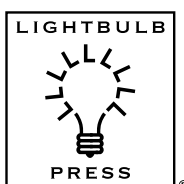


GUIDE TO ESTATE PLANNING

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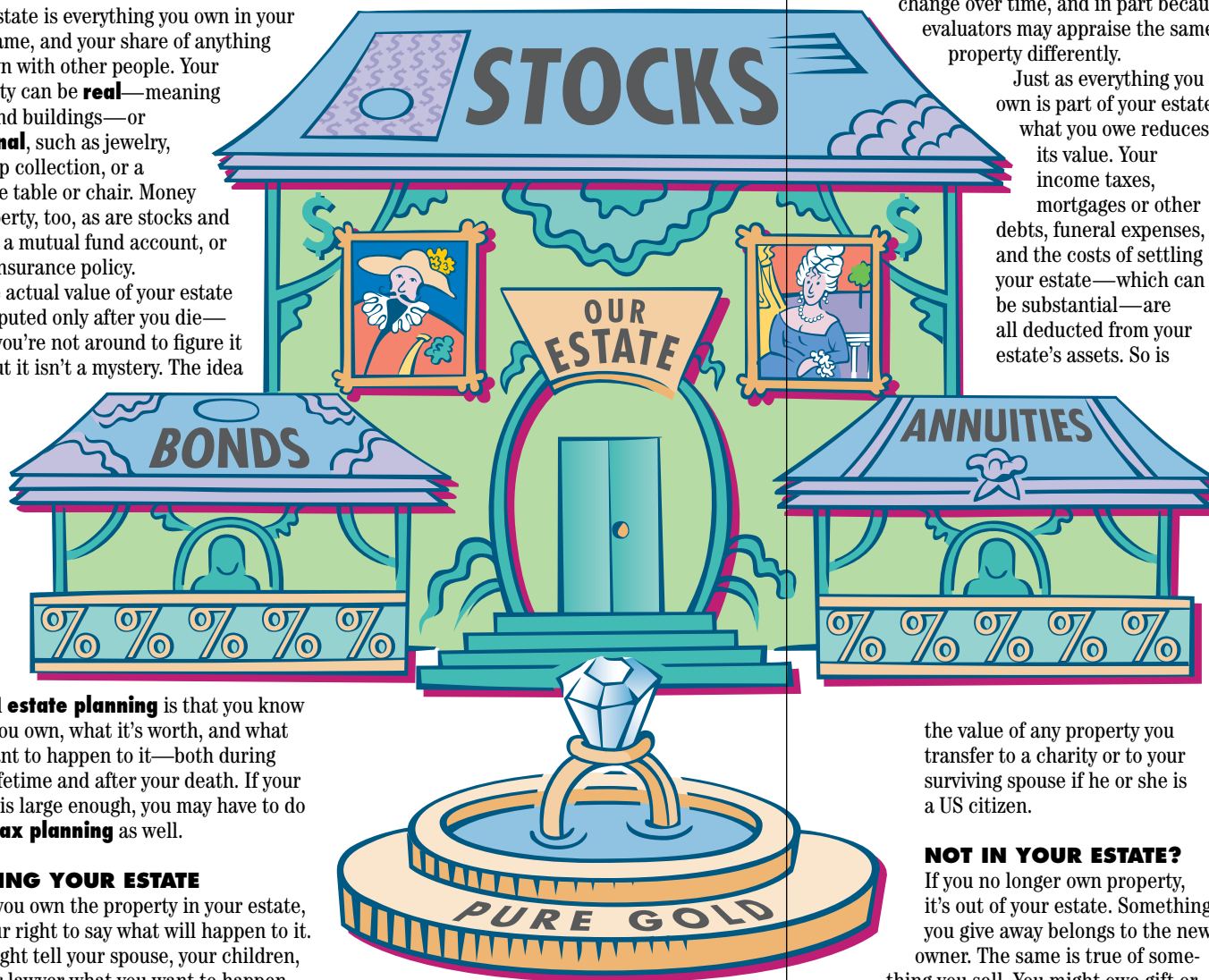


What's Your Estate?

An estate isn't just expensive property surrounded by a fence.

Your estate is everything you own in your own name, and your share of anything you own with other people. Your property can be **real**—meaning land and buildings—or **personal**, such as jewelry, a stamp collection, or a favorite table or chair. Money is property, too, as are stocks and bonds, a mutual fund account, or a life insurance policy.

The actual value of your estate is computed only after you die—when you're not around to figure it out. But it isn't a mystery. The idea



behind **estate planning** is that you know what you own, what it's worth, and what you want to happen to it—both during your lifetime and after your death. If your estate is large enough, you may have to do some **tax planning** as well.

LEAVING YOUR ESTATE

Since you own the property in your estate, it's your right to say what will happen to it. You might tell your spouse, your children, or your lawyer what you want to happen, but unless it's written down, there's no assurance your wishes will be respected.

There are several ways to make clear what you want to happen to your estate.

- You can write a **will** to specify who gets what after you die
- You can create one or more **trusts** to pass property, or income from that property, to others
- You can name **beneficiaries** on pension funds, insurance policies, and other investments so they will receive the payouts directly
- You can own property **jointly** with other people, so that it becomes theirs when you die

Since wills and trusts are legal documents, you should consult your lawyer about them. Naming beneficiaries is simpler, usually requiring only your signature. And owning property such as homes and bank accounts jointly—especially with your spouse—is fairly standard.

WHAT'S YOUR ESTATE WORTH?

Finding the value of an estate is a two-step process—adding up what it's worth and then subtracting the expenses of settling it.

Usually, the valuation is figured as of the date of your death. The alternative is to value the estate six months after you die, if waiting will decrease its value and therefore reduce the potential tax.

An estate's worth is figured by finding the **fair market value** of its real, personal, and investment property. That's not easy to determine ahead of time, in part because market values change over time, and in part because evaluators may appraise the same property differently.

Just as everything you own is part of your estate, what you owe reduces its value. Your income taxes, mortgages or other debts, funeral expenses, and the costs of settling your estate—which can be substantial—are all deducted from your estate's assets. So is

the value of any property you transfer to a charity or to your surviving spouse if he or she is a US citizen.

NOT IN YOUR ESTATE?

If you no longer own property, it's out of your estate. Something you give away belongs to the new owner. The same is true of something you sell. You might owe gift or capital gains taxes on the transfer, but its value isn't included in your estate. The larger your estate, the more important it is to plan ahead as carefully as possible to reduce potential estate taxes.

SETTING A VALUE

One workable definition of **fair market value** is the amount someone would be willing to pay for your property, and that you'd be willing to accept—assuming that neither one of you is under any pressure to buy or sell, nor guilty of any misrepresentation.

An Estate Inventory

If you own your home, investments, an IRA or 401(k), and an insurance policy, the value of your estate may be greater than you think. Here's a checklist of what might be included:



Real estate



Securities (stocks, bonds, and mutual funds)



Interest and dividends you're owed that haven't been paid



Bank accounts



All tangible personal property



Life insurance policies you own



No-fault insurance payments due to you



Annuities paid by contract or agreement



Value of any retirement savings plan, including IRAs



Claims paid for pain and suffering, even after your death (but not claims for wrongful death)



Income tax refunds



Forgiven debts



Dower and curtesy interests



UGMA and UTMA custodial accounts for which you are the custodian, if you created the accounts



Closely held businesses

Beneficiaries

You have a free hand in naming beneficiaries and how they'll share your bequests.

Except for the requirement of providing for your spouse, if you have one, there are no rules about who your beneficiaries, or **heirs**, are. You can leave your property to family and friends, to organizations and institutions, even to your pets. By the same token, you can leave potential heirs little or nothing.

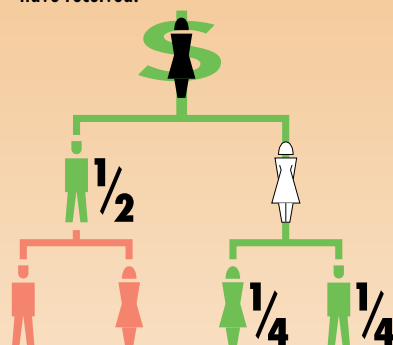
The only legacies that are turned down with any regularity are those in which property such as a house or a collection of something is given to a charitable organization without providing money for the property's upkeep. It's hard to imagine a Picasso would be rejected anywhere, but if you're making bequests that will end up costing the beneficiary money, you ought to get approval first.

NAMING YOUR BENEFICIARIES

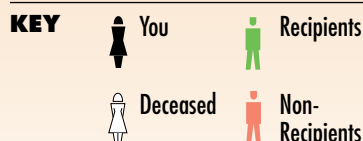
In naming your beneficiaries, you should be as specific as possible, especially in cases where identities might be confused. Presumably you have only one cousin named John. But if you leave him the bulk of your estate, you run fewer risks by identifying him more precisely. The same is true for colleges and universities, and for other institutions or organizations that may have similar names and may make a claim for your bequest by arguing that they have every reason to expect you to be generous. Conflicts not only create bad feelings. Any disputes that must be resolved in the courts cost money and time.

DISTRIBUTION PER STIRPES

If one child dies before you, that child's children split the share their parent would have received.



For example, if you left your entire estate equally to your two children, each of whom had two children, but one of your children died before you did, specifying the bequest as per stirpes or per capita could make a big difference to your surviving child. Under a



OUTLIVING YOUR HEIRS

If you live a long life, you have to consider the possibility that the beneficiaries you name in your will may no longer be around when you die. Do you want the money you've set aside for an old friend to go to her spouse if she dies before you do? If not, you can specify that your bequest is valid only if your friend survives you. If she doesn't, the money goes back into the general estate.

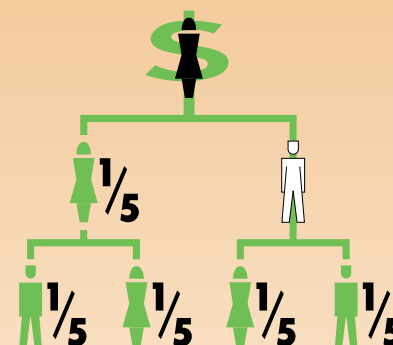
MULTIPLE FAMILIES

If you've been married more than once and have children from different marriages, it's important to spell out your wishes in your will. For example, if both partners in a current mar-

riage have children of their own, they may want to leave the bulk of their own estates ultimately to their own children. If that's not clear in each partner's will, however, there could be some legitimately unhappy children.

DISTRIBUTION PER CAPITA

If one child dies before you, each surviving descendant may receive an equal share.



per stirpes bequest, the living child would get half your estate and the two grandchildren whose parent had died would split the other half. Under a per capita bequest, however, one of two things could happen, based on the laws of your state and the way that your will is written.

Your surviving child may inherit everything, with nothing going to the children of your deceased child. Or, each of your surviving descendants may receive an equal share of your assets.

If the beneficiaries are your descendants, generally your children and grandchildren, known in the law as your **issue**, there is specific language you can use to designate the way your bequests will be made. If you leave an inheritance to your issue surviving you **per stirpes**, then your children's children divide the share their parent would have received. If you leave the inheritance **per capita**, then each surviving issue gets an equal share.

KEEPING UP-TO-DATE

It's important to check your will on a regular schedule—every few years, for example—to be sure it still contains the provisions you want. If there's a major change in your financial circumstances or your family structure, you should revise your will immediately. A new spouse or a new child, for example, must be taken into account. Otherwise, some sections of the outdated document, and maybe the whole thing, can be thrown out and the estate settled as if you had died intestate.

SPECIAL SITUATIONS

If you're not married, but want to leave your estate to a long-time companion, it's especially important that you have a will that makes your bequest clear. Inheritance laws don't usually recognize common-law marriages or any nonmarital relationships, however permanent they are. That's true even in states where you can register as domestic partners or qualify for benefits like health insurance coverage for your domestic partner.

You can simplify the situation by avoiding the probate process, either by owning property jointly, or by naming your partner as beneficiary on retirement plans and insurance policies. Those assets become your partner's directly. And, you can consider creating a trust naming your partner as beneficiary. Trusts are more difficult to contest than wills, something that may be important if your family is not happy about your domestic situation.

IT'S ALL OVER

A marriage or a divorce decree may revoke your will, so you'll want to draw up a new will immediately, especially if there are custody issues or large amounts at stake.

