

# *In Sickness & In Wealth - Estate Planning*

## *How to protect your future after the 'I dos'*

**Matt Alderton** • NowU

A four-part series from NowU, "In Sickness & In Wealth" explores the financial concerns associated with marrying later in life. In the first installment, we looked at premarital agreements. Our second article explored whether you should merge your money and accounts after you marry, and our third story focused on how to solve financial conflicts once you are married. In the final article, we look at estate planning to protect your current family — and your new one.

FIRST COMES love. Then comes marriage. Then comes ... estate planning?

Precisely, according to financial planner Pam Friedman. Although drafting a will isn't nearly as fun as choosing a cake or buying a dress, estate planning was just as important to her as wedding planning when she got married this spring.

"My husband and I wanted to find a way to balance caring and supporting each other with protecting the people we love and the things we've worked so hard for," said Friedman, 49, a partner at Silicon Hills Wealth Management in Austin, Tex. "In our case, we used two documents: a marital agreement to keep our property and income separate and a will that outlines what will happen if one of us passes."

Because they live in a home she owns, Friedman specified in her will that her husband can stay in the house for a period after her death, after which her niece will inherit it. In so doing, she provided for both her spouse and her blood relatives, protecting each from the other.

### **Estate Planning Makes It Binding**

While most people trust their spouse to respect their wishes, an estate plan ensures in a legally binding way that they do — which can be especially important to couples marrying later in life.

"When you get married and you're young, the people you care about are typically

older," Friedman said. "When you get married and you're older, the people you care about are a lot younger; you want to make sure you take care of them."

For exactly that reason, most Americans (60 percent) believe all adults should have an estate plan, according to a 2011 survey by LexisNexis. And yet, only 44 percent said they currently do.

If you and your new spouse are among the 66 percent who don't, there are at least three things you should discuss: how you'll bequeath your assets, who you've named as beneficiaries and how you're going to handle end of life.

### **Wills and Trusts Divide Assets**

A will isn't your only option for maintaining control of your estate. You also can use a trust. The former is a public document that's typically mediated in probate court; it's a straightforward way to designate who gets what when you die, but is easily challenged.

A trust, on the other hand, is a pool of assets held for one or more beneficiaries; it's more flexible and ironclad than a will — it can dictate guardianship for children and pets, for instance, doesn't require court intervention and can distribute inheritances incrementally as income instead of lump sums — but is more expensive to establish.

"A will is ... best suited for those with limited and simple assets, few or no heirs, and those with no minor children, dependents or pets that require specific care and

guardianship guidance," said Ike Devji, a Phoenix-based asset protection attorney. "For most people, I recommend what's called a revocable living trust ... (because it) avoids probate, passes assets privately with little or no public record and typically includes a variety of sophisticated estate tax avoidance measures."



If you want to leave money for children from a previous marriage while still providing for your new spouse, consider a Qualified Terminal Interest Property, or QTIP, trust.

"A spouse leaves all of his or her individual assets to the trust. The surviving spouse, then, is a beneficiary of the trust and will receive annual income to pay for living expenses," explained certified financial planner Scott Stratton, president of Dallas-based Good Life Wealth Management. "When the second spouse passes away, the remainder goes to the heirs of the first spouse."



## Beneficiaries Should Be Updated

Even with a will or trust in place, certain assets could be contested — in particular, retirement accounts, annuities and insurance policies that have beneficiary designations.

"Your beneficiary forms will override any other legal documents you have, so you'd better review them and make sure they're updated," said certified estate planner Jean Ann Dorrell, owner of Senior Financial Security in The Villages, Fla.

This is especially important if your bank has changed names or merged with another institution. "When an institution changes names, you're supposed to fill out a new beneficiary form with the new name on it," Dorrell said. "If you don't, the form is considered to be blank, and a blank beneficiary form goes to probate."

## Health and Wealth Go Hand in Hand

Estate planning isn't just financial. It's also medical. Naming a power of attorney — someone who can legally make decisions for you if you can't make them yourself — ensures your wishes are respected both at the bank and at the hospital.

"It's natural to name your spouse, but when you're married late in life you may not have known them long enough to know what they'll do with that power of attorney," Dorrell said. "In that case, naming a neutral third party — a brother or sister, or even a CPA — might not be a bad idea."

For Friedman, the final piece of the estate-planning puzzle was long-term care insurance. "What if your spouse has a heart attack? If they don't recover, they could need health care for the rest of their life, which could completely deplete your resources," she said.

Although end of life is one of the hardest conversations a new couple can have, in a way it's also one of the sweetest.

"You're telling your spouse what's important to you, and you're hearing what's important to them," Friedman concluded. "To me, that's one of the most honest and romantic things you can do as a couple."

