



## Estate Planning FAQ

**Question:** Do I need a will?

**Answer:** That is up to you. Remember, if you have no will, the State of Florida has one for you, and you may not be happy with what it says.

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**Question:** Can I do my own will?

**Answer:** That certainly is a possibility if you know what you are doing. Will it be valid or carry out your wishes as you intend? I do not know. Is it recommended? Absolutely not(not even with all of the computer software out there). The validity as well the effectiveness regarding your wishes are only very few of the unknowns regarding a self-made will. While commercially available drafting software exists, it is unlikely that a software program will interact with you regarding all the implications upon which a specific, informed and complete estate plan will be made.

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**Question:** If I have a will, is my estate planning complete?

**Answer:** A will is but a very small part of a complete estate plan. While wills are important, they do not control many important pieces of an estate plan. For example, a will has no legal affect regarding retirement accounts or other assets that have transfer clauses. In fact, a well drafted will should coordinate with all other transfer methods effective at death. A will cannot assist you with powers over your health and property during an incapacity.

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**Question:** Do revocable(living) trusts avoid estate taxes after death?

**Answer:** No. It is a common misperception that these trusts save estate taxes. Rather, these trusts are a method to avoid certain judicial involvement in controlling a persons property during incapacity and after death. In the appropriate circumstance, provisions may be added to preserve what is known as the estate tax exemption amount in the same manner as may be done under a will.

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**Question:** How do I know if I should have a will or revocable(living) trust?

**Answer:** Consultation with an experienced attorney is the best approach as certain assets may be inappropriate for tax and/or non-tax reasons. For example, an IRA should never be owned by a revocable trust while very specific language is required for a post death subtrust(s) to qualify as IRA designated beneficiaries. Similarly, recent case law in Florida may jeopardize the constitutional homestead protection from forced sale if such a trust becomes the owner of your primary Florida residence.

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William Rambaum, of the firm of William Rambaum & Associates, P., with offices in Pinellas, Pasco, and Hernando, is a Certified Elder Law Attorney by the Florida Bar and by the National Academy of Elder Law Attorneys. Elder Law encompasses that area of legal specialization devoted to addressing issues commonly, but not exclusively, affecting clients of retirement age, including estate planning, incapacity, probate, long term care, Medicaid, retirement distributions, income and estate taxes. Mr. Rambaum is also a licensed title agent through the Attorney's Title Insurance Fund. For more information or to schedule an appointment, you may contact Mr. Rambaum at (727) 781-5357 or (800) 958-8099.