

# A Gift for Your Family

## Plan Now for Years to Come

Article printed in *The Community Section of The Charlotte Weekly* January 6-12, 2006

**By Todd A. Stewart**  
*Attorney at Law and  
Certified Public Accountant*

In their busy schedules of taking care of family and career, women often neglect an important detail in their lives: estate planning. In fact, the younger the woman, the less likely she is to give any thought to what might happen to those she loves in the event of her death or incapacitation.

When establishing personal resolutions, women should make estate planning a top priority. Proactive preparation is a gift that ensures peace of mind and enables women to know that their legal directives would be carried out.

Often, women do not realize how much they contribute to managing a household. They sign tax returns, checks, and other important, legally binding documents. Women need to decide who will handle their legal affairs and responsibilities when they are not able. In addition, they should direct the type of medical treatment they want, or do not want, in the event they cannot communicate these wishes themselves.

When individuals don't act on their own behalf with this type of planning, the government provides solutions which might not be what is desired. In fact, it should come as no surprise that without individual

directives in writing, the government laws will rarely accomplish what most individuals would have chosen.

### **Power of attorney:**

If individuals have not documented their wishes in a legally binding power of attorney and a question arises about their capacity to act for themselves, a court proceeding will be required. Naturally, this can be expensive. In addition, a guardian appointed to handle the affairs will need to prepare and file reports with the court. These reports are open for public inspection, which may invite scrutiny and contention. Further proceedings may be necessary, especially if the individual owns any real estate.

### **Will power:**

Dying without a will causes a separate set of problems. Most people who have a spouse and children assume that at death all of their property will pass to their surviving spouse. Think again.

True, joint accounts with right of survivorship and certain threshold amounts of property will pass to your spouse. However, if you are a North Carolina resident with two children, the surviving spouse will inherit only one-third of your other property, with the balance going to your children. If your children are minors (and in some other cases too), this leads to another problem. The children's share will be subject to a court-supervised guardianship. You will have lost the opportunity to specify the ages at which

your children will get outright shares (according to the law, the age is 18) and the chance to specify whom you want to manage the assets for the benefit of your children.

Those who die without a valid will normally have lost their chance to influence the decision regarding the person or persons who will have physical custody of their minor children. As a consequence, you will not have taken advantage of your opportunity to talk with the intended guardians and share your thoughts with them about the future.

There are solutions to all of these problems that may save your family a great deal of money. Still, the most rewarding part for your family may be the knowledge that the solutions were from you. So while you are focusing on family, think about giving a gift that could affect many New Years to come. ■



*Todd A. Stewart is an Attorney and CPA with a law practice in the SouthPark area of Charlotte, North Carolina. He can be reached at (704) 552-5160 or [tstewart@tstewartlaw.com](mailto:tstewart@tstewartlaw.com).*