

## Why Estate Planning Is a Woman's Issue

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In a nation consumed with wealth-building, it's easy to forget that earning money is only half the financial security battle. Equally important is protecting our hard-won financial security with a well-designed estate plan. For women, the importance of planning is paramount, because most often women must cope when loved ones become disabled or die. A recent study by Penn State University found that wives were three times more likely to have to cope with a mate's illness or injury. The study also revealed that few husbands had prepared the kind of estate planning documents that would have eased their wives' burdens. For example, a Living Will and a Health Care Power of Attorney give wives the legal clout to act on their husbands' behalf in the event of an emergency.

Without these tools, wives must endure the process of living probate, also known as a guardianship proceeding, in which a husband may be declared incompetent, and a probate judge decides who should be responsible for his personal care and financial affairs. While the wife is often granted this role, there are no guarantees that she will prevail. Judges have wide discretion over whom they may appoint, and the judge may deem that an outsider or professional guardian may be better suited to the task.

According to the U.S. Census Bureau, widows over the age of 65 outnumber widowers by five to one. And when women lose their husbands, they are often thrust into poverty. But if you think impoverished widowhood is something only the elderly experience, think again. The average age at which a wife becomes a widow is just 56. Estate planning can't do anything to mitigate the loss of a loved one. But it can help ensure that the surviving spouse is financially protected. When a husband dies without a plan, his estate is administered by a probate court. Death probate is a costly, time-consuming and public process that may add months, or even years, to a widow's emotional stress.

Ask most married individuals whom they want to inherit their worldly goods, and they will usually say their spouse should receive the lion's share. Unfortunately, most states use a rigid formula for distributing the deceased's assets. In many states, the surviving spouse receives half, with children receiving an equal share. The result could be that grown children who are financially independent could receive assets that their parent needs more.

When Americans fail to plan, the government rejoices. That's because taxpayers are losing opportunities to reduce or completely avoid estate taxes. Today, each taxpayer is entitled to pass assets worth up to \$625,000 estate tax-free. With proper planning, a married couple can protect from taxes assets worth \$1.25 million. Assets over that amount, however, will be taxed from 37 to 55 percent. Say that a husband and wife have a \$1.25 million estate. But as a result of poor estate planning, they shelter only \$625,000. About \$246,000 will be lost to estate taxes. Remember that for estate tax purposes, the government includes your home, retirement plan, and the death benefit of your life insurance policy. Together, these can reach the \$625,000 exemption quickly.

The good news is that there are ways to not only reduce your estate tax liability in the future, but to minimize income and capital gains taxes now. Estate planning can help uncover opportunities to preserve your legacy for loved ones, not the government. But you must choose the proper plan.

For instance, if a will is the foundation of your estate plan, your estate will still go through probate. If you own property in more than one state, your heirs will endure a probate in each of those states. Also, a will can't protect you from a guardianship proceeding. These are just some of the reasons why a growing number select a Living Trust as their estate plan of choice. A Living Trust avoids "death probate" after you're gone or a "living probate" should you become disabled. Not only does a Living Trust offer greater options in deciding to whom, when and how your legacy passes, it can also help reduce or eliminate estate taxes. You won't know which strategies are best suited to your needs until you consult with a knowledgeable estate planning attorney. For women, the need for effective estate planning takes on a special urgency. Considering the many advantages that a Living Trust -based estate plan provides, there's no good reason not to have one.

William K. Hayes is a member of the prestigious American Academy of Estate Planning Attorneys and has been engaged in the practice of law for the last 31 years. The Hayes Law Firm specializes in Trusts, Probate and Asset Protection Planning for professionals and small business owners. For free information or to attend an upcoming seminar, you may contact attorney Hayes at 626-403-2292 or visit The Hayes Law Firm website at [LosAngelesTrustLaw.com](http://LosAngelesTrustLaw.com).