taxes. If you have a taxable estate, the estate tax charitable deduction may offset or eliminate estate taxes resulting in a larger inheritance for your heirs.

The Saint Luke's Endowment Fund

Saint Luke's has an established Endowment Fund. The assets of the Fund are invested by the Endowment Committee with the same care, skill and diligence that a prudent person would exercise in investing institutional endowment funds. The primary objective is to provide long-term growth of principal and income without undue exposure to risk.

Bequest Language

In order to make a bequest to Saint Luke's, you should speak with your attorney. Your attorney can help you include a bequest to Saint Luke's Parish in your estate plan.

Unrestricted Bequest to Saint Luke's

If you are considering making an unrestricted bequest to Saint Luke's, we recommend the following language:

- **Bequest of a Specific Dollar Amount**
I hereby give, devise and bequeath \$DOLLARS to Saint Luke's Episcopal Parish, a non-profit organization located at 2000 Shepherd's Lane, Prescott, AZ 86301, Federal Tax ID # 86-0098340, for Saint Luke's general use and purpose.
- **Bequest of Specific Personal Property**
I hereby give, devise and bequest DESCRIPTION OF PROPERTY to Saint Luke's Episcopal Parish, a non-profit organization located at 2000 Shepherd's Lane, Prescott, AZ 86301, Federal Tax ID # 86-0098340, for Saint Luke's general use and purpose.
- **Bequest of Specific Real Estate**
I hereby give, devise and bequeath all of the right, title and interest in and to the real estate located at ADDRESS OR DESCRIPTION OF PROPERTY to Saint Luke's Episcopal Parish, a non-profit organization located at 2000 Shepherd's Lane, Prescott, AZ 86301, Federal Tax ID # 86-0098340, for Saint Luke's general use and purpose.

Restricted Bequest to Saint Luke's

If you are considering a bequest but would like to ensure that your bequest will be used only for a specific purpose, please let the Rector know. We would be happy to work with you and your attorney to help you identify ways to give that will ensure that your gift will meet your desired objectives. We will also work with you and your attorney to craft language to accomplish your objectives.

If you are considering making a restricted bequest, we recommend that your attorney include the following provision to give Saint Luke's flexibility should it no longer be possible for our Parish to use your gift as you originally intended.

If, in the judgment of the Vestry of Saint Luke's Episcopal Parish, it shall become impossible for Saint Luke's to use this bequest to accomplish the specific purpose or purposes of this bequest, Saint Luke's may use the income and principal of this gift for such purpose or purposes as the Vestry determines is most closely related to the restricted purpose of my bequest.

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Contact Us

Please feel free to contact us if you have any questions about how to make a bequest to Saint Luke's Parish or to request any additional information that might be helpful to you and your attorney about making a bequest to us.

7/27/15