

## Key Documents

Creating your estate plan is just the first step in assuring your directives are followed once you are gone. The second step is to assure that your heirs are aware of and able to find your plan.

Most experts recommend creating a comprehensive folder of documents – such as your bank account information, insurance policies, brokerage accounts, the combination to your fireproof safe or key to the bank deposit box - that family members can access in case of an emergency. The Foundation can provide you with a very simple form to use.

Here is a rundown of the most important documents you'll need to have signed, sealed and delivered. You should start collecting these as soon as possible and update them every few years to reflect changes in assets and preferences. Some – such as copies of tax returns or recent child-support payments – need to be updated more often than others.

### **The Essentials**

An original will is the most important document to keep on file. A will allows you to dictate who inherits your assets and, if your children are underage, their guardians. Dying without a will means losing control of how your assets are distributed. Instead, state law will determine what happens.

Wills are subject to probate – legal proceedings that take inventory, make appraisals of property, settle outstanding debt and distribute remaining assets. Not having an original document means this already-onerous process could be much more of an ordeal, since family members can challenge a copy of a will in court.

Rick Law, founder of estate-planning firm Law ElderLaw LLP in Aurora, Ill., says estate planners increasingly recommend revocable trusts in addition to wills, since they are more private and harder to dispute. "Every will is like a compass that points toward the closest courthouse," he says.

If your family can't find the original trust documents, you are "basically setting your estate up for litigation," says Duncan Moseley, vice president of Sanders Financial Management in Atlanta.

A "letter of instruction" can be a useful supplement to a will, though it doesn't hold legal weight. It is a good way to make sure your executor has the names and contact information of your attorneys, accountants and financial advisers.

While the will should be stored with your attorney or in a courthouse, the letter of instruction should be more readily accessible, particularly if it contains instructions on funeral arrangements.

Also, make sure your heirs have access to a durable financial power-of-attorney form. Without it, no one can make financial decisions on your behalf in the event that you are incapacitated.

### **Proof of Ownership**

You should keep documentation of housing and land ownership, cemetery plots, vehicles, stock certificates and savings bonds; any partnership or corporate operating agreements; and a list of brokerage and escrow mortgage accounts. If you don't tell your family that you own such assets, there is a chance they never will find out.

File any documents that list loans you have made to others, since they could be included as assets in an estate. Similarly, keep a list of any debts you owe to avoid surprising your family. Wills and living trusts generally are drafted to include provisions for how debts should be settled, and creditors have a stipulated period of time in which to file a claim against the estate.

Make the most recent three years of tax returns available, too. Looking at these returns provides a starting point for assets. This also will help your personal representative file a final income-tax and estate return and, if necessary, a revocable-trust return.

### **Bank Accounts**

You should also share a list of all accounts and online log-in information with your family so they can notify the bank of your death. Be sure to list any safe-deposit boxes you own, register your spouse or child's name with the bank and ask them to sign the registration document so they can have access without securing a court order.

### **Health-Care Confidential**

Possibly the most important health-care document to fill out in advance is a durable health-care power-of-attorney form. This allows your designee to make health-care decisions on your behalf if you are incapacitated. The document should be compliant with federal health-information privacy laws, so that doctors, hospitals and insurance companies can speak with your designee. You may also need to fill out an Authorization to Release Protected Healthcare Information form.

If you are incapacitated and your family can't locate a health-care power of attorney, they will have to go to court to get a guardian appointed. It isn't enough to establish a health-care power of attorney unless you have explained to your designee how you would like to be treated in case of incapacity. Experts also recommend writing a living will detailing your wishes. The living will and the power of attorney constitute what are called "advance directives"; some states consolidate these into a single form. (AARP offers [a state-by-state listing of advance-directive forms](#) on its website.) Terminally ill patients may wish to have their doctors sign a do-not-resuscitate order.

### **Life Insurance and Retirement Accounts**

Copies of life-insurance policies are among the most important documents for your family to have. Family members need to know the name of the carrier, the policy number and the agent associated with the policy.

Be especially careful with life-insurance policies granted by an employer upon your retirement, since those are the kind that financial planners most often miss.

Estate planners also recommend that you draw up a list of pensions, annuities, individual retirement accounts and 401(k)s for your spouse and children. An IRA is considered dormant or unclaimed if no withdrawal has been made by age 70½. If your heirs don't know about these accounts, they won't be able to lay claim to them, and the money could languish. The U.S. Department of Labor estimates that each year tens of thousands of workers fail to claim or roll over \$850 million in 401(k) assets.

### **Marriage and Divorce**

Ensure your spouse knows where you have stored your marriage license. For divorced people, it is important to leave behind the divorce judgment and decree or, if the case was settled without going to court, the stipulation agreement. These documents lay out child support, alimony and property settlements, and also may list the division of investment and retirement accounts.

Include the distribution sheet listing bank-account numbers that accompanied the settlement to avoid disputes about ownership or payments due. Also include a copy of the most recent child-support payment order. In the majority of states, the obligation to pay child support still exists after death. You also should include a copy of the "qualified domestic-relations order," which can prove your spouse received a share of your retirement accounts.

*Adapted from an article written by Saabira Chaudhuri, Wall Street Journal, July 2, 2011 based on information in The 25 Documents You Need Before You Die.*