

The Best Time Is Now: Planning to Protect Your Assets and Leave A Legacy

by Scott Blades, Executive Director, Tucson Interfaith HIV/AIDS Network (TIHAN)



You may believe that only “wealthy” people need to make a will or create an estate plan. But the truth is that it’s not just “those people” — who have big salaries, live in a mansion, own an expensive car, have a stock portfolio — who should document their wishes.

In reality, if you own anything—a car, a house, a big screen TV—then you have what is called an “estate” and especially if you are LGBTQ, you should pay special attention to making sure that your wishes are recorded regarding what you want to happen to those things when you die. Because if you don’t document your wishes, your relatives and the state of Arizona could end up with your assets.

Your assets are the things that you own—real estate and personal property (car, furniture, bank accounts, etc)—and once you pass away, these things become your estate, and the law has specific rules about what happens to your estate when you pass away.

So, if you want to make sure a particular person or group gets your assets after you die, then you need to create a written estate plan so that the State of Arizona does not dictate who will inherit your property. Otherwise, your assets will go to a legally recognized family member, per state law.

Similarly, if something happens and you are in an accident and become disabled, your legal relatives will be the ones who make decisions about your medical care and treatment, UNLESS you have legally designated your partner or another person to have that authority. And if you do pass away without a will and other plans in place, only your legal relatives will inherit your estate.

It’s not an easy or fun thing to do to think about our own deaths. We sometimes think we’ll live forever, or that we’ll think about “those things” later, when we get older, when we have more assets, when we have more time....

But the reality is that tomorrow isn’t guaranteed for any of us. We’ve all known people who have suffered medical problems and become unable to make decisions, or who have passed away unexpectedly, far before their time. These tragedies, whether from accidents or underlying health issues or from whatever cause, too often happen, and occur without adequate plans being in place regarding medical decision-making and estate plans.

If you do not have a will at the time of death, the state will make determinations about how your estate is distributed. And here in Arizona, if you are part of an unmarried, same-

sex couple, your surviving partner will receive nothing from your estate unless you have made specific legal arrangements.

I encourage everyone to make your wishes known regarding how you want your assets to be distributed after your death. If you have a will and/or estate plan, please review it and make sure it has your most current wishes. If you don’t yet have one, please start thinking about your wishes and consider documenting them in a way that will be legally binding.

Those of us caring for friends and partners with HIV/AIDS over the past three decades can share too many horror stories about partners being left out of making decisions about things like medical treatment, cremation, and distributing assets.

On top of the tremendous emotional trauma and grief of the surviving partners and friends, we’ve also witnessed too often the confusion and economic chaos after a loved one’s death when there were no legal documents about

what should happen to the person’s assets.

Fortunately, there is now much more awareness that we can’t trust the state of Arizona (or any state) to protect our interests. More people know that we must be proactive and legally document our wishes about our healthcare and the disposition of our assets when (not if!) we pass away. And with so many LGBT people having families and children, we’re much more aware of the need to make detailed plans about their care when we die.

As a gay-friendly community, Southern Arizona is blessed with a host of people who specialize in helping us protect our rights and our wishes.

If you would like referrals to qualified and sensitive estate attorneys working with our LGBTQ community members, please contact me at (520) 299-6647 or scott@tihan.org. Additional information about making charitable estate gifts is available free of charge through the Center for Planned Giving, located at the

Community Foundation for Southern Arizona: (520) 545-1117.

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Depending on the size and complexity of your assets, you may or may not need an attorney to draw up documents, but it's always a good idea to at least have a consultation with a qualified attorney to give you advice about how to best protect your rights.

On a related note, when you are making your plans for what will happen to your assets after you die, please consider making provisions not just for the people you love, but also for the causes and organizations that are most important to you.

When you leave your assets to people and organizations, you can create a legacy that will help you continue to make a difference, even after you are gone. Whether it's leaving money designated for your child's education or leaving funds to create or sustain nonprofit community programs you care about, you can make sure you are remembered and that your dreams can be supported even after you are gone.

As one example, the programs of TIHAN have benefitted greatly from people who included our programs and services in their estate plans. We are honored and grateful when community members have requested that, when they pass away, people are encouraged to make memorial contributions in their honor to TIHAN. And we have been buoyed by the difference that people make when they leave part of their estate to support the work of TIHAN.

There are many options for you. You may make any nonprofit organization a beneficiary of your will for a specific amount of money, for a percentage of your estate, or a contingent beneficiary (to become a beneficiary only if your primary beneficiary does not survive you.). You can designate those funds for a very specific purpose, or for general support to be used by the organization for what it needs most at the time of the gift. Some people are concerned that if they include TIHAN in their will, what if at the time of their death AIDS has been cured (thank God!) and TIHAN has been disbanded? Your attorney would make sure that your will has a backup plan in place, that would have your second option, or would designate who would make that decision if your primary designee is no longer around.

If you have life insurance through your employer or through your own separate policy, you may name a favorite charity as its beneficiary. You may also make a charity the beneficiary of an IRA, SEP-IRA, Keogh plan, 401(k) plan, 403(b) plan, or other qualified retirement plan. In most instances, doing so will reduce the amount of income tax that your estate will have to pay.

Estate planning isn't just about what you want to happen with your assets after you die. Estate planning can help you now to provide tax benefits, as well as begin helping those in need served by your favorite charities.

Some types of gifts may carry significant tax advantages for you today, or allow you to increase your retirement income. A financial advisor or attorney can help you decide what type of gift might work best for you with your particular financial situation. It is always prudent to consult with one's tax advisor or financial advisor, or an attorney, for more information about charitable estate gifts.

Charitable gifts of real estate may also be beneficial to retirement planning. Often, the value of a residence, vacation home, farm or vacant lot has appreciated so greatly that its sale would incur a sizeable tax burden. By making a charitable gift of real estate, you may be able to avoid paying capital gains while receiving a tax deduction for the full, fair market value of the property. It is even possible to donate your personal residence to charity, retaining the right to live in the property the remainder of your life, and getting a tax deduction in the current tax year!

Life income plans allow you to support your favorite charities and, in return, receive income for the rest of your life! Such plans also provide significant income tax savings and favorable capital gains tax treatment if the plans are funded with appreciated assets. Some of the more

popular types of life income gifts include *Charitable Gift Annuities* and *Charitable Remainder Trusts*.

As we often say in the context of HIV testing, knowledge is power. It's good to know your wishes for what you want to happen to your assets after you're gone. It's good to think now about the legacy you want to leave to this community, and take the necessary steps now to put your plans in place.

The best time is now: please be proactive and make sure that you are protected, that the people and organizations that mean the most to you are cared for after you are gone, and that your legacy will live on, and our community will thrive.

Whether it's leaving money designated for your child's education or leaving funds to create or sustain nonprofit community programs you care about, you can make sure you are remembered and that your dreams can be supported even after you are gone.

Scott Blades is the founder and Executive Director of the Tucson Interfaith HIV/AIDS Network (TIHAN) - www.tihan.org. Founded in 1994, TIHAN is now the largest privately-funded provider of support services for people living with HIV/AIDS in the State of Arizona. Scott may be contacted at scott@tihan.org or (520) 299-6647.



Tucson Interfaith HIV/AIDS Network

A Compassionate Response to HIV/AIDS