

The Right Estate Plan for You

By Kristen M. Jackson, Attorney at Law

Most people do not have a will, let alone a more sophisticated estate plan. At what stage in life should you begin the estate planning process to specify what to do with your assets when you die? Various factors enter into the analysis, including your age, marital status, wealth, health and your tolerance for risk.

Single young adults: While you may think you are invulnerable and do not need to worry about planning your estate yet, consider your lifestyle. If you have a hazardous profession (firefighter, police officer, pilot, etc.), engage in extreme sports (mountain climbing, sky diving, underwater cave diving, etc.) or have a serious illness, regardless of your youth, you may be more likely to die earlier rather than later in life.

Life partners: If you are in a relationship but not married, without a will or trust, Florida law will determine where your assets will go at your death. Unmarried partners will receive nothing, and your closest relatives will inherit your property.

Parents with minor children: At a minimum, if you have children under 18, you should have a will to name who should receive your assets and to name a guardian to take custody and care of your children if you and the other parent die while the children are minors. If you do not designate a guardian, a court will do it for you, and the court will monitor how your children's inheritance will be spent or invested.

Revocable trusts: You can avoid the cost and aggravation of probate proceedings your family will experience after your death by creating a revocable (living) trust. A trust allows you to leave your assets to designated beneficiaries at your death without the need to submit to the supervision of the probate court. While living, you can revoke or change the terms of your trust at any time and maintain total control over the management of your assets without the approval of anyone else. After your death, your assets can be transferred quickly, without probate, according to the instructions you specified in your trust.

Taxable estates: If your estate value is more than \$5.25 million this year estate taxes will be payable upon your death.



Without proper estate planning, if your estate exceeds the exemption amount in place at your death, Uncle Sam will be the beneficiary of up to 40 percent of your estate.

Elderly or ill: If you are elderly or have an illness that is progressive or terminal, you should consider taking immediate steps to plan your estate. Whether you have a modest or taxable estate, it is time to establish an estate plan or update your existing plan. Once you have lost your legal capacity, it is too late to put your wishes on paper, and you will be left with no plan or an old, outdated plan. In addition, while you have the ability to do so, you should prepare a durable power of attorney, designation of health care surrogate and living will naming someone to handle your day-to-day financial, health care and life support decisions.

The estate plan that is right for you depends upon a number of factors. You should analyze what is most important to you and plan your estate accordingly. To make sure your wishes are carried out, consult an attorney experienced in estate planning to guide and assist you in preparing a plan that will achieve your goals. ■

Kristen M. Jackson, attorney and founding partner of the Jackson Montoya Law Firm (407-363-9020), has over 29 years of experience in estate planning, business, real estate and family law. She has earned an AV rating from Martindale Hubbell signifying the highest level of professional excellence as obtained through opinions from members of the Bar and Judiciary.



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