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# Transfer Your Business Interest at Death Through Will or Trust





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## What is transferring your business at death?

If you hold onto the ownership of your business until you die, you have three basic options for the transfer of your business. You could leave your business directly to your heirs through your will. You could transfer your business through your will into a trust. Or, if you die intestate (without a will), the business will be distributed in accordance with the intestate laws of your state.

Transferring your business through your will allows you to specify to whom the business (or controlling interest) should be left. Transferring your business through your will into a trust may make sense if your heirs are minors (and not ready to take direct control of the company) or if there are other reasons that you do not want your heirs to directly inherit the stock.

Of course, there are costs involved in transferring your business through your will or through a trust at your death. For example, the full value of the business will be included in your taxable estate. Unless you have made provisions to provide your heirs with extra liquidity (through life insurance, for example), your heirs might be forced to sell the company just to pay the estate tax bill.

Other costs include delays from probate and uncertainty on the part of clients as to who is running the business.

## Why transfer your business at death through a will?

### *Want business to go to specific heir*

You will want to transfer your business through your will if you want to leave the business (or a controlling interest in the business) to a specific heir. If you have three children, for example, but only one of the children is working in your business, then you may want to leave the stock in your business to that child. Without a will, the stock in your business might be distributed equally among your three children.

### *Recapitalization may be set up in will*

Another reason to transfer your business through your will is that you can give your executor the option to recapitalize the stock of the company after your death. You might want to give your executor this option if you have some children who are active in the business and some children who are not active. Your executor can recapitalize the equity of the company and transfer class B (nonvoting stock) to the nonactive children and class A (voting stock) to the children active in the business.

### *Succession plans can be laid out in will*

Another reason to leave your business to your heirs in your will is that you can specify a long-term succession plan for the business in the will. If you want one of your children to take over and run the business, for example, then this instruction can be specified in the will. The ability to designate a plan of succession in your will does not eliminate the need to implement both short- and long-term succession plans prior to your death. In other words, what should be transferred by will or trust is your interest (i.e., shares) of the business--who will run the company and similar decisions should have been made long before.

## Why transfer your business interest at death through a trust?

### *May want to use a trust if heirs are minors*

One reason to transfer your business interest at death through a trust is if your children are minors. You may also want to transfer your business interest through a trust if your children are not ready to run the business or have no interest in running the business. The trustee of the trust can then run the business or hire a professional manager to run the business. Any extra income that the business generates can then be distributed through the trust to the beneficiaries (or held in the trust).

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