

***Planning Ahead***



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**The “What Ifs” in Estate Planning**

At our first meeting, my new clients will tell me who they want to leave their estate to. And then I'll ask: “What if that person dies before you? Should their share go to their kids, or should the inheritance for that person be cancelled?”

Unless the person is a close relative, usually the answer is the inheritance should be cancelled. But what if there was no provision one way or another to deal with the possibility that your beneficiary could die before you?

There's a law for that. In California, if your Will leaves a sum of money or a certain item to a person who dies before you, and if the deceased beneficiary is a blood relative, then the gift to the deceased beneficiary will go instead to his or her issue. If the deceased beneficiary is not a blood relative, then the gift will be cancelled and instead will go to whoever is designated to receive “everything else” (the residue or remainder) under the Will.

If the Will leaves “everything else” to two or more people and one of those people dies before you, a recent case determined the deceased beneficiary's share of “everything else” will be added to the shares of the others, whether or not the deceased beneficiary was a blood relative. If there is nobody else designated to receive “everything else”, then the “everything else will go to your heirs-at-law by intestate succession as if you had no Will. Heirs-at-law can be distant relatives in another state you've never heard of.

This all seems very esoteric, but the bottom line is don't leave your estate plan to the default provisions of the law. The act of making a Will presumes you want to control who gets what if something happens to you. Review your estate plan with the “what ifs” in mind. What if a person named dies before you? What if he or she dies without children? Don't leave it to the oddities of the law to determine who will receive your estate if there was nobody else.

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