

Price & Farrington's Estate Planning

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Estate, Tax, Retirement and Wealth Preservation Planning

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Ten Terrible Things That Could Happen If You Don't Have a Will or Living Trust

These are just a few of the things that can go seriously wrong if you – or your clients – don't have a will or living trust:

(1) **Your money may go to the wrong person(s)** - or to the right person, but at the wrong time or in the wrong manner. In the middle of a divorce, but while you are still married, you die. Guess who gets a big chunk of your estate? Consider how your 10 year old or teen-age children will handle your family business. What about the child who has a drug or emotional problem? Or the child who hasn't sent you a birthday or anniversary card in 20 years?

(2) **IRS may be a major beneficiary:** If your estate is \$2,000,000 or more the tax can quickly approach or exceed \$500,000. What's a will or living trust or the absence of one got to do with it? Simple. State intestacy laws, the "one size fits all" rules that apply when you don't have a valid will or living trust, don't even attempt to save taxes. Why should they? The state and federal government benefit from the plans you don't make. So instead of cutting your tax in half – or eliminate the tax entirely – your heirs will pay if you don't have a will or living trust and don't employ other tax savings techniques.

(3) **There goes your business:** Like Solomon, intestacy laws attempt to cut everything down the middle – baby, business, and all. So your new spouse may be sharing a business he or she never set foot in with your adult child who has worked in the business since he was a teenager. Or your business may be shared equally – between your children who work in the business and those who don't.

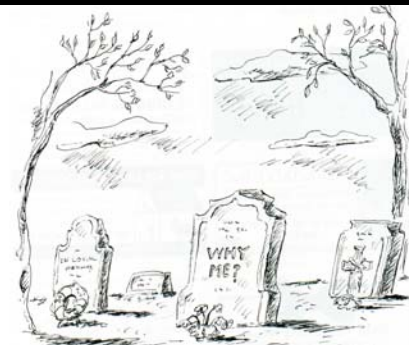
(4) **Let the court decide:** If spe-

cific powers to take action aren't granted by a will or living trust, either state law or the courts will decide if an action (e.g. sell real estate or operate a family business) can occur. Each time your heirs want to do even the simplest thing they'll have to get their attorney to request permission from the court, a very expensive and continually aggravating process.

(5) **The Red Porsche Principle:** Once heirs get theirs, there may be no stopping them. After all, without a will or living trust, they can get cash and other property outright and without any limits. Are you ready for your kids to have as much wealth as your spouse? Did you intend that your life savings be invested in college, a mortgage, a business, or a \$100,000 red Porsche?

(6) **Let 'em eat cake:** It's possible that without specifying in your will or living trust where money to pay estate taxes will come from, it will come from a charity or family member you wanted to exempt from tax. Without a will or living trust and without a formula in a will that specifies who pays debts and taxes, it's quite easy for one asset to generate tax that others will have to pay. Say you leave a million to your spouse. Who pays the taxes? Will your spouse and your children end up after taxes with equal amounts? If you haven't checked, how do you know?

(7) **They can take the money – and run:** Do you really want your son's ex-wife to get his share of the family business? How about your daughter's husband's creditors – want them to get a piece of the action? Without planning, you can't protect assets from either in-laws or



outlaws, creditors or predators. Why not? Because without planning, heirs get theirs outright. Which means their inheritance is up for grabs.

(8) **Equal isn't (always) equitable:** One child's a brain surgeon, the other's "slightly retarded". Is it O.K. with you that they receive equal shares?

(9) **Can I please?** Die without a will or living trust and that's a phrase your surviving spouse will have to learn. If half your estate goes to your spouse and half to your children (as it might if you have no will); just because your spouse is named guardian of your children doesn't mean she will also be named guardian of their assets. In fact some states – to create a check and balance – require someone other than your spouse to be guardian of the property of your minor heirs. That means your spouse will have to, perhaps "hat-in-hand", ask for money to use on the children's behalf.

(10) **I Didn't Care:** If you don't take the time to plan, the lasting message you leave is that you absconded – left in the middle of the night – probably because your heirs weren't important enough. Go ahead. Leave a mess. See who cares! The message you leave is, "You weren't worth the time." ■

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