

INFORMATION NEEDED TO DRAFT A WILL

The information requested in this questionnaire is necessary to prepare your Will, and will be held strictly confidential. Attorney-Client Communication: this document and its contents constitute legally privileged information.

1. Full legal name: _____
Other name as used in some assets: _____

2. Date of Birth: _____ Social Security Number: _____

3. Address: _____

City

State

Zip Code

Mailing Address (If Different): _____
E-mail Address: _____

4. Phone numbers:
Home: _____ Work: _____ Cell: _____
Other Phone number: _____

5. Spouse's Name: _____
Address (If Different): _____
Date of Birth: _____ Social Security Number: _____

6. Names and birth dates of children:

Name: _____ Age: _____
D.O.B.: _____
Address: _____
Relation to you: _____ Married? Yes / No Children? Yes / No

Name: _____ Age: _____
D.O.B.: _____
Address: _____
Relation to you: _____ Married? Yes / No Children? Yes / No

Name: _____ Age: _____

D.O.B.: _____

Address: _____

Relation to you: _____ Married? Yes / No Children? Yes / No

Name: _____ Age: _____

D.O.B.: _____

Address: _____

Relation to you: _____ Married? Yes / No Children? Yes / No

7. Any deceased children? Yes / No

If so, list names:

8. Please indicate the general scheme as to how you want your estate to be distributed:

9. Any other special bequests, conditions, terms, etc:

10. Trust provisions, distributions, etc:

11. Who will settle your estate? (Executor):

Executor: _____ Relation: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Alternate: _____ Relation: _____

Address: _____

Home Phone: _____ Cell Phone: _____

2nd Alternate: _____ Relation: _____

Address: _____

Home Phone: _____ Cell Phone: _____

12. If any trust is created, who will be trustee?

Trustee Name: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Alternative Trustee Name: _____

Address: _____

Home Phone: _____ Cell Phone: _____

13. If you have minor children and you and your spouse die before they become of age who will raise them (guardian of the person) and who will hold their property (guardian of the estate) until the minor or minors become of age:

Guardian Name: _____ Relation: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Alternative Guardian: _____ Relation: _____

Address: _____

Home Phone: _____ Cell Phone: _____

14. Where are your legal records or documents to be kept?

WHAT YOU SHOULD KNOW ABOUT WILLS, TRUSTS AND PROBATE

The following discussion should answer some questions you may have regarding wills and probate.

WHAT IS A WILL?

A Will is a legal document that allows you to direct the distribution of your property upon death in an economical and efficient manner. Bequests under a will may pass either directly or in trust to a beneficiary.

It is a legal instrument, executed in accordance with state laws pertaining to testamentary transfers, which pass title of your property pursuant to the terms of the Will to your beneficiaries upon your death.

WHAT IS A TRUST?

A Trust is a legal entity in which legal title and management of property are vested in a Trustee who administers the property for a designated beneficiary(s).

Property may be put into a trust while the donor is alive or the trust may take effect and property transferred to it after a person dies (a testamentary trust). A trust may be included in a will.

WHAT IS ESTATE PLANNING?

Estate Planning is the process of ascertaining the appropriate legal document, i.e., Will or Trust for your estate, and what pertinent provisions to insert in the will. You may desire to obtain the most favorable tax and other benefits available for your estate.

You may also desire to provide an efficient means to manage and pass your property to your heirs upon your death. In the course of assembling the various requested information, you should decide the way you desire your estate to be distributed.

Naturally, there are many factors that should be considered when arriving at a comprehensive estate plan, such as Federal Estate and Income Tax consequences; these may differ with each situation.

WHAT SHOULD YOU HAVE, A WILL OR A TRUST?

If you die without a Will, the rules of intestate distribution dictate how your property will be passed. In Texas, your estate will be encumbered with significant additional legal expenses and delays in probate court if you do not have a Will. Many states require the posting of a bond. The cost of a bond can be a significant expense.

There are many tax and non-tax advantages for creating a Trust in your will (Testamentary Trust). For example, a person with a substantial estate may wish to leave a large portion of the estate in trust for his or her beneficiaries to prevent the taxation of such property upon death of the beneficiary. Additionally, if a minor child is a beneficiary of the estate, it is advisable to create a Trust for the benefit of the child.

WHAT IS PROBATE?

Probate is the process of submitting a Will to the Probate Court, administering an estate, and distributing the property.

A will must be probated as a prerequisite to its ability to transfer property to the intended heirs. A will has no legal right to transfer property until the appropriate court has entered a formal order or decree which admits the will to probate. A probate proceeding can be a contested or an uncontested matter.

An individual executor or family member (who is not an attorney) can handle the probate of a non-contested will in some states.

WHAT IS AN INDEPENDENT EXECUTOR?

An Independent Executor is free to administer your estate with a minimum of court supervision and legal expense. It is a streamlined and simplified probate proceeding.

Essentially, an Independent Executor has the duty to settle your estate and distribute your property as designated in your Will.

If the maker of the Will is married, the maker, known as a Testator, if a male, or a Testatrix, if a female, often designates his or her spouse as an Independent Executor. However, if the estate is expected to be substantial, or burdensome for the spouse to manage (for example, when a business or a farm will be an asset of the estate), then the Testator or Testatrix may wish to designate a bank or trust company as the Independent Executor, instead of the spouse. The maker could also consider someone to help the spouse as a Co-Independent Executor.

If you decide to provide for a Trust in your Will, you will designate a Trustee who will manage the Trust for your beneficiaries. If you are married, you may wish to designate your spouse as the Sole Trustee or a Co-trustee. You will also designate a Trustee who will manage any Trusts created for the benefit of your children.

An Independent Executor or Trustee (who is not a parent of your children) is not authorized to personally take custody of your minor children. You may, therefore, want to name a Guardian for your minor children who will be in a position to assume responsibility for the care of your children upon the death of the survivor of you and your spouse.

A Guardian may be designated either in your Will or in a separate written instrument. Sometimes a separate instrument is advisable if you have difficulty deciding upon a Guardian.

You should also designate one or more alternative Independent Executors, Trustees and Guardians who will act in the event your first choice predeceases you or is otherwise unable or unwilling to serve.

REVIEW OF THE TERMS:

Some of the terms which are particularly relevant to Estate Planning are listed below:

1. **WILL:** A legal instrument, executed in accordance with state laws pertaining to testamentary transfers which pass title of your property pursuant to the terms of the Will to your beneficiaries upon your death.

2. **TESTATOR:** A male person who executes a Will.

TESTATRIX: A female person who executes a Will.

3. **LAWS OF DECENT AND DISTRIBUTION:** Statutory provisions which set out the manner in which an estate is distributed when a person dies without leaving a Will.

4. **EXECUTOR:** A person named in your Will to administer your estate. The Executor is responsible for ascertaining the estates' assets and liabilities. The Executor determines which estate taxes, if any, are owed by the estate. The Executor also pays all of the estates' debts, collects the debts owed by the estate and represents the estate before the probate court. Thereafter, the Executor sees that all of the estate property is distributed to the proper beneficiaries as dictated by the Will, including the transfer of title so that ownership will finally vest. The procedure which gives your Executor the greatest freedom in managing the estate, is the insertion in your Will of a provision that allows the Executor to serve as an "Independent Executor without bond."

5. **ADMINISTRATOR:** A party chosen by the court to administer the estate whenever a person dies without a valid Will, or, when for some reason the Executor appointed cannot serve. The Administrator customarily receives a fee for his or her services, is bonded, and must make application to the court and receive the court's approval at each step in the process of disbursement of the assets. The Administrator's fees are deducted from the estate.

6. **GUARDIAN:** A person appointed to stand in your stead with regard to the raising of your children to their legal majority (presently 18 years) in the event of the death of both spouses.

7. **TRUSTEE:** The Trustee is the person who will manage the trust fund, customarily for the benefit of your children. The Trustee will take your place regarding expenditures for your children. He or she should, therefore, be a person whose financial theories most closely approximate your own. For purposes of permanency, several trust companies are available for this capacity and can bring advanced financial knowledge to bear upon the estate.

OTHER CONSIDERATIONS:

If you move to a different state or country, have your Will reviewed by an attorney licensed in that jurisdiction to determine if the Will is valid in such state or country and whether or not probate of the Will may be complicated by the use of an out-of-state Will.

We advise our clients to place the original Will in a safe place such as a safe deposit box and keep a copy of their Will at home. It is also a good idea to give a copy of the Will to the Executor named in the Will.

The Will should be reviewed periodically so that it may be kept current. You should revise your Will whenever your personal circumstances change significantly, such as with a birth, death, remarriage or divorce, or if your assets change substantially.

Since the Will is a legal document, it cannot be changed unless formal procedures are complied with. Accordingly, please do not attempt to alter, write on your Will or change your Will yourself. You should call your attorney.