

The Procrastinator's Guide to Wills and Estate Planning

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Estate planning is one of those financial planning tasks that many people put “on the back burner,” often indefinitely until the day that they die. According to the author of *The Procrastinator's Guide to Wills and Estate Planning*, an estimated 70 percent of all American adults have no estate planning documents such as a will, trust, or powers of attorney. As a consequence, they default to intestacy laws of their state of residence to make decisions for them regarding the management and distribution of property and/or the care of minor children.

The Cooperative Extension System recently developed a three-seminar program called *Legally Secure Your Financial Future*. The materials can be accessed at www.csrees.usda.gov/fsll by selecting “Tools for Educators” and “Program Toolkit”. For educators desiring background information to teach this course, or a book to recommend to class participants, *The Procrastinator's Guide to Wills and Estate Planning* is a useful resource. Written by an attorney, it is readable with minimal “legalese” yet detailed enough to provide an overview of topics such as probate, revocable living trusts, estate taxes, and lifetime gifting. The author begins each chapter with a relevant quote and sprinkles the book liberally with action steps, “How to Defeat Procrastination” tips, and many stories from real life situations illustrating the folly of ignoring estate planning advice.

The 253-page book has 13 chapters, a glossary of estate planning terms, and a very helpful appendix that lists intestacy laws of descent and distribution state by state. These are the laws that apply when someone dies without a will or trust and without any surviving designated beneficiaries or joint tenants. The states are listed alphabetically and the information is organized by family structure such as surviving spouse and children, surviving children, but no spouse, no spouse or children surviving.

Chapter 1, *The (Needlessly) High Cost of Procrastination*, is a facetious look at what happens when “Pauline Procrastinator” dies without a will. It is written in language that describes the consequences of dying intestate. Some examples are “My husband may be required to post a costly surety bond each year to guarantee that he exercises proper judgment in handling the children's money” and “The probate court may, in fact, choose a person or bank [as administrator]

that I personally despise”. Matlin also debunks excuses for procrastinating such as not enough money or being too young. Chapter 2, *Understanding Procrastination and Overcoming It*, provides twelve reasons why people delay estate planning and discusses the two major reasons fear and avoidance for inaction.

Chapter 3, *Getting Started*, discusses the process of organizing financial records and provides worksheets to list information about family members, real estate holdings, insurance policies, investments, liabilities such as mortgages, and the names and contact information of financial advisors and other fiduciaries such as the executor of the will. Chapter 4, *Getting Help...or Doing It Yourself?*, discusses pitfalls of do-it-yourself estate planning, the process of selecting a lawyer, and components of a complete estate plan: the will, the power of attorney for property, and health care directives. Chapter 5, *Looking Out for Yourself (Avoiding an Adult Guardianship)*, discusses the process of having a court-appointed guardian appointed when people are incapacitated and how it can be avoided with powers of attorney. Other topics covered include living wills and organ donation.

Protecting Your Assets While You're Around to Enjoy Them is the title of Chapter 6, which advises readers to assess their risk of losing assets in a lawsuit and take action accordingly. Specific strategies discussed include purchasing umbrella liability insurance, incorporation, forming a limited partnership or limited liability company (LLC), and revocable trusts versus prenuptial agreements. Chapter 7, *The Cost of Death Probate and Ways to Avoid It*, discusses the probate process, probate costs, probate with and without a will, ways to transfer property upon death without probate, and forms of property ownership such as joint tenancy with right of survivorship and tenancy in common.

Chapter 8, *Revocable Living Trusts*, begins with a simple definition of trusts and describes the mechanics of a revocable living trust. It also describes the process of selecting a trustee and the costs, typically one to two percent of asset value, for maintaining a trust. Matlin advises “as a rule of thumb, unless your estate is worth more than \$250,000, the costs may be prohibitive” and that “it is useful for a trustee to state, in writing, an investment policy.”

Chapter 9, *Deciding Who Gets What and How*, discusses transfers of untitled personal property as well as common spending restrictions found in trusts and guardianship of minor children. Another great resource for this topic is the University of Minnesota's *Who Gets Grandma's Yellow Pie Plate?* at www.yellowpieplate.umn.edu

Chapter 10, *Looking Out For Estate Taxes*, discusses provisions of the Tax Relief Act of 2001 that affect estate planning, such as the applicable exclusion amount that is gradually increasing from \$1.5 million in 2005 to \$3.5 million in 2009. Matlin describes the process of estimating federal estate tax, as well as state estate taxes, many of which have been decoupled from the federal system and have lower tax exclusions. He also describes the common error of "I love you" plans by married couples that fail to utilize the tax exclusion of the first spouse to die and end up with a much higher tax bill, when the second spouse dies, as a result. Marital and Q-TIP trusts are presented as an alternative.

Chapter 11, *Gifting as an Estate-Planning Technique*, describes various ways to reduce future estate taxes by gifting, including the annual gift tax exclusion, currently \$11,000, gifts to minors, and the education and health care exception which specifies that payment must be made directly to service providers. Chapter 12, *Special Situations and Additional Options*, discusses a variety of topics, including irrevocable life-insurance trusts, buy-sell agreements for small business owners, charitable trusts, supplemental special-needs trusts for disabled family members, trusts for minors or spendthrift family members, generation-skipping transfers, and how to properly disinherit family members. The final chapter, *Maintaining Your Estate Plan*, makes recommendations regarding the location of estate plan documents, family discussions of estate plans, periodic plan reviews, and record-keeping.

Estate planning is a topic that is often given short shrift in financial education programs and one that makes many financial educators feel uncomfortable because it involves so many legal terms and processes. *The Procrastinator's Guide to Wills and Estate Planning* is an excellent resource to demystify the estate planning process and to keep on your bookshelf for questions that arise. Students often remember stories better than definitions or principles. The dozens of real life stories in this book can be used to make the legal topics covered interesting and relevant to learners.