

NORTH CAROLINA ESTATE AND INHERITANCE PLANS PART 2

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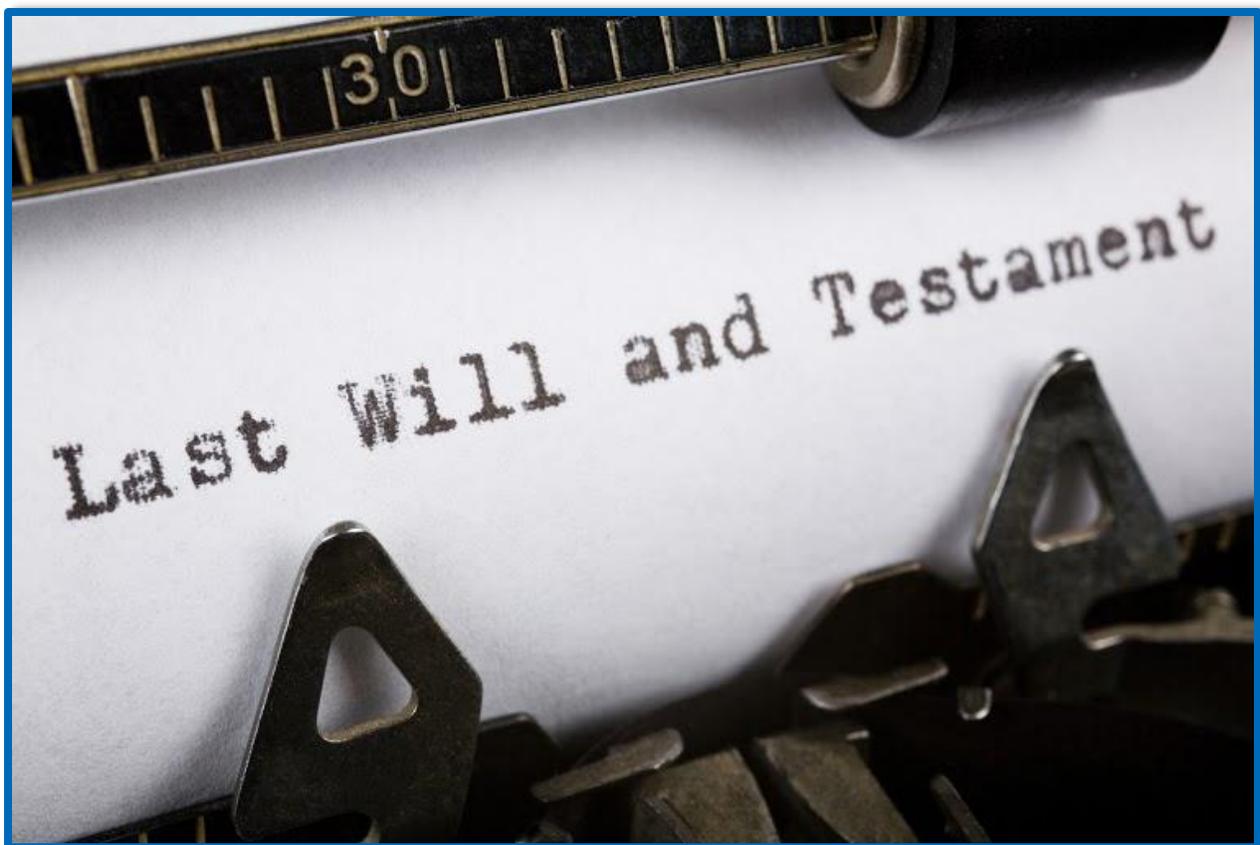


In this second discussion on estate and inheritance plans, we thought we would take a closer look at some of the specific inheritance planning tools and options available today. As with a comprehensive estate plan, no two inheritance plans are ever identical. Deciding what tools you want to include, the choices you want to make, and how you want to implement your plan is something that often takes a lot of time and careful consideration.

As you go about the process of making inheritances decisions, be sure that you talk to your attorney about how best to protect your wishes. In some situations you might have several options available to you. Your attorney will be there to advise you about the positive and negative aspects of each, as well as give you advice on what is in your best interests.

INHERITANCE PLAN FOUNDATIONS

The last will and testament is probably the single most important piece of any good inheritance and estate plan. Even though many people choose to create tools that make a will less important as an inheritance planning device, it is still vital to have a will in your estate plan regardless of what other tools you choose to create.



Through properly drafted last will and testament you can choose how you want to distribute your property after you die. You can also choose to name an executor who will manage your estate throughout the probate process, as well as make other important decisions, such as creating testamentary

trusts that will protect the inheritance that you give to minor children until they're old enough to own or manage it on their own.

For many people who do not have large estates and who have relatively simple inheritance wishes, a last will and testament is often the only tool they really need to create to have a comprehensive inheritance plan.

TRUSTS

Trusts are useful in estate and inheritance planning for a variety of reasons.



One of the most important of these reasons is that the property owned by a trust doesn't have to go through the probate process in most situations. Unlike the property you own is an individual, trust property will be able to pass directly to inheritors as soon as

possible after you die, or as soon as the trust conditions are met.

Contrast this ability with what happens to property you own in your own name.

When you own property as an individual, that property will be distributed in accordance to the terms of your last will and testament, or the laws of intestacy in your state of residence. Before your inheritors can take possession of this property a court will have to get involved, a new probate case will have to be opened, and your estate will have to go through the settlement process before any property will change hands.

There are many kinds of trustee you can include in your inheritance plan, but the most popular of these include testamentary trusts, as well as revocable living trust. Your attorney will explain more about how these different trusts work.



NON-PROBATE ASSETS

In addition to property owned by a trust you create, there are other assets that you have to account for in your inheritance plan that might also pass outside of the probate process. These commonly include, for example, life insurance policies that allow you to name a beneficiary, transfer on death



bank accounts or other financial assets, as well as jointly owned property with the right of survivorship.

All of these assets will, like assets placed in a trust, pass outside of the probate process, and will therefore not be subject to the terms of your last will and

testament. In order to make sure that your inheritance wishes are protected, your inheritance plan will need to recognize these assets and account for them.

GETTING STARTED ON YOUR PLAN

Regardless of your choices or what kind of plan you think you might want to have, until you make the choice to get started and create inheritance and



estate plans, you have no way to ensure that your wishes will be protected.

Even if you already have property that allows you certain inheritance options, such as assets with the right of survivorship, you need

to be able to incorporate those into a comprehensive estate and inheritance plan to ensure that all your wishes will be honored if and when something happens to you. If you have yet to do so, talk to us about creating the appropriate kinds of inheritance and estate planning tools that will allow you to accomplish your goals.

ABOUT THE AUTHOR



Cheryl David is a graduate of UNC-Chapel Hill, the University of Baltimore School of Law, and the prestigious Trial Lawyer's College presided over by Gerry Spence. A former Administrative Judge, Cheryl is certified as an Estate Planning Law Specialist by the ABA accredited Estate Law Specialists Board, Inc. She is also a member of the American Academy of Estate Planning Attorneys, Medicaid Practice Systems and the National Academy of Elder Law Attorneys.

In 2008, Cheryl received the honor of becoming a Fellow with the American Academy of Estate Planning Attorneys. The Fellow program recognizes Academy Members who demonstrate advanced expertise and significant practical experience in the total estate planning, trust, tax planning, guardianship, probate and estate administration fields. In order to maintain this advanced expertise, Cheryl takes over 36 hours of continuing education in Estate Planning, Elder Law, and Taxation each year. Also a Financial Planner, she holds the Series 7 and 66 Investment Licenses in addition to both Insurance and Long Term Care/Medicare designations.

Her professional capabilities, together with over 25 years in practice, have combined to bring positive change to the lives of over 4500 clients and their families.

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