

Chapter 1:

Tie Up Loose Ends, While You Can Still Make a Knot

No one here gets out alive.
"Five to One," Jim Morrison/The Doors

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IN THIS CHAPTER . . .

we examine the proposition that practically everyone needs estate planning.

The Twists and Turns of Life

Why should you plan for death—beyond reckoning with the religious/metaphysical side of it, which is a matter best taken up between you and your higher power?

*Our lives
move in only
one direction.*

*The road may
twist and turn,
but each individual journey
meets a corporeal end.*

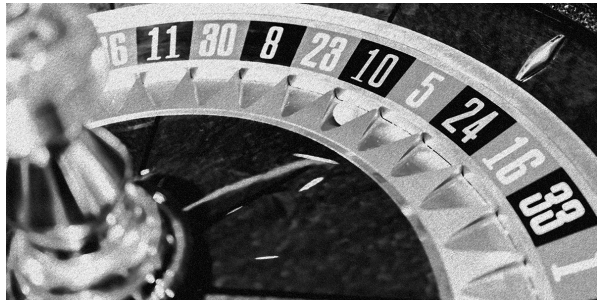
*That knowledge may tend
to make you more sad than happy,
but it is an undeniable truth.*

No matter who you are, the end of life approaches.

The more carefully and thoughtfully you plan today, the less angst your loved ones will experience tomorrow. Putting your affairs in order casts your spirit in a way that perpetuates your life path and sharpens the focus of your legacy. If you do nothing, your inaction can compound the grief and burden put on others and may ultimately diminish your life's work.

The Big Roulette Wheel

Estate planning is the most concrete step you can take toward achieving goals that can only be met in your unknown future. At its most basic, an estate plan simplifies the transition from life to death and aims to circumvent any foreseeable problems. It provides a framework to contemplate relationships with friends, family, and community—and to envision the consequences of failing to plan.



Imagine that unexpected events suddenly render you nonexistent or a shadow of your former self. Visualize your last brush with disaster. Was it crossing the street, oblivious to a car streaking out from a blind side? Stumbling off a ladder without a spotter? Or one of the countless other, often forgotten, narrow escapes that litter the game of life?

Even if none of this seems relevant now, it makes no sense to ignore a shared common denominator: Your final epochal moment may be lurking just around the corner, and wearing blinders will not prevent it. The truth is that no one lives forever. Some of us are cut down in our prime. I may be dead already, but you are not there (yet). The roulette wheel of life eventually spins its last for the most powerful athlete, the wealthiest miser, the wisest sage, and the most precious child.

Whether you die two weeks from Thursday on a treadmill at the gym or decades from now, peacefully and surrounded by family love, you have many reasons not to neglect the legal aspects of death. Leaving grief-stricken family and loved ones scrambling to adapt can cause immense damage to their relationships and financial well-being, and it can add layers of emotional stress to an already disquieting time.

If you wish to be remembered for the mess you inadvertently left behind, you may be one of the millions of American zombies trapped in a rapid-paced, celebrity-obsessed, consumerist lifestyle that leaves little room for the type of critical thinking you need to thoughtfully plan your estate. Yet if you manage to squeeze estate planning into your overflowing schedule, you may discover a therapeutic exercise that leads to mental clarity in a neglected area of self-analysis.



Planning while you can still analyze the impact of your death on your supporting cast of characters will not trigger an unhealthy death fixation, unless you already have one. It is simply an honest acknowledgment. This is not about the when or the how, let alone the why, of your mortality. If you are fearful, estate planning can actually help you transcend some of the pain and fear associated with both reality and the unknown.

Whether your estate is very substantial or you're running on empty in the material world, estate planning requires selecting someone to make your most intimate medical and personal decisions when you lose your voice. Also, if you have kids, pets, or others who depend on you, another key aspect of estate planning is doing your best to see that you have a voice in deciding how they're cared for.



Do I Need an Estate Plan?

YES	NO	I am a legal adult, responsible for myself and my actions in the eyes of the state where I live.
YES	NO	I am part of a "conventional" nuclear family—I have a spouse, and we have children together.
YES	NO	My spouse and I have formed a blended family. We each have children from prior relationships as well as children together.
YES	NO	Neither my spouse nor I have any children, but we each have our own favorite nephews, nieces, friends, and charities.
YES	NO	I have a life partner to whom I am not legally married under applicable state law.
YES	NO	I am single and kid-free, but I want to decide who gets my money.

Not Dead Yet so plan your estate

YES	NO	I have young or elderly dependents.
YES	NO	I care for and/or am the guardian of someone with special needs.
YES	NO	I love someone who is immature when it comes to handling money.
YES	NO	My assets are large enough that I know I must be aware of tax issues.
YES	NO	I prefer to select the person who will make personal decisions with regard to my care and finances if I am ever incapacitated or when I die, rather than have that selection made for me.
YES	NO	I want some of my money to go to charity.
YES	NO	I want to have a say about who gets my personal treasures.

If you answered YES to any of these questions, you NEED an estate plan.

Avoiding Unintended Consequences Through Estate Planning

A well-designed estate plan can head off all sorts of troubles:

1. A nasty fight breaks out over “stuff,” and an undeserving or distant relation ends up with a personal item or other asset, contrary to all reasonable expectations.
2. Federal and/or state taxes eat up a tidy sum that otherwise could have gone to your family or charity.
3. A loved one withers away in misery, unable to communicate their personal care wishes to others.
4. A probate battle breaks out, and lawyers take center stage in an expensive family drama played out in a public forum. Heirs feel as if they were run over by a legal dump truck because a judge or jury adheres to the letter of the law without regard to the heirs’ individual circumstances. The noble spirit of the law is fine and dandy, but when pitted against the letter of the law, the letter usually wins.
5. Various parties squabble over guardianship of you or an incapacitated parent, sibling, or child.
6. Loved ones scramble to make sense of an estate that was not properly planned.

What Documents Do I Need?

Estate planning is nothing more than turning your thoughts into action by legally putting your wishes into writing and structuring your assets so that they flow in sync with the documents. Basic estate planning documents include a Will, HIPAA authorization, power of attorney for health care, power of attorney for finances or property, revocable living Trust, and irrevocable Trust.

WILL—A legal document completed in accordance with state law that establishes how your probate assets will be distributed on your death. The Will appoints an executor to administer your estate. It may establish Trusts for children and recommend guardians for minor children or dependents with special needs.

HIPAA AUTHORIZATION—Documentation that allows designated people to access your health-care providers/information.

POWER OF ATTORNEY FOR HEALTH CARE—Document allowing your agent (proxy) to direct your health care and other personal (nonfinancial) matters if you are unable to do so; this power helps you avoid being assigned a guardian by the court.

POWER OF ATTORNEY FOR PROPERTY—A document in which you grant an agent the authority to handle financial matters on your behalf, immediately or upon your incapacity. Often referred to as a “durable power” because it survives the principal’s incapacity. Used to avoid an estate guardianship proceeding in probate court.

REVOCABLE LIVING TRUST—A Trust established by the grantor during their lifetime. The living grantor can amend (change) or revoke (cancel) a revocable living Trust at any time. Sometimes called an *inter vivos* (Latin for “while living”) Trust; however, some living Trusts are irrevocable Trusts.

IRREVOCABLE TRUST—A Trust that cannot be amended or revoked by its grantor. Like corporations, these are tax entities. Irrevocable Trusts are used in estate planning to place assets outside of a person’s estate. One common irrevocable Trust is an irrevocable life insurance Trust (ILIT), which is intended primarily to prevent insurance death benefits from being included in your taxable estate. Irrevocable Trusts may be living Trusts or testamentary Trusts.

Estate Plan Quick Quiz

1. Who will my children live with when I’m dead?
2. Who will care for my pets?
3. Who will get my cash, real estate, business, and insurance-related assets? Under what conditions?
4. Who will get my tangible stuff? What is the fairest way to divide it up? Maximize its value?
5. What will be left for charities? Which organizations do I support?
6. Who will make personal, medical, and financial decisions for me if I am unable to communicate?
7. Should my viable organs be donated for use by someone who is in need?
8. Cremation or burial?

Neil Young



In a 1975 interview with *Rolling Stone* magazine, Neil Young said, “When I’m gone, there’s just going to be those records. Let the lawyers fight about the business. The records matter.” While those records amount to a gigantic artistic legacy, leaving matters related to “the business” to lawyers is not much of an estate plan. The value of Young’s songs would be greatly magnified if he were to specify the ways they should benefit his family, friends, and/or favorite charitable causes.

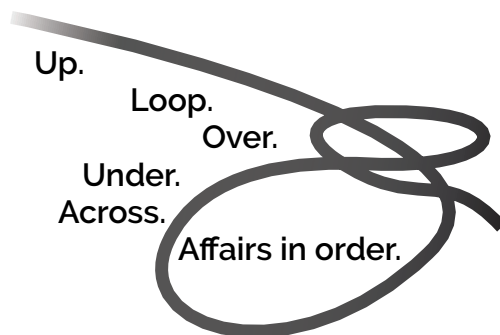
Neil Young’s current views on his legacy may differ from those he held in 1975, especially now that he sold 50 percent of his song catalog in an 1,180-song deal announced in early 2021. The Canadian rocker historically prohibited his music from being used for commercial purposes, and he may or may not have contractually retained rights to how his music is used during his lifetime (sorry to say, I’m not privy to the details of the contract). He may also have an estate plan that directs a trustee to further license his intellectual property in a way consistent with his *Weltanschauung* and family’s financial interests.

You might not be a rock star, but the primary difference between your estate and Neil Young’s may be one of scale. Make sure your assets end up in the right hands, so they are fully valued, rather than misused or misappropriated.

Tying It Together

Whether prioritizing estate planning is an easy detour for you, induces mild apprehension, or brings on a bout of projectile vomiting, think of the relief and satisfaction you’ll feel when you check this vital piece of unfinished business off your mental “to do” list. You will feel more secure in the face of an uncertain future, helping loved ones avert the kind of nightmares that destroy families and undermine your achievements. If you cannot eliminate family feuds, good estate planning can at least mitigate the damage.

It is really not that hard.



Contingency Planning: The “What Ifs . . .”

Occasionally, someone will tell me that their estate is so simple that a formal plan is unnecessary. After listening to this person explain, for example, that they just want their spouse to inherit everything or they plan to divide everything equally among their kids, I may ask, “But what if . . . ?”

Quality estate planning involves contingency planning. For instance, what happens if someone you thought would outlive you dies “out of order,” or a beneficiary’s “perfect marriage” turns out not to be? Although you can’t foresee every potential future disaster or fork in the road ahead, you may wish to anticipate a few possibilities.

Pearls of Wisdom

Tying up some of the few loose ends of my life now, while I can still make a knot, can be relatively easy.

Difficult or easy, if I put off planning for the inevitable, I might leave behind a myriad of horrific messes or miss out on a stellar opportunity to enhance the totality of my existence.

Planning my estate is impossible after I die.



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