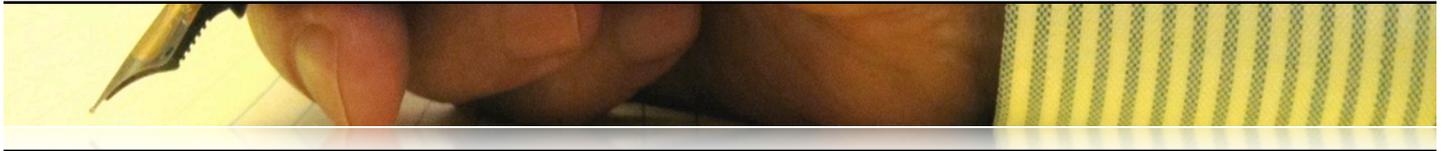


FAQ: Wills & Wishes

Teaching workshops about middle-class milestones, I answer a lot of questions for people. This is one of them.



Question: Should I have my life insurance policy paid to my estate?

Answer: Maybe.

You can have your insurance policy paid to your estate, and in most cases that will work fine. Directing that all your insurance policies, accounts, and investments go to your estate at your death simplifies estate planning, because you can control all your assets through one document, your will. However, there are two conditions under which you would not want your insurance policy to pay to your estate. One is if your estate is very large, and one is if it is very small.

If your estate is very large, then adding your insurance proceeds and other accounts to it could push your estate into taxable territory. Today this is highly unlikely. Congress has raised the minimum size of a taxable estate to \$5 million. This means an estate worth \$4.9 million is not subject to the estate tax. But if you do have an estate worth \$4.9 million, then adding your insurance proceeds to it might cause your beneficiaries to pay some estate tax.

If your estate is very small, then adding your insurance proceeds and other accounts could make them subject to claims by your creditors. Sometimes, an estate has more debt than assets, in which case some creditors (e.g. the credit card companies) get paid a fraction of what they are owed. Meanwhile the life insurance policy goes to your beneficiary free and clear. But if the life insurance policy is paid to your estate, then your creditors can be paid from those funds.

There is a way to route your life insurance policy proceeds through your will without having them subject to estate tax or creditors' claims. That is to make the policy payable to "the trustee named in my will." The trustee will hold the funds in trust, but they don't become part of your estate. Add instructions in your will telling your trustee what to do with the funds. Then you've simplified your estate planning while avoiding the dangers of the estate tax and the creditors' claims.

Source: Texas Estates Code § 111.052, 26 U.S.C. § 2010. Texas Insurance Code §§ 1108, 1104.023.

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The Law Office of Robin Theobald Cravey
www.craveylaw.com • Austin, Texas • 512•236•9655