How to Do Estate Planning on the Cheap

by Deborah L. Jacobs
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You could use software to write your own will, but here's a safer alternative.

Yes, it can be painful to pay for estate planning. Lawyers charge a lot. The benefits of a plan are delayed, and you don't live to see them anyway. Who wants to spend big bucks on a plan when times are so tough and the federal estate tax is in flux?

Fewer and fewer Americans, it seems. Only 35% had a will in 2009, and only about half had any estate-planning documents at all -- a will, a trust or a financial or medical power of attorney, according to a survey by Lawyers.com. That's a drop from previous years.

What about do-it-yourself planning? In theory, you can use books or software and websites that spew out documents for free or for a fraction of what lawyers charge.

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There's a decent argument that doing something on the cheap is better than doing nothing. If you die without a will ("intestate," in legalese), state law will determine how most of your belongings are distributed, and it may not be in the way you'd want. If you're a single or surviving parent who dies without a will, the court will decide who should raise your minor children. And certainly, before you're wheeled into the operating room, it's better to have signed living-will and medical power-of-attorney forms -- even if you haven't consulted a lawyer.

The trouble with do-it-yourself planning, however, is that even if your situation seems simple, there are many oddball things a layman wouldn't think of that can go wrong, especially with a will. These mistakes can end up costing your heirs a lot more than you saved in legal fees.

Example: Fort Lauderdale lawyer Joanne Fanizza recently handled the estate of an elderly Florida woman who had a guy (not a lawyer) in her condo building write her will. He worded it in such a way that her estate lost "homestead protection" -- meaning protection from her creditors -- for her condo. So even though she had no debt, her kids had to sit out Florida's 90-day creditors' claims waiting period before selling the condo. "The real estate market was falling, and every day cost them money in lost value," Fanizza reports.

To be sure, not every will written without a lawyer leads to a horror story and some written by lawyers go awry, too. But owning a home, being married or having children complicates estate planning and increases the risk of foul-ups. And with the federal estate tax scheduled to come back next year for those who leave behind more than $1 million, minimizing Uncle Sam's bite will be a concern for many more people. (Plus, 19 states currently have their own estate taxes, and some of those kick in at fairly low asset levels.)

Here's another alternative: Capitalize on the fact that lawyers, too, are relying on software and find one who will prepare documents for you cost efficiently.

We've listed below five key estate-planning documents, rough low-end costs for having a legal pro prepare them and some of the value a lawyer might add. Each estimate is based on an hourly rate of $300 (although some estate lawyers charge as much as $1,000) and covers the document, a brief consultation and help spotting pitfalls or opportunities unique to your situation. The prices assume the matter is simple enough to take minimal professional time and that the lawyer uses software.

Jonathan G. Blattmachr, a retired partner of Milbank, Tweed, Hadley & McCloy and founder of the Melbourne, Fla. company InterActive Legal, which sells software for estate lawyers, helped us determine how much of an attorney's time would be involved under those conditions. He notes that a lawyer who prepares your will and perhaps a life insurance trust might throw in the other, simpler documents listed here for free or for a nominal additional cost. So it pays to negotiate for a lump-sum price. You should be able to get the whole package for $1,200 to $2,000, but don't be surprised if some lawyers ask for $4,000 or more. If, after reviewing this list, you still want to use do-it-yourself software, then consider hiring a lawyer to review your self-prepared documents. Figure on paying for one to two hours of his time at $300 an hour.

Basic Will: $600

As the cornerstone of many estate plans, a will should transfer assets, appoint a guardian for minor children and name an executor or personal representative -- the individual or institution that takes charge of your estate after you die and distributes property as you specified.

Value added: This is the document most fraught with land mines, some of which only an experienced lawyer can spot. One problem that can arise with DIY products is inadvertently cutting a family member out of your will. For example, some DIY software automatically disinherits a special-needs child if you answer yes or no questions a certain way. (If you have such a child, get professional help with your estate plan.) A more common trap goes something like this: Mom wants to provide equally for her three children. Shares in GE constitute a third of her estate. So she leaves the stock to one child and the rest of her assets to the other two. Several months before she dies, she sells the stock. The child who was supposed to get it receives nothing. If the other two siblings want to even the score, they could end up owing gift taxes.

Irrevocable Life Insurance Trust: $600

This trust is created to own a life insurance policy. Why use a trust? If the insured owns a policy on his own life, the insurance proceeds become part of his taxable estate. Your heirs can own insurance on your life directly, without using a trust, but not if those heirs are minors.

Value added: Though simple in concept, this trust requires careful execution. You can put money in the trust to pay insurance premiums using the "annual exclusion" -- a provision that allows anyone to give anyone else $13,000 a year. But the annual gift must be of a "present interest" -- something the recipient can use right away. To satisfy this requirement the beneficiaries of an insurance trust (or their parents, if the beneficiaries are minors) are usually given what's known as Crummey powers--the right for a limited time, usually 30 or 60 days, to withdraw from the trust the yearly gift. The lawyer can supply a sample letter, called a Crummey notice.

To keep the lawyer's cost low, consider in advance whom you should name as an independent trustee and a backup trustee. Think, too, about other issues, including the timetable for distributions from the trust and how much power the trustee will have over distributions.

Durable Power of Attorney: $150

This document appoints a trusted family member, friend or adviser as an agent to act on your behalf in a variety of financial and legal matters if for some reason you can't. Typically this is a concern of older people, but much younger people can also be incapacitated.

Value added: A lawyer can help you determine what rules apply in your state and whether, if you own real estate in more than one state, you will need a power of attorney in both. Other issues you might discuss: What powers should be included (for example, the power to make gifts or create a trust)? When should the document take effect?

Health Care Proxy: $75

Also called a health care agent or health care power of attorney, this authorizes someone to make medical decisions on your behalf if you can't.

Value added: The form, which varies from state to state, is generally not complicated to fill out. But if you're not sure whom to choose as your agent, you may want to discuss it with a lawyer. Whether you do this yourself or not, Blattmachr recommends signing four copies of both this document and your living will. Keep one yourself and give one each to your health care agent, your primary physician and a trusted adviser.

Living Will: $75

This expresses your preferences about certain aspects of end-of-life care, rather than simply leaving decisions up to the person named in your health care proxy.

Value added: A lawyer who has witnessed life-or-death decisions with other clients can facilitate conversations about this difficult topic. Bernard A. Krooks, of Littman Krooks in New York City, was meeting with a couple when the husband stepped out for a moment. In his absence the wife confessed that she couldn't follow her husband's wishes to pull the plug -- she would keep him alive under any conditions. Krooks disclosed that to the husband, who named an adult child as his medical agent instead.

Lawyer and journalist Deborah L. Jacobs is the author of Estate Planning Smarts: A Practical, User-Friendly, Action-Oriented Guide*, www.estateplanningsmarts.com.*

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A Yahoo! User 3 hours ago | Report Abuse 5 1

For anyone who says the government is "us"...
- Do we still have a government of the people, by the people, for the people? Really? LOL
- The Chinese government uses the same brainwashing to convince its population that any insult of the Chinese govt by outsiders is an insult of the Chinese people.
I am free enough to see the difference between the people and the government. I don't trust anyone who says there is no difference, or who claims I own an interest in a government that I have no choice in owning.
Think about it - if you wish to leave this country:
- You will have to beg a consulate for 10 years to accept your official request to no longer be a US citizen
- You will have to forfeit 40% of everything you own (although it has already been taxed at least once)
To gain entry to this country requires a good set of walking shoes and enough water to make it across the desert. Any proposed amnesty has required no more than $5k in fines.
Who owns who? Try to leave and let me know how it works out.

Replies (1)

A Yahoo! User 4 hours ago | Report Abuse 8 1

How about protection from litigation attorneys when you are still alive !

Reply

Yahoo User 6 hours ago | Report Abuse 23 1

If you earned money and paid taxes on it while you were working, why should anyone have to pay taxes on this money AGAIN? Oh...wait!

Reply

Dontusebanks.com 6 hours ago | Report Abuse 29 2

America seriously needs to reform its tax laws; thereby, simplifying the system.
The tax system we have is ridiculously complicated, and it is set up in such a way so that the IRS controls the wealth game. If you notice, the IRS tries to discourage lots of cash by taxing the heck out of it. As I learned in business school, if you come in to a lot of money, you need to spend it immediately on an asset which can give you a tax write off such as a building or a business. Certainly I am just voicing my opinion, but personally I think the government is in to our business more than it needs to be. I mean think about it! When we die, the government makes a difficult game to keep your own money you intend to give to your own family. If you play the game wrong, the government will take a large share; thus, diluting your wealth. Aside from CPA's and tax lawyers benefiting from the over-complicated system, what benefit is it for the rest of us? There are many ways around the tax system which are legal, but still it is ridiculous that we have to play all of these games just to keep our hard earned money from being taken by big brother.

Replies (1)

DeeO 6 hours ago | Report Abuse 5 6

John,

Your wife, at your death could inherit a huge tax bill depending on your estate and allocation of assets. What happens if you lose your job and you are uninsurable? Chances are you group term is not portable. No more life insurance for you and your wife is left with debt. You should probably think about a supplemental policy.

Reply

RogerY 6 hours ago | Report Abuse 4 4

ya john you are missing a lot, probate to start with

Reply

John 7 hours ago | Report Abuse 5 1

The way I've got it set up: my wife is co-owner of the house, so she automatically gets it, she is the beneficiary of my term life insurance (through employer), she is the beneficiary of my 403(c), she gets via TOD all my brokerage/mutual fund accounts (and then only has to find out the value of any security on the date of my death to determine her own tax obligations if/when she sells it), so what else do I need a will for? The little bits and pieces in our house that no one can prove aren't hers anyway, and my bank accounts (which I keep at low as possible). Am I missing something? It seems too easy!

Replies (7)

A Yahoo! User 9 hours ago | Report Abuse 4 3

Timely article as the holidays approach - - suicide rates will increase from desperate americans are overwhelmed by unemployment and no hope of ever finding work, most have lost everything.

Replies (1)

A Yahoo! User 9 hours ago | Report Abuse 16 2

The pitiful thing is , all our hard earned money ,if it is in realestate or bonds has all had its taxes paid before we bought it. The question is, should small estates worth under several million be taxed on our death anyway. Something is wrong when they think something is due this government on pretaxed properties.Its no illusion when the government thinks they should inherit too.

Reply

Veeektor 13 hours ago | Report Abuse 9 3

Thanks for the article on this important subject.
Experience can matter when things are complicated or when you want peace of mind. I don't do my own root canals or rely on Wall Street banks, and I don't do my own estate planning.
Each situation is different, so one advantage of using a reputable, experienced attorney is that they will try to investigate your situation, ask what will make your family happy (if that matters to you), minimize risks, keep you updated, and provide a reasonable solution for you. They know what they are doing and don't rely on anecdotal evidence or "what Uncle Joe did." Some estate planning is easy, and can be handled well by a low-cost legal resource, but some is also like rebuilding an automatic transmission -- easy if you know how, easy to mess up if you don't.

Reply

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Itâ€™s amazing how many people wait till the last minute to do their holiday shopping. Itâ€™s not like the holidays are a surprise. Theyâ€™re as inevitable as the sunrise, yet many people donâ€™t prepare in advance. Planning for your death is the same way. If thereâ€™s one thing we all have in common, itâ€™s that one day, weâ€™re going to die.Â Everyone should have essential estate planning documents. Theyâ€™re easy to find and cheap to produce, and the whole process is faster and easier than Christmas shopping. Thatâ€™s what this weekâ€™s â€œMoney!â€ podcast is about: how to know what you need, how to find it and how much it costs. Even if youâ€™ve already taken the necessary steps, listen to it anyway: Itâ€™s a good refresher. Ready to get your house in order with the least possible hassle? This podcast is for you. Is This Cheap Estate Planning Tool Better Than A Trust For Property Owners? by Neal Frankle, CFP Â®, The article represents the author's opinion. This post may contain affiliate links. Please read our disclosure for more info. If you own property you have to think about how youâ€™re going to pass that property on after you pass away.Â How It Works. To put a TOD in effect for your property all you have to do is re-title it and record the new title. That typically wonâ€™t trigger any tax levy because you arenâ€™t selling or disposing of the asset. You should be able to get this done for under $100 in recording fees. Chump change. Then, once you die, the beneficiary produces the death certificate and gets the real estate re-titled in their own name. Talk about rest in peace â€“ nothing to worry about here friend. Estate planning checklist. How to choose a life insurance policy.Â Appointing power of attorney, or someone to conduct your affairs if you are unable to do so. Filing an advance medical directive, or instructions regarding medical treatment if youâ€™re mentally incapacitated or unable to communicate. How do I start estate planning? The estate planning process can be broken down into a few simple steps: Take stock of your assets. Create a list of all your personal assets, as well as other assets that form your estate, such as trusts, stocks or life insurance. How you feel about overnight guests. Additionally, think about whether or not you can afford to use a real estate broker. If you're on a tight budget, chances are you won't be able to. Brokers in major cities generally charge 10 to 15 percent of the annual rental fee. For a $1,200 apartment, that's between $1,440 and $2,160.Â To stay up to date on the listings, download apps like Craigslist, StreetEasy, Trulia and Zillow. Checking them daily is a convenient way to cast a wide net, since you'll find unique listings on each. If the app offers certain benefits to people who create an account, such as the ability to save your searches or keep track of your favorite listings, take advantage of them. Your search will be a lot easier. In addition, enable notifications. Yes, it can be painful to pay for estate planning. Lawyers charge a lot. The benefits of a plan are delayed, and you don't live to see them anyway. Who wants to spend big bucks on a plan when times are so tough and the federal estate tax is in flux? Fewer and fewer Americans, it seems.Â There's a decent argument that doing something on the cheap is better than doing nothing. If you die without a will ("intestate," in legalese), state law will determine how most of your belongings are distributed, and it may not be in the way you'd want. If you're a single or surviving parent who dies without a will, the court will decide who should raise your minor children.