

Unknown Speaker 0:00

confused by finances, investing, estate and retirement planning, when we went to school so you don't have to welcome to finances and with Kathy and

Unknown Speaker 0:11

welcome to finances and wealth. This is Kathy Norma, we went to school so you don't have to. So we recently heard about the unfortunate passing of Kobe Bryant. And it got us thinking about wills and how important they are.

Unknown Speaker 0:23

So I did some research and I found out that Philip Seymour Hoffman, he was in Boogie Nights and Hunger Games. When he died, he was not married, he had a girlfriend and two kids. And he had an estate of \$35 million dollars, but he own taxes of \$12 million, because he wasn't married to her. So the amount of taxes you pay is dependent on so many things. It's a death tax if you want to use a nasty word, but it's an estate tax, basically. And it matters.

Unknown Speaker 0:52

Well, I know Prince died, I think was 57 he had a really big estate or maybe 200 million or something like that few years ago or 2016. But he had no previous wife or known wife, no children. And it took them a year he died without a will, which is important that you know topic here or point here, but he died without a will. And a year it took a year after his passing to find out or to determine who was going to inherit that money ended up being his sister and five siblings. And so I almost kind of wonder, did he know about those half siblings? You know, they because they

Unknown Speaker 1:27

were half siblings. They got his Celia

Unknown Speaker 1:29

Yeah, they were half siblings. So I didn't even know about them. I mean, I've got you know, my ex husband actually died. I'm sorry. My father died when he was 16. And it was at his funeral that he realized he had a couple of half siblings, he had no idea about, I wonder if Prince knew about these people?

Unknown Speaker 1:46

Well, you mentioned that, you know, there was no wife that they knew of there was no any distant relatives, siblings, child, and yet people came out claiming to be all of those things. So as another reason it just took so long, because I got to try and verify whose family or not it's, it's scary. It's scary. But wills are good.

Unknown Speaker 2:01

Absolutely. So when you die with a well, there are some words out

here. It's called test date. And when you die without a will. It's called intestate, and to die without a will could mean a few different things, it could mean that there was no will at all, none found. So it's important that you let someone know where your documents are. I know when I drew up my will, the lawyer actually told me I don't want to draw it up for me, told me that she actually checks the obituaries every day to see if anyone that died is a client of her so that she can provide the most reason well, so yeah, it's important. I actually had mine, I haven't emailed to my best friend, because she's been there as the executor. And she need

Unknown Speaker 2:42

an original copy, though, or will the email work because I think they have to have an original copy.

Unknown Speaker 2:46

I have the original copies here. But my best friend lives few states away. So she she's got the email, and then my kids know where my original copies.

Unknown Speaker 2:55

So one of the things I found when researching was that you should not put it in a safe deposit box. Because getting the key and or getting access to that box could take a long time. So you should have it somewhere in your home, hopefully in a waterproof and fireproof safe. And just like you said that your kids somebody knows where they can find it. So it can be easily accessed when needed.

Unknown Speaker 3:14

Yeah, absolutely. That's definitely really important.

Unknown Speaker 3:17

You know, having a will doesn't resolve every issue at death, right? It's not It's not the be all and end all. But it does help to seek to avoid problems for the people you're leaving behind. Right? This is a super challenging time for them. And you want to try and make that transition easy as you can, yes, 63% of us do not have a will at all. And the remaining 37% 9% of them are out of date. In other words that not that the will can't be used, but the information is no longer correct. Maybe you had children, maybe you got divorced, maybe you changed your mind about charity. So it's a big deal. And it seems like an easy thing to put off. But just like today, you just never know when you're going to when you're going to need it. So having it's important. Yeah, absolutely. And if if you have burial plans, just to your point earlier

Unknown Speaker 4:00

about not putting it somewhere, it can't be accessed quickly. If you have burial plans on there and your will and they're in those you know, in that stack of documents, it might be too late before somebody

can get to that information. And they may have you know, done it their way. I do know that when I again when I drew mine up. I had some burial wishes in there. And my lord specifically told me to make sure that I sent someone else exactly because of that. She said but you know, let's just say you know, you pass on a Friday night or something like that, and I don't look at it till Monday, you know that they may have already made the plans not realizing that you had a group by stitcher so so

Unknown Speaker 4:33

what is the will actually do for us, it determines how your personal property is going to be distributed, who it's going to be distributed to and what amounts the personal property will be distributed according to your will because your will is written for the state you're living in. If you move that's another reason to get your will updated, but real property or reality that you might have is going to be distributed based on the state that it's located in. So just make sure that when you're if you own property in more than one state That you've made arrangements for that as well, because the state can step in if it's if they choose to, because it's their property, literally the land.

Unknown Speaker 5:06

So now who's in charge the administrator is appointed is appointed by the court. So if you die without a will, the administrator is the person who will get to decide who distributes or how your estate is distributed, they may not know your wishes. So this is another reason why it's important to have an executed will valid executed will because then you can appoint what I just referred to earlier as it which is an executor. And that is what they call you know, deecided appointed person who you know, hopefully somebody that is either close to you or somebody that you've had a discussion with explaining what your wishes are,

Unknown Speaker 5:46

no matter what tell them what your wishes are, even if it's in your will make sure that you've actually had a conversation with them.

Unknown Speaker 5:53

And advantage of having a will also is that not just that you appoint the person, but that maybe there's somebody that you don't want to make, you know, that you want to make sure doesn't inherit any of your state, or you may have a charity, you know, favorite charity that

Unknown Speaker 6:06

you want to make sure it gets a portion of it, as long as you have a will. And you have that in place, you can have control over what happens if you do specifically with kids, you've got to choose a guardian, you've got to make sure that you have again spoken to that person, but that you've made plans for anyone that your is independent

to you or children that you have. And you want to make sure that you are transferring your property that was not already assigned. So for example, your life insurance, your retirement, and some of your payable on death accounts. Those are going to go based on what is already written in those documents, but any other property, you want to make sure that you're assigning it to somebody.

Unknown Speaker 6:42

Yeah, so you know, payable on death, I think is definitely an important point to bring up payable on death, for those who may not know is when you make five seconds, you go in your bank account profile or your CV profile, or whatever it is that whatever funds you have online, and you can add a beneficiary right there. And when you die, that money automatically goes to that person and basically skips probate skips the well skips everything. It's just an automatic

Unknown Speaker 7:12

ownership to that particular person. Not only is that a benefit just because it's taken care of, but that can be the funds that are used for your final preparations, right. So then they have money, you're not you're not burdening somebody for weeks, months, maybe years, if it does end up in probate, so that's a good thing. You can also assign assets to charity, you could decide what it is you'd like to give to charity and how those will be handing out. The real big purpose of having a will though is it might seem like it costs a lot to create a will right now. But you are going to save so much in taxes, and you're going to save work for the people that you love that you're leaving this property.

Unknown Speaker 7:48

Yeah, absolutely. I know personally, I have been an executor executor, it's under will. And I mean, the will that the will was very specific. I knew what needed to be done. But I definitely don't want to get put in that position. Again, it is a lot of work. And I probably would have accepted the assignment so to speak this first time around, but I definitely know after having gone through it, I don't want to again, so you know, if anybody ever does ask me to be an executor for their will, I will politely Sure. That's just me personally, I mean, it's a lot of work, some might call an honor to be you know, to be put in that position. But I personally know it's a lot of work. And the person that I lost was you was my father, and it was very emotional for me and then having to deal with the legality of it all was very difficult for me to handle at that time.

Unknown Speaker 8:36

So there are limitations as well for a will have one is that if you in disinherit someone, maybe you're cranky with someone at the moment and you say they're not going to get anything, they can easily challenge your will, which will slow everything down again. So just be aware, if you're feeling like somebody doesn't deserve something, or they

possibly going to come back and say, Yes, I do. And everything's going to stop until I get what I at least what I want to say about it. Right. Yeah.

Unknown Speaker 9:00

The other limitation I know is that assets that pass automatically by contract. And the reason I just say I just had I know is because I've been through this one, and it's a case where again, regards to my dad, he had a trailer that he bought with my mother joint tenancy. So the trailer is a property and it was on land. So there was a property, personal property and then there was a real estate. And when he after they got divorced, he ended up getting a different trailer on the same land but never changed the real estate portion of it. So after he passed the personal property property passed on to his beneficiary, but the land itself passed on to my mother. So that was, you know, quite a battle afterwards. But again, this is a limitation of the bill just because his will said that all of his assets pass on to a specific beneficiary doesn't mean that a state law can't prevail in certain cases. And this is a specific case where it

Unknown Speaker 9:58

is a perfect example of the state's To decide what happens with the land that's in that state versus the property that's sitting in there. And you know, you're mentioning, you know, husband and wife right now you need to resist having a joint will have some kind, they're not a good idea. And in fact, some states won't recognize them, you need to have a will, he needs to have a will. It's just everybody needs to have their own will. I was just reading about a husband and wife who are in their second marriage, they both had kids from their first marriage, the man dies, well, actually, the two of them are in an accident, the man dies in the accidents, the woman dies about three days later, but because the man died, all of his assets transferred to his new second wife, she dies Three days later, all of the her assets which are now formerly his transfers to her kids, and his children get no assets, because he had not put them in the whale, he had just changed everything to his wife. So you just have to make sure that go to think through the whole process of you know, you guys could die fairly close in, you know, she might very well have saved money for his children. But because of what happened, it doesn't mean his children got any money at all, that'd be terrible situation.

Unknown Speaker 11:03

Types of wills, but you know, there there are three different types of wills. One of them is holographic well, which this is not very common. But basically, it basically means it doesn't always have to be so formal, there are going to be times where you have an emergency situation, and you create a well in a different way other than sitting in a lawyer. So holographic is one of those ways, which means it's it's handwritten, and it includes everything that it will is supposed to include, doesn't need a witness, or and it's valid in most states.

So again, this is why it's important to actually have a well created because these other contingency plans, so to speak, are not always going to be valid. And the state that you're in the other one would be called a non cumulative, and it's an oral dying wish, what they call that no oral dying wish. Now this is also not valid. So what's the best way to have a will.

Unknown Speaker 11:53

So actually, the most typical will is a statutory will it's it's created by your attorney or the there are some websites and some you know, things like staples, you can grab to fill in, but you need to be very cognizant of the rules of your state, which is why having a lawyer look at it is going to be the most important step. It can be handwritten or typed. But it is going to be signed and witnessed and the witnesses are going to have to be signing it as well. So it's official as you can possibly make it one of the things the reason for that is you're really trying to validate is this person of sound mind, you want to make sure that they are capable of creating a will mentally capacity, and that they're not being influenced by others, which is sort of the danger of that holographic will that normal was just mentioning is you know, someone's standing over you while you're panning out your will quickly. So it's just another step to make sure you're not under duress.

Unknown Speaker 12:40

So the sound mind and mental capacity, I know when it comes to wills, those rules really aren't as stringent as they are when you need to sign a contract. So you really want to make sure that the person that is there creating this will is of sound mind, but maybe something that can't be disputed in court, as far as, as Kathy stated, you know, under duress or you know, not not in legal capacity. But again, these roles aren't.

Unknown Speaker 13:09

So the wills are full of clauses, or basically paragraphs that have information in them. And they're very specific clauses so that a judge would know what they're looking for and how your assets are going to be handed out.

Unknown Speaker 13:21

All right, we've got the introductory call costs, that's your name, address, state where you live and who you're next,

Unknown Speaker 13:26

the declaration clause, this is that classic line, this is the last will and testament of and that you're revoking or cancelling all other versions of your wills, again, you should be looking at your getting your will updated every three to five years. And so in that way, you want to make sure that you're saying that you are cancelling out any other versions that might be floating around about it.

Unknown Speaker 13:46

Alright, so that is you know, what, and who, then we've got our request clause, and that is the distribution. So that is who gets what, that's another important close, obviously, because that's the point of the will is to make sure that everybody's getting,

Unknown Speaker 13:58

that's what people are looking for details, the good stuff, right? Okay? There's another clause called the residuary. And that moves any property that's not already assigned at death, going back to those transfer deaths, or your retirement funds, those kinds of things that are automatically going to be moved, you want to make sure that you are being specific about which individuals or charities they're going to get this and then you can kind of end with that classic line of I leave all my remaining property to Aunt Julia or whoever it is just so that anything else can't be argued by other people.

Unknown Speaker 14:31

And the last clause would be that executor clauses when I referred to earlier on it and that is who's in charge. So you know, again, very important you want to put somebody in charge so that your wishes are executed to that you wanted it don't doesn't

Unknown Speaker 14:45

the executor also like pay the bills and deal with any debt collectors, but we have to you had a name that you got to say, hey, you're going to be paying my bills for me. This is also a job that can be paid for that very reason. It might get a salary or stipend out of this or a percentage of the state itself. And something else that I was just reading about, consider very highly having a sort of levels of executor in case, just like normal said, you know, somebody might have named her as an executor, and she's already Peace out, I don't want to do it anymore. So somebody else needs to be listed after that, or maybe she's passed by then. But you need to have a couple people listed just in case because what you don't want is for the state to decide that for you, because then they don't have any, you know, any buy into what it is we're,

Unknown Speaker 15:27

well, there's that. And then there's the fact that if the state goes and takes over, it's going to take a lot longer for your next of kin to get access to your assets and your funds, and they will freeze your bank accounts, they will freeze everything until this is all sorted out. So those those funeral expenses, everything will have to be incurred by your loved ones, because you didn't have that will in place, unfortunately,

Unknown Speaker 15:51

yeah. And the last actually is one more clause I want to talk about

was guardianship of your young children, you need to figure out who's going to raise those kids. And once again, have a conversation with somebody prior to putting that in there and make sure that they're willing to be the guardian to your minors. This should include the names of, again, other people in case that original person can't do it for some reason, or, or doesn't want to do it anymore, do not surprise them with your children, make sure that anybody you've listed is at least at that time, more than willing to be the guardian to them, because regardless, even though you've assigned a guardian to them, the court is still going to review that just to make sure that they're the kids are going to be well taken care of. And the bottom line is your death is going to be hard enough You do not want to make this harder on anybody else and you have you know, even if you don't have any money, I guess it just can't nail this hard enough. If you don't feel like you have a lot of money to be writing a will for if you have kids, you've got to get that written down because you don't want their life any more horrible than it already is if you've passed on and they don't have somebody to take care of. So keeping it again in a safe deposit box is not a great idea because they need to have access to that original copy and you need to be reviewing your will every three to five years. I know Michael Jackson they couldn't find his will and so his mother was going through the process of trying to be stated as the both the guardian and the executor and we after a year of searching for this and going through this process they finally found a copy of a will but it was seven years old so again it's just something you got to keep on top of it's not necessarily the top of your mind all the time but it's something we've got to make sure we're keeping track of you got anything else

Unknown Speaker 17:24

no I actually I don't think wills Are you know they're very important as I stated before, you want to make sure that whoever you have listed in your will with any type of responsibility really gets notified prior to so that you like you said just nope not interested and have some contingency plans personally speaking on my well I've got a contingent and a contingent and a concern. I've got three examples of contingent on everything on great whether someone needs to pull the plug, whether you know as far as financially, they're every step of the way. I've got about three people that are contingent in those plans.

Unknown Speaker 18:01

Have you ever thought about what's the longest and shortest? Well, I think

Unknown Speaker 18:03

the shortest was what three words it was something like all to my wife or also wife and also son. I think the longest was

Unknown Speaker 18:11

thousand 66 pages. So I guess somewhere between the three word will and the thousand page will you're probably doing a pretty good job. I found out that the oldest will is called the will of UVA. I'm ruining that I'm sure it's a like 2000 years old, something like that it was found in the tomb in Egypt and he left all of his property to his wife teta. And then another fun one was a Michigan millionaire. He died in 1919 and he declared that his fortune would not pass down. I guess he was kind of a cranky guy he would not pass down until 21 years after his last grandchild had died.

Unknown Speaker 18:47
That's no long probate.

Unknown Speaker 18:51
So 21 people who did not know Him shared in 100 and \$10 million because at that point that's what finances have grown to. Alright so finances and does not provide tax or legal advice and nothing in this podcast can be construed as such. Always consult a tax accounting or legal professional for advice on your specific situation. So that's finances and Wills today please let us know what you think on finances and which is two words for on twitter at finances and or on our website at finances and dotnet we love hearing from you. So ask your questions. Remember, we went to school so you don't have to

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