

Doing the Work
Through Your
LAST WILL
and
TESTAMENT

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Final editing and preparation of text by The Restored Church of God editorial staff.

DISCLAIMER: The information presented in this booklet is not intended as legal advice. If you have questions about making a Will, the probate process or estate/gift taxes, you should consult a licensed attorney in your area who is a member in good standing of his or her State/Province bar association.

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Can you continue to support God's Work after your death? You can. This booklet carefully explains what you should do. You will be surprised at how simple it can be!

INTRODUCTION

This booklet has been prepared for members of The Restored Church of God and others who may be considering leaving a portion of their assets to support the Work of God. It provides an overview of what may happen to personal property after one's death.

In the course of a lifetime, people acquire and accumulate many different types of property—from clothing, furniture and cars, to houses, rental property, stock and bank account assets. Whatever you earn through your own labor, or receive as a gift or inheritance from someone else, is yours to do with as you choose, subject to the laws of God and man. No one can take it from you or tell you what to do with it. You can sell it, gift it or throw it away—after all, it is yours. However, after you die, you cannot do anything with your property. You cannot use it, sell it, loan it or transfer it to anyone else.

What happens to your property after you die? Will everything “go to the government”? Will any of your property go to distant relatives? Do you have any say over this matter?

We have reached what the Bible calls “the last days.” The amount of time remaining to complete God's Work is short. The number of people still interested in continuing this Work is small. Therefore, the needs of the Work of God around the world have never been greater. Literally, never have so few done so much with so little for so many. You can help change this.

As the generation known as “baby boomers” approaches the latter stages of their lives, the subjects of “wealth transfer” and “estate planning” are becoming increasingly popular at seminars presented by lawyers, accountants and financial institutions. Many people are concerned about these issues. But the concern is not new.

King Solomon's Concern

Almost 3,000 years ago, King Solomon was disturbed over “estate planning” issues. Solomon had wealth beyond anything known in the ancient world. In

his wisdom, he recognized that, when he died, he would have to leave all that wealth behind: “Yes, I hated all my labor which I had taken under the sun: because I should leave it unto the man that shall be after me” (Ecc. 2:18).

Unlike Solomon, you need not hate all your labor when you think about what will happen to your property after you die. With proper planning, you can decide how your belongings are distributed.

What is an Estate?

Your estate consists of everything that you own at the time of your death, and your share of any property that you own jointly with someone else. Thus, your estate includes your house, cars, furniture, clothing, bank accounts, investment accounts and your half of any joint bank accounts you own with someone else.¹ Your estate also includes any money or other items that you receive as a gift or inheritance while you are alive. Insurance benefits paid at your death may also be included in your estate. Typically, those benefits or proceeds are paid directly to the people who are named as beneficiaries in the insurance policy.

The Probate of Your Estate

Ordinarily, any mentally competent adult can transfer legal title to his property to any other person or organization during his or her life. In most states, for example, if you own a car, and you give it to your son or daughter, you need only to sign over the title to him/her. However, after your death, you obviously cannot transfer property or sign title papers. Therefore, the probate court steps in and appoints someone to do it for you. The person who is appointed by the court to inventory and distribute property in an estate is known as the “Fiduciary,” “Administrator,” “Executor” or “Personal Representative” of an estate. (All of these terms are synonymous. There is no significant difference between an Executor and an Administrator, for example. They perform the same duties and serve the same function in connection with an estate.)

The need to transfer the property that belonged to the deceased person (known as a “decedent”) is one of the primary reasons that an estate must be probated. The word “probate” refers to the process by which a probate court administers the estate of a decedent. The appointment of an Executor is generally the first step in the probate process, which often takes up to nine months—or even longer, depending on the size and complexity of the estate.

What Does a Personal Representative Do?

After you die, your Executor (or Personal Representative) will take an inventory of everything you own and file it with the Court in the county where you resided at the time of your death. Generally, that court is called the “Probate

Court.” The Executor will also retain the services of an appraiser, who will appraise the value of any real estate that you own, such as a house.

Your Executor will be responsible for paying your debts and taxes (if any) with assets from your estate. He or she will also identify your lawful heirs and distribute any remaining assets to those heirs.

The heirs of your estate are the people and organizations that you named as beneficiaries in your Will. These are the people and organizations to whom you wish to leave your property when you die. In most cases, if you die without a Will, your surviving spouse and children will inherit your estate.

What If You Die Without a Will?

If you do not leave a valid Will, your estate will be distributed according to your state’s laws of “intestate succession.” “Intestate” comes from the Latin word *intestatus*, which means “without a valid Will.”

Most state laws governing intestate succession provide that, if someone dies without a Will, his property will pass to his wife and children. In some instances, the decedent’s wife would get everything; in other cases, she would split the property with the decedent’s children. If he is not survived by children or spouse, the estate may pass to the decedent’s parents, if they are alive.

The reason for this distribution pattern is simple: Lawmakers determined that most people would want their estate to go to their spouse and their children. If the decedent leaves behind no surviving spouse or children, it is assumed that he would want his property to go to his parents or to his brothers and sisters. Accordingly, this is the kind of distribution line that is followed in many states, based on state laws of intestate succession.

If you think about it, the laws of intestate succession make sense. Who else should your property go to, if not your spouse and children? But, if you are a true Christian, and one who wishes to honor God’s Work, you may wish to provide for it by leaving part of your estate to God’s Church. Lawmakers have structured the intestate succession laws to provide for your spouse and children, but they will not presume that you intended to leave a lasting legacy to God’s people and to the millions who have yet to hear the true gospel of the kingdom of God.

That is entirely up to you!

Do You Really Need a Will?

At this point, you may wonder: “If the intestate laws in my state provide that everything goes to my wife (or husband) when I die, why would I need to have a Will?”

In most (and perhaps all) states, if you die without a Will, there is no legal assurance that any portion of your estate will pass to a charity of any kind. Regardless of whether you paid your tithes and gave generous offerings dur-

ing your life, the intestate laws and the court would not allow your Executor to distribute any portion of your estate to the Church or any other charity. You may think that if your estate assets passed to your spouse, then she (or he) could gift some of your property to the Church or another charity. The problem is that your spouse may die *with you* in a common accident, or may be severely injured in an accident and unable to make a Will. In some instances, people simply procrastinate, thinking that there will always be enough time to make a Will, and die before they make one.

A Will is a legal document that states your intentions as to how you want your property to be divided after you die. In your Will, you can direct that your personal property and items of sentimental value be distributed to particular persons according to your wishes, rather than sold by your Executor at an estate sale.

Your Will should identify the person whom you want the Court to appoint as the Executor of your estate when you die. If you do not have a Will, the probate court will appoint an Executor to administer your estate. You will have had no say in the matter. You can also name a substitute Executor in your Will, in case your primary Executor is deceased or otherwise unable to fulfill this role. In addition, a Will can be used to waive the bond that an Executor might otherwise have to file with the court.

If any of your children are minors, your Will can name the person or persons that you would want to raise them in the event that both you and your spouse die before all of your children have reached adulthood. These surrogate parents, who would raise your minor children, are known as guardians or co-guardians if two people are named together.

Can Anybody Make a Will?

Any adult who is mentally “competent” can make a Will. Basically, to be competent, you have to understand what you are doing and understand the consequences of doing it. You are considered to be the “maker” of your Will, even though the actual document is drafted and prepared by an attorney. A person who makes a Will is known as the Testator (man) or Testatrix (woman).

What Are the Requirements to Make a Will?

Some states may allow “oral Wills.” However, as a general rule, a Will must be in writing. It must identify the Testator, the beneficiaries (the people that the Testator wants the property to go to) and the property. This does not mean that you have to list every item you own in your Will.

The Will must be signed in front of adult witnesses. Some states require two witnesses. Others require more than two. Some states also require a Will to be notarized. Do not make any assumptions about your state’s laws con-

cerning the drafting and signing requirements for Wills. You should seek the advice of a competent attorney concerning these issues!

Although in most states, a Will does not have to be drafted by an attorney, it is strongly recommended that an attorney draft your Will. The cost of this is relatively inexpensive. Even if your state does not require that a Will be drafted by an attorney, doing so can provide peace of mind.

State laws pertaining to the requirements for a valid Will are not all the same. A lawyer who practices estate planning and probate law should know what the requirements are in your state. The attorney can draft the Will so that your wishes are clear. If you try to “do it on your own,” you are taking a risk. You may not ever know that you improperly drafted your Will, but your loved ones will realize it after you die. A single misplaced comma or other punctuation mark can have enormous consequences. A poorly drafted Will can also result in expensive lawsuits. Further, your property may not end up going to the intended beneficiaries. There are also potential tax ramifications involved. Many people would be better off having no Will at all than having one that is poorly drafted.

Can You Change Your Will?

As long as you are mentally competent and acting of your own free will, you can change your Will, or have a new one prepared whenever you want. Also, you are the only person who has the power and authority to change your Will. Just remember, no change to your Will is effective unless it complies with the laws of your state.

When Should You Make a Will?

No one knows when he will die, but we do know that “[Man’s] days are determined, the number of his months are with [God], [He has] appointed [man’s] bounds that he cannot pass” (Job 14:5). The Psalmist spoke for each of us when he said, “Your eyes did see my substance, yet being unperfect; and in Your book all my members were written, which in continuance were fashioned, when as yet there was none of them” (Psa. 139:16). Despite all of our plans and schedules, God determines how long we will live. Since we do not know when we will die, we must be prepared, because it could be any day. Thus, it is never too soon to make your Will.

Christian Stewardship and The Great Commission

God Himself has told us that everything belongs to Him: “The earth is the LORD’s, and the fullness thereof; the world, and they that dwell therein” (Psa. 24:1). We are stewards of all that God has given to us, and we must be good “stewards” of God’s gifts (I Cor. 4:2). As good stewards, we must seek God’s

will in deciding what we do with His gifts. We know that God accomplishes His purpose through those who seek to do His will, and that He has “has put in [our] hearts to fulfill His will” (Rev. 17:17).

It is God’s purpose that the good news of the kingdom of God be preached to all nations. The apostle Paul summarized the gospel in his first letter to the Corinthians, saying, “Moreover, brethren, I declare unto you the gospel which I preached unto you, which also you have received, and wherein you stand; By which also you are saved, if you keep in memory what I preached unto you, unless you have believed in vain” (15:1-2).

This gospel message must be preached: “And He said unto them, Go you into all the world, and preach the gospel to every creature” (Mark 16:15). “And this gospel of the kingdom shall be preached in all the world for a witness unto all nations; and then shall the end come” (Matt. 24:14). This is indeed the “great commission” given to all followers of Christ. (To learn more about the message Christ preached, read our booklet *Which Is the True Gospel?*)

God further commands us, “Lay not up for yourselves treasures upon earth, where moth and rust does corrupt, and where thieves break through and steal: But lay up for yourselves treasures in heaven, where neither moth nor rust does corrupt, and where thieves do not break through nor steal: For where your treasure is, there will your heart be also” (Matt. 6:19-21).

By leaving part of your estate to the ongoing Work of God’s Church, you can continue to fulfill God’s purpose even after your death! Your Last Will and Testament can stand as a final act of good stewardship.

How Much Should You Give?

God commands us to proclaim the kingdom of God, and man’s laws allow us to proclaim that good news by leaving a portion of our estate to the Work.

In deciding whether and how much of your estate you give to the Church, you should think carefully about the financial needs your family would face after your death.

You should consider the size of your family, and their sources of income. Are you your family’s primary wage earner? Do you have enough life insurance to cover your family’s needs? Do you still provide financial support for your children, or are they grown and gainfully employed? Are any other family members (such as your parents) in need of your financial assistance? What about your wife? Does she work—can she work? What is her earning capacity? Do you have children with special needs? If so, they may need additional financial resources in the event of your death.

The laws of most, if not all, states prohibit a person from totally disinheriting his wife; neither can a woman completely disinherit her husband. The law recognizes a person’s obligation to provide for his or her spouse.

In addition to the financial needs of your immediate family, there are other considerations that you should discuss with your attorney, such as tax burdens.

Remember also, that if your estate is large enough to be taxed, any gift you make in your Will to a qualifying charity is currently tax deductible under federal (U.S.) law. This is a significant advantage to giving in this way within your Will.

The decision of how much to give to the Work should be made prayerfully. Seek God's will in this matter, just as you would in making other decisions. No one can or should try to force you to give any amount of your estate to God's Work. The choice of whether and how much you give is entirely up to you. It is a matter between you and God.

How Can You Make a Gift to God's Work in Your Will?

If you do not have a Will, contact an attorney who practices in the area of estate planning and probate law. The attorney will meet with you and prepare a Will according to your wishes. The attorney can include a specific provision in your Will indicating your wish to give part of your estate to the Church.

If you already have a Will, and do not want to make a new one, your attorney can prepare a codicil to your current Will. A "codicil" is a document that is used to change, amend, or add provisions to an existing Will. A codicil is not valid and effective unless it meets the requirements of your State law. The Restored Church of God cannot give you legal advice. You should contact your attorney before making any changes to your Will. Normally, the legal fees for preparing a codicil are quite minimal.

To make an effective gift to The Restored Church of God, your Will or codicil must specify the amount or percentage of your estate that you wish to leave to the Church. If you intend to leave a particular item of property to the Church, then your Will or codicil must clearly identify that item. The Will (or codicil) must clearly identify The Restored Church of God as your beneficiary.

The following are examples of language used to create a bequest (gift) to RCG. These examples are for purposes of illustration and may not satisfy your State's requirements:

(1) Gift of a Percentage of Your Estate

I give, devise and bequeath _____ Percent (____%) of my residuary estate to The Restored Church of God (David C. Pack, President), a 501(c)(3) tax exempt, non-profit organization located in Wadsworth, Ohio, to be used for its general purposes. The Restored Church of God's Federal Tax ID² Number is _____.

(2) Gift of a Fixed Sum

I give, devise and bequeath the sum of _____ Dollars (\$____) to The Restored Church of God (David C. Pack, President), a 501(c)(3) tax

exempt, non-profit organization located in Wadsworth, Ohio, to be used for its general purposes. The Restored Church of God's Federal Tax ID Number is _____.

(3) Gift for a Specific Purpose

I give, devise and bequeath _____ Percent (____) of the residue of my estate to The Restored Church of God (David C. Pack, President), a 501(c)(3) tax exempt, non-profit organization located in Wadsworth, Ohio, identified by Federal Tax ID Number _____, to be used in support and furtherance of its writings and publications.

(4) Gift of Property

I give, devise and bequeath to The Restored Church of God (David C. Pack, President), a 501(c)(3) tax exempt, non-profit organization located in Wadsworth, Ohio, identified by Federal Tax ID Number _____, the following:

a) The real property and all structures and buildings thereon, located at [give address], and legally described as [give legal description];

b) My blue 2001 Ford Windstar Mini Van, identified by VIN # _____.

Caution: If, for example, you left your car to the Church in your Will, but you sold the car before you died, the gift would lapse, meaning that the Church would not receive the gift. On the other hand, if you keep the car and die thirty years later, it may not be worth anything.

(5) A Contingent Gift (a gift that depends on the occurrence of some event or events)

I give my red and white twin-engine Rudd speedboat to my son, [son's name], if he survives me. If he does not survive me, then I give my red and white twin-engine Rudd speedboat to The Restored Church of God (David C. Pack, President), a 501(c)(3) tax-exempt, non-profit organization located in Wadsworth, Ohio, identified by Federal Tax ID Number _____, to be used as The Restored Church of God shall decide.

(6) Contingent Gift of Entire Share

I give, devise and bequeath to The Restored Church of God (David C. Pack, President), a 501(c)(3) tax exempt, non-profit organization located in Wadsworth, Ohio, identified by Federal Tax ID Number _____:

- a) The share of any beneficiary named in paragraph ____ above who predeceases me;
- b) Any and all shares of my estate or portions thereof which are disclaimed by any of the beneficiaries named in paragraph ____ above; and
- c) Any and all bequests or gifts under this Will which fail or lapse for any reason.

If you choose to provide for The Restored Church of God in your Will, Codicil or Trust, or through any other estate planning mechanism, please feel free to notify us in the event that we can be of assistance. If you wish, we will also recognize your commitment to God's Work by sending you a Certificate of Acknowledgment and Appreciation.

Again, if you need additional information about how to include The Restored Church of God in your Will, please contact an attorney.

¹ In general, one half of any property that you and another person own jointly with right of survivorship is part of your estate for tax purposes. However, it is typically not part of your estate for probate purposes.

² Those interested in including The Restored Church of God in their Will may contact the Church's headquarters office to obtain The Restored Church of God's federal tax I.D. number.

**The following literature expands
on topics discussed in this booklet:**

- Which Is the True Gospel?

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