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Aretha Franklin left no estate plan or will

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When Aretha Franklin died last week after a long battle with pancreatic cancer, the 76-year-old Queen of Soul reportedly left behind no will or estate plan, potentially exposing her heirs to estate taxes.

Franklin's four surviving sons have filed a document listing themselves as interested parties for her estate, according to CNN, and her niece has applied to the court requesting to be appointed as executor of her estate, which is estimated to be worth $80 million. Her longtime attorney, Don Wilson, told the Detroit Free Press that he had often asked her to set up a trust, but she never did. "I was after her for a number of years to do a trust," he said. "It would have expedited things and kept them out of probate, and kept things private."

Other legendary performers like Prince have also died without leaving behind a will. Another singer, James Brown, known as the Godfather of Soul, did write a will, but his estate is still unsettled 11 years after his death.



Aretha Franklin performed during President Obama's inauguration in January 2009.
Dennis Brack/Bloomberg News

Estate planning experts have encountered similar issues with other celebrities. Jeffrey Eisen, a trusts and estates attorney with the law firm Mitchell Silberberg & Knupp in Los Angeles, focuses on estate planning, probate and trust administration. He has represented beneficiaries in a number of contested or disputed estates. Many of his clients are prominent individuals and estates in the entertainment industry, including Muhammad Ali and Farrah Fawcett.

He foresees problems ahead with Franklin's estate. "It means that the State of Michigan is going to write her will for her because she didn't have one," he told *Accounting Today*. "It means that she didn't get to choose who would be in charge of her estate, including being in control of her music catalog. That's going to be determined by the heirs, assuming they can agree. And it means that everything is going to be played out in public view, including the valuation of her assets, her music catalog -- everything. It's completely and totally public and all avoidable."

Stuart Kohn, a trusts and estates attorney with Levenfeld Pearlstein in Chicago, focuses on estate, gift and income tax planning and business succession planning. "She's a Michigan resident, so Michigan laws of heirship would dictate where everything would flow, meaning who would inherit her assets," he said. "Because she had no spouse, her children would inherit her assets, and because she had made no estate plan for them, they would inherit those assets outright rather than in trust. But in terms of the tax implications, because she didn't do any tax planning, the estate tax applies. The federal estate tax exemption is $11.18 million per person, so assuming she didn't use any of her exemption during her lifetime by making taxable gifts, then if her estate is valued in excess of $11.18 million, there's going to be estate tax and that estate tax is taxed at a flat 40 percent rate. There is no estate tax in Michigan, so everything over the $11.18 million is subject to estate tax at 40 percent, and the tax is due nine months after she passed away. So without planning the estate is going to have to come up with that money and pay that tax."

High-profile clients sometimes ignore advice from tax experts and attorneys to fill out a will for their heirs. "I assume that she was getting that advice and she just didn't take it," said Eisen. "She just didn't want to deal with it. I'd be very surprised she wasn't at least getting the advice. Maybe she was superstitious about it and thought that it was a bad sign. Some people think it's like signing their own death warrant."

Franklin might have been able to do some charitable planning for her estate. "By not doing any lifetime planning to reduce the size of her estate and not having a will that could have maybe left some money to charity, the taxes are probably the same," said Eisen. "In other words, if she had a properly done estate plan and left everything to her children, the estate tax wouldn't have changed, but still she could have done some lifetime planning maybe to reduce her estate."

Kohn believes that proper estate planning could have reduced the taxes for Franklin's heirs. "If there was planning done to try to create liquidity within the estate to pay the tax through whatever it might be — life insurance, through gifting to reduce the tax, transactions with trusts that would create liquidity within the estate, to put the illiquid assets outside of the estate — there are transactions that estate planners could implement to try to mitigate that potential impact," he said. "In addition, anything that goes to the children then is includible in their estates for estate tax purposes and would be available to their spouses in the event of divorce and would be available to their creditors if they ever had issues. With an estate plan, she could have left assets to them in trust. That would protect against all of those situations to the greatest extent possible and kept assets to the greatest extent possible out of their estates for estate tax purposes."

Charitable planning could have helped with estate taxes. "Whether she had charitable planning or not, providing that any of her memorabilia would go to museums or anything like that, there would have been potential tax benefit to doing that to the estate," said Kohn. "Now the heirs inherit all of that. They might want to make a contribution and they might get some income tax benefits potentially. I don't know what her assets are, but a musician like that is going to have significant illiquid assets, like music copyrights and royalty payments, so long-term income streams could have and should have been planned for."

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