



Maine Masonic Charitable
FOUNDATION

GUIDE TO ESTATE PLANNING

AND

PLANNED GIFTS



*What we do for ourselves dies with us.
What we do for others remains and is immortal.*

Albert Pike

FREEMASONRY

A Brotherhood as Strong as Family



The Maine Masonic Charitable Foundation is pleased to provide you with a general guide to estate planning and planned gifts. We make every attempt to present up-to-date information, but we do not provide legal/financial advice nor interpretations of law to the public. Please consult an attorney, tax professional or financial advisor for recommendations regarding your specific estate plan.

Estate Planning

What is an estate, and do I have one?

If you have possessions, you have an estate! Their disposition after your lifetime is called estate settlement. Deciding in advance how this will be done is known as estate planning.

Estate planning is that simple, but the laws and requirements vary from state to state and also change over time.

Do I need to have an estate plan?

Perhaps you feel that estate planning is only for the very rich, and certainly estate planning is for those who are wealthy. But is estate planning for everyone? For you?

You plan for the sake of the people in your life as well as charitable organizations that are important to you. It's easy to become so engrossed in the legal and tax complexities that you lose sight of the welfare and comfort of those you want to help, and we hope that this guide will begin to unravel some of those complexities.

First and most importantly - while you are planning for the financial needs of others, your first concern should continue to be your own security and standard of living.

Then, take a look at your assets. When the matter of financial resources comes up, there's frequently an inclination to focus only on stocks and bonds and money in the bank. But your possessions may include other valuable assets such as your home, life insurance, retirement accounts, and real estate or business investments.

Sometimes people think that some arrangement or law will solve their estate planning problems. For example, they mistakenly assume that joint ownership will take care of matters. Or they believe that state law will ensure that their estate will be left in the proper proportions to those whom they desire.

Unfortunately, these misconceptions can be costly to your heirs and result in your hard-earned assets being directed in ways you may not want. Anyone who has possessions—property of any kind— needs an organized estate plan. Obviously, the greater the value of your assets and the more diverse your wishes, the more important your need for a proactive plan to cut taxes and costs.

Let's talk about wills

A will is a legal document that transfers assets held in your individual name to your beneficiaries when you pass away. It is one of the most important documents you will ever create, as it helps protect your family and property. A will is used to:

- Leave assets to people and/or organizations
- Name a guardian for your children
- Appoint an executor, who will ensure that the terms of your will are carried out

What happens if I pass away without a will?

A person who passes away without a valid will is said to have died *intestate*. Each state has different laws surrounding intestacy. In Maine, for instance, the intestacy law gives your property to your closest relatives, beginning with your spouse and children. If you have neither a spouse nor children, your grandchildren or your parents will get your property. This list continues with increasingly distant relatives, including siblings, grandparents, aunts and uncles, cousins, and your spouse's relatives, and your property can be divided in proportions determined by state law, not your own wishes. If the court exhausts this list to find that you have no living relatives by blood or marriage, the state will take your property.

Can I recognize both my loved ones and my favorite charities in my will?

When making your will, you'll have the opportunity to make bequests to both people and organizations. There are, generally, four different types of bequests:

- Specific – items you leave to a specific beneficiary
- General – usually a gift of a stated sum of money
- Contingent – made on condition that a certain event must occur before distribution of the bequest
- Residuary – the gift of what is called the *rest, residue and remainder* of your estate after all bequests, debts, fees, etc. have been paid.

There are some additional categories for charitable organizations, and they provide opportunities to fund your favorite charities in both specific and general ways. We'll go over them in the Planned Giving section.

Do I need a lawyer to make a will?

The answer to this question (and many of the ones that follow) depends on the state in which you live. In Maine you can make your own will without an attorney; however, you may still wish to consult one, especially if you think that your will might be contested.

If you choose to create your own will, Maine offers a document called a *statutory will* – it is available at the Maine.gov website. Whether you use this document or create your own, we do strongly encourage you to have an attorney review your will. Even if you don't anticipate challenges, it is wise to ensure that your wishes have been conveyed in the appropriate legal language.

Once your will is written, it is time to finalize it in order for it to be enforceable. To finalize your will in Maine:

- You must sign your will in the presence of two witnesses
- Your witnesses must sign the will

Do I need to have my will notarized?

In Maine you do not need to have your will notarized in order to make it legal. It is recommended, however.

Maine has a provision that allows you to make your will *self-proving*, which will speed up probate because the court can accept the will without contacting the witnesses first. This requires having a notary witness the signatures. There may be a fee for this service, but many banks have notaries on staff. If you are a customer they will most likely notarize your documents at no charge. (Be sure to call your bank first to ask about their specific policies).

Should I use my will to name my executor?

Yes. In Maine, you can use your will to name a personal representative (aka executor) who will ensure that the provisions in your will are carried out after your death. If you don't name a personal representative, the probate court has the authority to appoint someone to this role.

Making it valid

To create a valid will, you must be of sound mind and legal age. Procedures vary by state, and since states such as Maine do not necessarily require an attorney or notarization, it is important to insert the correct language into your will. Check with your state offices, but language to the effect of, "I declare this to be my last will and testament" and "I request name of witness 1 and name of witness 2 to witness my signature" are important.

Most states require at least two witnesses to your signature, and both witnesses must be present when you sign the will. Note that your witnesses do not need to know the contents of the will.

It is generally a good idea to re-make your will if you move to another state, as each state has its own requirements for a valid will.

Assets not controlled by your will

People frequently assume that a will controls the distribution of their entire estate. Some assets are not included under its terms, however. Three common methods exist by which some of your assets are transferred to your heirs after your death:

- Beneficiary designation
- Joint ownership with rights of survivorship
- A will or trust

Beneficiary designations are common with life insurance, pensions, IRAs and 401(k) plans. When you name a beneficiary on these accounts, upon your death the accounts are distributed directly to your beneficiary without going through probate. Your will does not determine who will receive these benefits.

Jointly owned property with rights of survivorship generally goes to the surviving joint owner, regardless of what the will states (the same is true of one-half of community property in a number of other states). However, if you own property jointly as tenants-in-common with another person, your one-half of the property will follow the provisions in your will; therefore, your beneficiary will become the new co-owner at your death with your original tenant-in-common.

Important notes

It is vital to have a current will whether you are single or married, young or old, and whether your estate is modest or large.

As we've said, Maine does not require a lawyer or notary for a will to be valid. It is important to know, however, that good advice is essential to ensure that the will is valid – which means that your wishes will be carried out. You may want to get some advice on language, as you will want to express your wishes for the disposition of your property under all circumstances while giving your executor the powers needed to do the job properly.

It is so important to know how your assets will pass to your heirs, as inequality and mistakes can occur unintentionally. Consulting a professional financial advisor, tax professional, or attorney can make a big difference.

PLANNED GIVING

Planned Giving is a term used to describe the many ways in which you can support your favorite charities, institutions, and foundations after you pass away. Most planned giving in the United States arises from bequests in wills; here are some examples:

- Unrestricted bequests – this means you leave a certain amount to the charitable organization to be used at their discretion.
- Restricted bequests – you set conditions for how the bequest is to be used. (It is always a good idea to speak with the charity beforehand, to ensure that they can carry out your stated wishes).
- Endowed bequests – this allows you to restrict the principal, requiring the charity to invest your bequest and use only the investment income.

In addition to bequests, the law provides some planned giving vehicles that may be more complex, but can give you peace of mind as well as, for some of them, significant tax advantages during your lifetime. Information on some of them follow and, as always, please consult your tax advisor or attorney for complete, up-to-date details for your state.

Life Insurance

Life insurance provides a simple way for you to make a significant gift to your favorite charity. The most straightforward way to do this is to designate the charity as a beneficiary. When you make a charity the beneficiary of a permanent policy (as opposed to a term policy), you retain ownership of it and have flexibility as well as continued access to the policy's cash value. The balance transfers to the charity after your death.

You may also assign ownership of a existing policy to a charity. This option is more complex, and the beneficiary designation is irrevocable; however, there may be significant tax advantages as your annual premiums may be fully deductible. Consult your legal/tax professional for further details.

Trusts

A trust consists of an amount of money, provided by you, that is held by a trustee. There are two kinds, revocable and irrevocable. Which one might be right for you? You can create a revocable trust in which you place cash, securities and other assets. The investment income is yours for life,

and if you find that your financial obligations intensify, you can withdraw any assets at any time. You get to designate a beneficiary, and you can amend it at any time.

Yet for some, the irrevocable trust is the absolute best way to go – in spite of giving up the option to modify. Assets in an irrevocable trust are generally completely protected from creditors. It truly depends on your personal financial situation. Here are the basic differences between the trusts:

Revocable:

- You can modify them until you pass away
- You control the assets and pay taxes on them
- Assets are easily transferred in or out
- The assets are not protected from creditors

Irrevocable:

- No modifications are permitted once it is set up
- You give up control over the assets
- Once assets are transferred into the trust, they cannot be removed
- Irrevocable trust assets are, generally, protected from creditors
- Potential for tax advantages

There is much to know about all trusts, as they are complex financial instruments. Your financial advisor can give you pertinent details for the state in which you live.

Charitable Remainder Trusts and Charitable Lead Trusts

What's the difference? Quite a bit! They are frequently spoken of together, but they are opposites.

A charitable remainder trust will pay you a certain sum to you each year for a certain length of time, usually lifetime, with the balance of the trust going to your designated charity thereafter. That's why it is called a *remainder trust*; the charity gets the money that is remaining in the trust account upon your passing.

A charitable lead trust, by contrast, pays income to your designated charitable beneficiary for a period of years, while providing life income and an income tax deduction for a portion of your contributions. It is called a *lead trust* because the charitable organization benefits first, and then the balance of the trust goes to your non-charitable beneficiaries.

Charitable Gift Annuities

The charitable gift annuity involves a contract between you and the charitable organization you want to support. You'll make a gift (either cash or property) to the designated charity in exchange for a partial tax deduction and a lifetime annual income from that charity. Sounds easy, but this instrument requires legal and financial advice as well as, possibly, an insurance policy on the annuity. Also, this type of annuity is not available in all states. But if you fit the profile, this can be an outstanding way to help the charity of your choice and create lifetime income for yourself.

And there's more...

There are additional Planned Giving options that you may wish to consider. We're happy to talk with you anytime about options, please feel free to contact us!

In Conclusion...

Making an estate plan is important for your family, and for the charitable organizations that mean so much to you. Your assets will pass to those who you choose, and you can support the non-profit organizations that do the work you love. It's the best gift you can give.

Please feel free to call the Executive Director of the Maine Masonic Charitable Foundation if you'd like to begin the discussion! You can reach our office via phone at 207.843.1086, or via email at director@masoniccharitablefoundation.org



The Maine Masonic Charitable Foundation supports the Masonic lodges and brethren of Maine as they make their communities – and the world - a better place.



The Maine Masonic Charitable Foundation, the charitable arm of the Grand Lodge of Maine, is a registered 501 (c) 3 nonprofit organization. Since 1993 the Foundation has worked alongside Freemasons in Maine to enrich the lives of those in the Craft, as well as the communities in which they live.

All donations to the Foundation are tax deductible to the full extent of the law.

Please visit our website, masoniccharitablefoundation.org, or call our office at 207-843-1086 for more information.



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