

**ST. PETER CATHOLIC CHURCH**  
**Covington, LA**  
**WILL AND ESTATE PLANNING SEMINAR**  
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*Do I need to write a will? The answer is yes!*

You need to decide:

- Who inherits your property?
- Financial reasons -- control of money.
- To name a Tutor or "Guardian" for minor children.
- Who will handle probate?
- Leaving bequests to charities or fulfilling bequests
- Confirm a usufruct to spouse for life, or usufruct of separate property
- To cremate or not to cremate
- Independent Administration (reduces amount of court orders)

Who must inherit some of your property even if a will is written? ("Forced Heirs")

- Children under age of 24
- Children who are mentally incapacitated or physically disabled regardless of age

The forced "portion," for a forced heir is one-quarter of an estate for one child surviving the decedent and one-half of an estate having two or more children surviving the decedent.

*What is Probate?*

The probate process and types of probate in Louisiana

- Administration – "open a succession" conduct business such as liquidate property to pay debts and legacies
- Without Administration – little debt, all heirs are competent, and to simply place heirs in possession of assets "as is"
- Small Successions by Affidavit: have a gross value of \$75,000 or less, Louisiana decedent had no will, can include real estate; relatives are the heirs.

*What is community property and what is separate property?*

- Property acquired during a marriage is community if there is no marriage contract
- Property owned prior to marriage is separate property
- Receipt via donation or inheritance is separate property
- Easy to co-mingle separate property into community property
- Consider executing a marriage contracts to avoid the community property regime.

### *What transfers of property are not governed by a will?*

- Life Insurance proceeds
- Retirement Plan proceeds
- Commercial Annuities, however could be subject to forced heirship claim
- U S Savings Bonds, if a named co-owner or beneficiary
- "Payable on Death" Bank Accounts

**NOTE:** It is important to name and maintain your beneficiaries on these plans or contracts and it is also important to name contingent beneficiaries on these contracts.

### *How is a will properly written and effectively used?*

There are two basic types of wills in Louisiana:

1. Olographic or "Self Help" Will
2. Notarial will is usually prepared by a lawyer

Making donations "Mortis Causa" in the will:

- Your will is the tool to be used to make gifts to individuals or charities as a result of your death. If you do not wish the state law to determine who inherits your property you must write a will. See page 5 for the Louisiana Succession Order state law.
- You should always have a "universal" or "residuary" bequest in a will and you should always provide for contingent legatees or fiduciaries in a will.
- Avoid "over use" of bequests of specific items of property which may not exist at your death.
- If you wish to create a trust to handle an heir's monies starting upon your death, it can be done in a will.
- You must write a will to make a bequest to charity at your death or to confirm completing a pledge made to charity.

## *Are there Estate Tax Considerations?*

### Federal Estate & Gift Tax Unified Credit Exemption

- No federal tax on estates at or below the following levels as currently scheduled:
  - o 2015 – \$5,430,000 40% Rate in excess of exemption
  - o Any unused exemption is portable and can be transferred to surviving spouse

**NOTE:** A federal estate calculation includes items that may not need to be probated such as retirement plan assets and life insurance proceeds.

### **Louisiana has repealed its inheritance tax laws.**

With very few estates subject to Estate taxes, planning has focused on income tax reduction for tax deferred inherited assets.

### Common Lifetime estate tax planning devices include:

- o Use of Life Insurance Trusts
- o Gifts of property to children and grandchildren under an annual exclusion amount currently \$14,000 per year.
- o Paying medical and educational expenses for others directly to 3<sup>rd</sup> party providers.
- o Writing wills that utilize the Estate Credit Exemption.
- o Renouncing inheritances.
- o Making gifts to charity either outright or using charitable deferred gifting.

### Giving control to others:

- o Durable Power of Attorney, nominate curator if interdicted
- o Living Trusts (surrogate will, usually revocable during lifetime)

## **ADVANCED DIRECTIVES AND HEALTH CARE MATTERS**

- Health Care Power of Attorney\*
- Living Will\* (intravenous feeding choices)
- Do Not Resuscitate instructions
- In Hospital Consents
- Pre-need burial planning (including to cremate or not to cremate)

\*Normally referred to as “Advanced Directive”

## **CHARITABLE GIFTING**

Types of Outright gifts include:

- Immediate present gifts of cash, property, and appreciated stocks.
- Gifts to Donor “Advised” Funds.

Types of Deferred Gifts:

- Charitable Remainder and Lead Trusts.
- Charitable Gift Annuity.
- Life Insurance policy on your life donated having cash value, or payment of policy premiums on policies owned by a charity for which you are the insured.
- Charities as a beneficiary of insurance policies and retirement plans.

Advantages of deferred gifts such as a Charitable Remainder Trust or Charitable Gift Annuity include:

- Avoiding tax on appreciated assets given to charity.
- An immediate possible charitable deduction for the value of the charity’s portion of the gift.
- Receiving an income stream during your life that may have preferential tax rates.
- Conversion of non-income producing property to income producing property.