

WHY YOU NEED AN ESTATE PLAN

When Carolyn Bessette died with her husband, John F. Kennedy Jr., in a plane crash in 1999, she died without a will or an estate plan. She left behind a legal mess. Bessette was not unusual in her neglect of an estate plan. Many people, young and old, don't have a will, let alone a broader estate plan. Yet an estate plan is important, even for families who are not wealthy.

An estate plan serves two major purposes. One, it directs who will receive your property when you die. Two, it minimizes probate costs and any estate taxes that might be owed on that property. It's the estate taxes that people tend to think about when they think of an estate plan, and because many people believe they don't have an estate large enough to be taxed, they don't bother drawing one up.

Yet it is the first issue—ensuring that your property goes to the people you want it to go to—that is often the most critical for many families.

Consider the following. Property you hold in joint tenancy with someone will go to that person, typically your spouse. Beneficiaries named in your insurance policy, individual retirement accounts (IRA) or your qualified retirement plan at work will receive that property. But if you die intestate—without a will—your local probate court will decide who receives property held solely in your name. That property won't necessarily go to your spouse. State law determines distribution of intestate property and laws vary from state to state. For example, many states don't automatically distribute the property to the surviving spouse. The state might split it with your children, which could leave your spouse without adequate resources.

What if you want some of your property to go to friends, relatives or children from a previous marriage? Without a will and perhaps the use of a trust, such as a bypass trust, your spouse would end up with all of your property. The property could later end up in the hands of someone your spouse marries, or other heirs—but not in the hands of your friend or the children from your previous marriage.

What if you are widowed or divorced? Without a will, many probate courts would distribute your assets equally to your heirs. Yet you may want the bulk of your property to go to a

specific child (disabled perhaps, or poor), and not to another (well off, facing a divorce or perhaps a poor manager of money).

What happens to your estate if you and your spouse die together, as did the Kennedys? Without at least a will that establishes guardianship for your children, the court will have to make a decision—a decision you may not have wanted.

Do you want to make sure Aunt Mabel gets the china and Brother Bill gets your stamp collection and Son Jack gets your golf clubs? A will and a letter of instructions can specify who receives what, so that the heirs aren't left feuding over the property.

Without an estate plan, not only might the wrong heirs end up with your property, the federal and state government could end up with a good chunk of it. It's surprising how many wealthy people have inadequate estate plans, with the result that as much as 55 percent of their estate goes to the government.

Not convinced you have a large enough estate to worry about? Think again. These days, what with qualified retirement plans, IRAs, stock options, life insurance and homes escalating in value, more and more families are finding themselves vulnerable to estate taxes. In 2002, any estate valued at over \$1,000,000 may face estate taxes. Yes, you can pass your property to your spouse tax-free, but that is only postponing the tax bite. The government will collect when he or she dies.

Relatively simple trusts such as a bypass trust or an irrevocable life insurance trust can help shield the assets from taxes, or at least help pay the taxes with a minimum of cost.

We put off establishing an estate plan because we're young and figure we don't need one yet, because we don't want to deal with something that involves death, we don't want to pay the money, we hate working with lawyers or we just don't realize the impact of going without one. Unfortunately, without one, your heirs will all too clearly feel the impact of no estate plan.