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Show your estate a little RESPECT

When famed singer-songwriter Aretha Franklin died, no one could find her will. Her lawyer had urged her to get one completed, especially once she received her pancreatic cancer diagnosis, but she never followed up. Aretha lived in Michigan, where I was born and raised, so I have a special connection to her Motown roots and incredible music. I've been following the issue of her will – or lack of – with interest.

Very recently, when Aretha's Detroit house was cleaned out, three wills were found. Two were in a locked cabinet, and the third under a couch cushion. All three wills were at least partly in Aretha's own handwriting. The most recent one was hand scribbled with notations on the side. Although these wills aren't easy to read, they will all have to be considered when the court reviews them. If none of the wills are found to be valid in whole or part, Aretha's estate will be distributed according to the intestacy rules of the State of Michigan.

Wills written in a person's handwriting are called holograph wills. Michigan accepts holograph wills that are dated and signed by the testator (e.g. Aretha), and these wills don't need to be witnessed. But not all U.S. states or Canadian provinces recognize holograph wills.

Aretha's estate is worth more than \$80 million US so there is lots of money to argue about. The U.S. Internal Revenue Service (IRS) has already come knocking alleging the estate owes millions in back taxes and penalties. Two of Aretha's sons are challenging the handwritten wills. Under Michigan's intestacy rules, Aretha's estate would be divided equally between all four sons. With no planning done, there will be costly court and legal fees, delays in distributing her large sum of wealth, and her sons will likely have a very tumultuous relationship with each other from this point on.

It's now up to the court to determine the distribution of Aretha's estate and it could take several months or years to sort out.

Fewer than 50% of Canadians have a will in place. While most Canadians won't leave as large an estate as Aretha's, they will probably still have something to leave for their beneficiaries. Regardless of the size of the estate, when there's no will or estate plan in place, it's a missed opportunity for tax planning and ensuring the estate is distributed according to the testator's wishes. It also means costly court and legal fees will apply and there will be delays in administering the estate. If there's life insurance but no will, there's a missed opportunity to use the insurance proceeds in an insurance trust contained within the will to plan for minors and mentally disabled individuals or to control the distribution of insurance proceeds to a beneficiary(ies). Life insurance can also be used to fund a large tax liability such as the one that Aretha's estate potentially faces.

With no plan in place and no will for direction, the administration of an estate leads to a messy and costly outcome.

We can all learn from situations such as Aretha Franklin's. Clients need to do the proper estate planning, think about their beneficiaries and avoid the pitfalls that come from having no estate plan. Life insurance can be integral in the planning process by solving a tax funding need or providing for beneficiaries. To paraphrase Aretha: show your estate a little RESPECT!



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