



# Family Legacy Protection Planner

## WHY "I LOVE YOU" WILLS REALLY DON'T SAY "I LOVE YOU"

As Valentine's Day brings heart-shaped chocolate boxes and roses by the dozen into your imagination, seize the moment to learn about the drawbacks of "I love you" wills and introduce yourself to the estate planning move that's actually going to ensure you do well by your loved ones: a lifetime beneficiary trust.

### **Rise above the misconceptions**

No aspect of estate planning brings out as much emotional decision-making as the division of assets. Many people think, "I love you," so I'll leave you everything. In order to understand why "I love you" wills are, contrary to their name, not the most caring of estate planning gestures, it's important to understand the risks of "I love you" wills.

Simply put, an "I love you" will is a common name for a will in which the maker leaves all of his or her assets outright to his or her surviving spouse. Many people consider or even use this approach because they think that leaving assets in trust shows they don't trust their spouse. They may also think that a lack of federal estate taxes protects their assets from getting into the wrong hands. Sadly, many people also think that a will can be used to avoid probate. Unfortunately, none of these things are true.

### **Understand why "I love you" wills aren't effective**

Say you want to make sure your spouse, Lisa, gets access to your wealth upon your

death. In the case of an “I love you” will, Lisa will have to go to the probate court in order to validate your will and ultimately transfer the assets. Since Lisa receives the assets outright, Lisa’s estate plan will eventually control the distribution of whatever assets are left at her death. This could be a significant problem because Lisa could alter her estate plan at any time. Any verbal agreements about what will be done with those assets could go out the window, contrary to your wishes or any agreements you may have made.

- You could inadvertently disinherit your children. If you use an “I love you” will, your assets are now Lisa’s assets for her to leave however she wants. For example, Lisa could leave her assets to her own kids, a charity, a lover, or a new husband. Likewise, assets left outright to children could be lost in a divorce.
- Basic planning with outright inheritance sets your heirs up for asset protection issues. Once your assets are owned outright by your beneficiaries through a direct inheritance, those assets can be seized by creditors, divorcing spouses, or lost in bankruptcy. Even if your estate is below the exemption for the death tax, predatory creditors and lawsuits could still spell trouble.
- These wills still have to go through probate. Surviving spouses do not receive an exemption from probate. Even a simple will still has to go through the process, which you may not be anticipating — especially if you had hoped to keep the details of the will private. Trusts, however, don’t need to go through probate.
- An “I love you will” does not protect against guardianship or conservatorship court involvement for you or for your beneficiaries. For example, if you leave all of your assets to Lisa and she develops dementia, her entire estate (her assets plus the inheritance she received from you) could be under the control of a guardianship or conservatorship court.
- Basic plans pile more assets into survivors’ estates. Although portability between spouses can help, it still doesn’t prove useful with the generation-skipping transfer tax (GSTT). Portability isn’t available for non-spouse beneficiaries. This will only affect a very narrow group of people with very high net worth, and we don’t know yet what will happen with tax policy under the new Trump presidency. In a changing tax policy landscape, keeping yourself as informed as possible is an important tactic for ongoing success.

### **Explore lifetime beneficiary directed trusts**

Comprehensive, trust-based estate planning with lifetime beneficiary trusts is a better option than outright inheritance for surviving spouses, children, grandchildren, or other beneficiaries. If you leave your assets in lifetime beneficiary trusts, you retain control over where assets end up in the long run. Plus, your beneficiaries obtain robust asset protection features that can keep wealth safe from courts, creditors, and divorcing spouses. Your family’s private information can stay out of public record. You can also take advantage of more sophisticated tax planning than you can with a basic will or trust with outright distributions.

With this approach, you can focus enjoying your life with the knowledge that a qualified estate planning attorney is working for your best interests now as well as down the road. Now that's something to love and truly expresses "I love you" to your beneficiaries.

## ENSURE YOUR FAMILY IS PROTECTED

If you want to ensure that your family is protected, please schedule your complimentary Estate Planning Strategy Call with San Francisco's premier estate planning attorney, Matthew J. Tuller.

[LEARN MORE](#)

BROUGHT TO YOU BY:

## LAW OFFICE OF MATTHEW J. TULLER

275 BATTERY STREET  
13TH FLOOR  
SAN FRANCISCO, CA 94111

**With an emphasis on developing and maintaining relationships with our clients and allied professionals, our firm collaboratively provides comprehensive estate planning and administration solutions to every client. Our firm provides the full spectrum of estate planning solutions. This includes creating and implementing a comprehensive estate plan, maintaining that plan through life, and administering the plan in the most effective and efficient manner.**



This information is educational information only and not legal advice.

©2015 All Rights Reserved