

# ESTATE PLANNING QUESTIONNAIRE

## PERSONAL INFORMATION

Full Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Are you a U.S. citizen? \_\_\_\_ Yes \_\_\_\_ No

Your current address: \_\_\_\_\_

Phone #s: (home): \_\_\_\_\_ (office): \_\_\_\_\_ (spouse's office): \_\_\_\_\_

E-mail: (client's): \_\_\_\_\_ (spouse's): \_\_\_\_\_

[Optional--provide only if you/your spouse authorize legal office personnel to contact you by e-mail.]

## MARITAL STATUS (select the most appropriate):

\_\_\_\_ Married once, and my spouse is alive.

(if married) Full name of client's spouse: \_\_\_\_\_ SSN: \_\_\_\_\_

Is spouse a U.S. citizen? \_\_\_\_ Yes \_\_\_\_ No

\_\_\_\_ Presently married, and had a prior marriage (previous spouse is deceased or divorced).

\_\_\_\_ Widow/ widower [Full name of deceased spouse: \_\_\_\_\_]

\_\_\_\_ Divorced, not presently married.

\_\_\_\_ Single, never married.

## CHILDREN:

How many children do you have (include adopted children & stepchildren)? \_\_\_\_\_

Is any child a minor (under 18 in most states, under 19 in Alabama)? \_\_\_\_ yes \_\_\_\_ no

Please list your children's names, ages, and whether they are your biological, adopted, or stepchildren:

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Is any child of yours in fact a stepchild or adopted child? \_\_\_\_ yes \_\_\_\_ no

If you do (or were to) have stepchildren or adopted children, would you want to:

\_\_\_\_ Expressly include them in your will (treat them the same as natural children).

\_\_\_\_ Expressly exclude them from your will.

\_\_\_\_ Have the will remain silent as to stepchildren and adopted children.

**VALUE OF ESTATE:** To determine what type of will is appropriate for you, we need an estimate of the value of your estate. For this purpose, include the value of all of the property you own in your name, and if married, the value of your spouse's property. If any of your property secures a debt (for example, a mortgage on your home), include your equity in the property. Also include the value of your life insurance policies (SGLI, VGLI, etc.). Note that life insurance ordinarily does **not** pass according to your will; it will go to the beneficiaries you designated on the insurance forms. However, the value of the insurance is typically included in determining whether estate taxes will apply in your case.

Approximate value of your estate (not including life insurance): \$ \_\_\_\_\_

Approximate value of your spouse's estate (not including life insurance): \$ \_\_\_\_\_

Value of life insurance (self and spouse): \$ \_\_\_\_\_

Total value of both your and your spouse's estate including life insurance: \*\$ \_\_\_\_\_

\*Note: If you think the value of your estate exceeds \$675,000 (or \$1 million if you are married), your estate may be subject to estate taxes. Ask legal personnel for a copy of the **CLIENT & SPOUSE FINANCIAL DATA** worksheet and complete it. Proper planning can help you minimize your estate-tax exposure. Please note that the complexity of your estate plan may exceed the expertise of the local DoD Legal Assistance Attorney. If so, we will assist you finding an estate planning expert.

**EXECUTOR:** Your Executor (or in some States, "personal representative") ensures your estate is settled upon your death. This ordinarily involves going through "probate", a court-administered procedure for settling an estate as provided in your will or under State law. Probate involves petitioning a court for letters of appointment/testamentary, settling creditor claims, finding and distributing assets, and filing any necessary tax returns. Any adult may serve as your executor, although many States prefer or require an executor who is a legal resident of the State where probate is conducted. Therefore, if possible, you should select family members or responsible friends who are residents of the same State as your legal residence or the state where you own real estate.

Whom do you wish to have as your executor? (check one)

\_\_\_\_\_ My spouse.

\_\_\_\_\_ My spouse and a co-executor.

\_\_\_\_\_ My spouse and a successor executor.\*

\_\_\_\_\_ One executor other than my spouse.

\_\_\_\_\_ Two co-executors, neither of whom are my spouse.

\_\_\_\_\_ One executor and a successor executor, neither of whom are my spouse.\*

\*The successor will act only if your first choice is unable to act as your executor.

If you named someone other than your spouse, indicate name(s) and relationship(s):

\_\_\_\_\_  
\_\_\_\_\_

**PRIMARY BENEFICIARIES:**

Whom do you want to receive all (or the majority) of your estate? (check one)

\_\_\_\_\_ My spouse, if he/she survives me, and if not, then my children.

\_\_\_\_\_ Disinherit spouse (to the fullest extent permitted by law).

\_\_\_\_\_ My children.

\_\_\_\_\_ My parents in equal shares, or if not, then my siblings in equal shares (please provide names and relationships):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Another beneficiary(s) (list name, relationship, and percentage of estate to each of the beneficiaries):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If any of the above beneficiaries should die before you and leave descendents (children/issue), do you want the share of the deceased beneficiary to pass to their issue, or to pass only to the beneficiaries you indicated above? (For example, if one of your children predeceases you and leaves children, do you want the share of your deceased child to pass to his children (your grandchildren) or to go only to your surviving children?)

\_\_\_\_\_ To the children of any deceased beneficiary.

\_\_\_\_\_ Only to the named beneficiaries listed above.

**SECONDARY BENEFICIARIES:** If all of the primary beneficiaries you designated predecease you or die within 30 days of you, to whom do you wish to leave your estate (please provide name, relationship, and percentage of inheritance or list of which item(s) are to go to which individuals)?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PERSONAL EFFECTS AND TANGIBLE PERSONAL PROPERTY:**

Do you wish to pass your personal property to your beneficiaries in the same manner that you passed your estate indicated above? \_\_\_\_\_ YES \_\_\_\_\_ NO If "NO" then to whom do you want to receive it:

\_\_\_\_\_ All to my spouse.

\_\_\_\_\_ Other (please explain):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Specific items to go to specific individuals (See "SPECIFIC BEQUESTS"), with all items not listed passing:

\_\_\_\_\_ to my spouse OR  
\_\_\_\_\_ with the rest of my estate.

**SPECIFIC BEQUESTS:** You may make specific gifts of personal property (e.g. boat, antique car, or family heirlooms etc.), cash, or real estate to specific people or charities in your will. If you make no specific bequests, all of your property will pass to your primary beneficiaries. Many states allow you to make a “personal memorandum” or “letter of instruction,” in which you can give specific items of personal property to named beneficiaries in writing separate from your will. While in most states memorandum gifts are not legally binding, your executor will give these gifts as much weight as state law allows.

Do you wish to make any specific bequests in your will? \_\_\_\_ YES \_\_\_\_ NO

If YES, please list your specific bequest(s) below or make reference to the individuals you want to receive specific items:

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Do you want your will to make reference to a “personal memorandum?” \_\_\_\_ YES \_\_\_\_ NO

**REAL ESTATE**

Do you own real estate jointly with your spouse? \_\_\_\_ yes\* \_\_\_\_ no

Do you own real estate other than jointly with your spouse? \_\_\_\_ yes\* \_\_\_\_ no

If YES, how do you wish to give your real estate?

\_\_\_\_ I wish to pass my real estate to my beneficiaries in the same manner that I passed my primary estate as indicated above: \_\_\_\_ YES \_\_\_\_ NO. If “NO” then whom do you want to receive real estate:

\_\_\_\_ All to my spouse.

\_\_\_\_ Different properties to different beneficiaries (below, please list each person, their relationship to you, and which property they are to receive):

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\_\_\_\_ My home to my spouse for as long as my spouse lives there and then my home and the rest of my real estate to pass with the rest of my estate.

\* Please bring copies of your real estate deeds to the legal assistance attorney at your will interview. It is not necessary to bring the original documents.

**FAMILY FARM/FAMILY-OWNED BUSINESS:** Do you have a farm or family-owned business?

\_\_\_\_ yes \_\_\_\_ no

**RESIDUARY ESTATE:** Your residuary estate is whatever property remains after paying debts and expenses of administration, and any specific bequests. Because many people do not make specific bequests, the "residuary" usually describes all the property in your estate left to your primary beneficiaries.

To whom do you want to leave your residuary estate?

\_\_\_\_\_ I wish to pass my real estate to my beneficiaries in the same manner that I passed my primary estate as indicated above.  YES  NO. If "NO" then whom do you want to receive residuary estate:  
(check one)

- \_\_\_\_\_ All to my spouse if he/she survives me, and if not, then to my children and issue.
- \_\_\_\_\_ A minimum bequest to my spouse, disinheriting him/her to the fullest extent of the law, with the remainder going to some other person(s).
- \_\_\_\_\_ All to one specific beneficiary other than my spouse.
- \_\_\_\_\_ To more than one beneficiary.

If you have more than one beneficiary, are they:

- \_\_\_\_\_ Specific people who are to share equally.
- \_\_\_\_\_ Group of people described as a class (e.g., "my brothers and sisters") sharing equally.
- \_\_\_\_\_ Some other unequal division between the beneficiaries (e.g., 50% to one beneficiary and 25% each to two others).
- \_\_\_\_\_ Other (please explain):  
\_\_\_\_\_  
\_\_\_\_\_

**MINORS:** If any of your beneficiaries is a minor, at what age do you want them to receive their distribution?  
\_\_\_\_\_ 18 OR \_\_\_\_\_ 21 OR \_\_\_\_\_ Some other age (please indicate the age): \_\_\_\_\_

(NOTE: Selecting an age greater than 21 will likely require a trust, which may cause your estate to incur additional expenses for the administration of the trust. These expenses would therefore diminish the amount available for your beneficiaries.)

**TRUSTS OR UGMA/UTMA (OPTIONAL):** Instead of giving your estate directly to a beneficiary (typically a minor), you may:

- (1) give it to a Trustee, IN TRUST, for the benefit of your beneficiary/ies until he/she/they reach(es) the age you designate. OR
- (2) give it to a Custodian, to maintain for the benefit of your beneficiary/ies until he/she/they reach(es) the age of distribution under the UNIFORM GIFTS TO MINORS ACT/UTMA.

The trustee will manage the trust under court supervision. Although the trustee's primary purpose is to safeguard the inheritance, the money can also be used for any beneficiary's health, education, welfare, or maintenance, at the trustee's discretion. Also, you may create a trust that "pools" your estate. Through pooling, your estate and insurance proceeds remain in a single trust until **all** the beneficiaries reach the distribution age you choose. The trustee may provide funds from the trust to each beneficiary as each has a need. Thus, not all beneficiaries will receive equal amounts from the trust. Such an arrangement is useful where some beneficiaries will likely need more financial assistance over a longer period of time than other

beneficiaries will. A trust is also useful where you desire to protect the assets from third parties who may have claims against one of your beneficiaries.

For many people, a trust is unnecessary because, under the Uniform Gifts to Minors Act (UGMA) language in your will, gifts to beneficiaries under 18 (or 21 if you prefer) will be controlled by your executor(trix) initially, and guardian after probate, without establishing a trust. The executor(trix) and/or guardian can still use the child's inheritance for the benefit of the child, and this is ordinarily less complicated and less expensive than a trust. You might prefer not to use a trust unless you have children from a prior marriage, disabled children, or a very large estate. Depending on your preferences, one disadvantage to UGMA may be that your estate may not be pooled—in other words, it will be divided in as many equal shares as there are minor beneficiaries designated; each beneficiary will receive his/her share as they turn 18 or 21, at your option.

In a nutshell, a trust may be more appropriate if you want the trustee/ guardian authority to spend more money on one child than another (e.g., a disabled child), or you wish to condition the distribution of your estate on an event (i.e. the receipt of college degree or the completion of a prescribed number of years of military service).

Do you want a trust? \_\_\_ yes \_\_\_no *OR*

Do you want to use UGMA/UTMA for distributions to minors \_\_\_ Yes.

Whom do you wish to name as Trustee or Custodian (under UGMA/UTMA)? (Please list name and relationship):

1<sup>st</sup> choice: \_\_\_\_\_

2<sup>nd</sup> or 3<sup>rd</sup> choice (optional): \_\_\_\_\_

If you want a TRUST, would this be:

\_\_\_\_\_ one trust for the benefit of all beneficiaries (“pooled” trust).

\_\_\_\_\_ individual trusts for each of the beneficiaries.

For TRUSTS, at what age do you want your beneficiaries to be when the trust ends?

\_\_\_\_\_ 18 \_\_\_\_\_ 21 \_\_\_\_\_ other (please designate the age): \_\_\_\_\_

For TRUSTS, do you want the trustee to have the power to dissolve the trust if it becomes uneconomical to maintain it?

\_\_\_\_\_ yes (Selecting yes means that the trust assets may be under the guardian's control if the child(ren) is(are) a minor when the trust is terminated.)

\_\_\_\_\_ no

Do you want the trustee to exercise this power only if the trust is below a specific amount?

\_\_\_\_\_ yes \_\_\_\_\_ no

If so, what amount? \$ \_\_\_\_\_

**GUARDIAN:** If you have minor children when you die, and if the other natural parent is not alive or for any reason cannot act as guardian, the court will normally appoint the person(s) you name to act as legal guardian(s) of the children. The individual(s) named will have physical control and custody of the children until they reach age 18. If you are divorced, remember the court will usually appoint your former spouse to be the guardian (as the children's other natural parent) even if you provide otherwise in your will. You should still name a guardian, however, in case your former spouse dies before you or for any reason cannot act as the guardian.

Do you wish to appoint:

\_\_\_\_\_ One guardian for any child when I die.

\_\_\_\_\_ One guardian and a successor guardian.

\_\_\_\_\_ Two co-guardians.

\_\_\_\_\_ No guardian.

If you wish to appoint a guardian or guardians, whom do you wish to have named? (Please list name, relationship, & city, state of their residence):

1<sup>st</sup> choice: \_\_\_\_\_

2<sup>nd</sup> and 3<sup>rd</sup> choice (optional): \_\_\_\_\_

**DISINHERITING SOMEONE:**

Do you wish to disinherit someone? \_\_\_yes \_\_\_no. If so: \_\_\_\_\_ (name(s))

Do you wish to disinherit anyone who contests your will? \_\_\_\_\_ yes \_\_\_\_\_ no

If you wish to disinherit your spouse, do you want your executor to have the authority to distribute your property, outright or in trust, to minimize any "right of election" your spouse might have under the laws of any jurisdiction? \_\_\_\_\_ yes \_\_\_\_\_ no [Many states provide a spouse a "right of election" or the choice to apply State law instead of your will's provision for your spouse. For example, if you left your spouse only a small amount of property, the State where your will was probated might have a law allowing your spouse to choose one-third of the estate's value as the spousal gift instead of what you provided in your will. You may want to discuss this further with your attorney.]

**MILITARY STATUS:** I am:

\_\_\_\_\_ Active duty military.

\_\_\_\_\_ Retired from the military.

\_\_\_\_\_ Married to someone on active duty.

\_\_\_\_\_ Married to a military retiree.

\_\_\_\_\_ A dependent of someone on active duty

\_\_\_\_\_ A dependent of a military retiree

\_\_\_\_\_ Other (please specify): \_\_\_\_\_

If you are on active duty or are the spouse or dependent of an active duty military member, where are you or your spouse stationed?

\_\_\_\_\_

**FUNERAL ARRANGEMENTS:** You may have a strong desire regarding funeral arrangement (for example, burial or cremation). As a practical matter, your funeral arrangements may have been carried out by the time your will is read. Finding out after the fact that the arrangements were contrary to your will may cause some dismay for your survivors. Therefore, we recommend that you tell your desires to your next of kin at your earliest opportunity. If you wish, however, your preference may also be recorded in the will or in a Letter of Instruction that accompanies your will. You should tell the appropriate family members of your desires NOW!

At my death, I prefer:

\_\_\_\_\_ To be cremated.

\_\_\_\_\_ To have my body given for medical or scientific purposes.

\_\_\_\_\_ To be buried at a specified gravesite or location. (Please specify location): \_\_\_\_\_

\_\_\_\_\_ To be buried at sea.

\_\_\_\_\_ To be buried with full military honors. (You may select this option in addition to one of the above.)

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ I do not wish to express my desires concerning my remains in my will and leave this decision to those who survive me.



**GENERAL POWER OF ATTORNEY:**

Your will enables you to dispose of your property as you wish *after* you die. While you are living, you have the right to decide what happens to that property as long as you are of sound mind. But if you become incapacitated, whether through illness or accident, and are unable to handle your own affairs, a court order may revoke your right to manage your own money/property and appoint a guardian or conservator. To protect you from this, you may appoint an agent through a power of attorney.

A power of attorney is your written authorization for someone to act on your behalf, for whatever purpose you designate. Ordinarily, a power of attorney is effective the moment you sign it and expires if you become mentally disabled – the time when you need help the most. However, you can have a power of attorney that is **durable** and remains in effect even if you become disabled, incapacitated or incompetent. Moreover, you can have a **durable, springing** power of attorney that takes effect only when you **become** unable to manage your own personal and financial affairs and will last as long as you are alive or until you revoke it. As long as you are mentally competent, you can revoke a durable power of attorney whenever you like simply by destroying the document. If you choose to have a general power of attorney, remember to name someone you trust as your attorney-in-fact. Your agent will have great authority over your affairs. Not only can they keep your affairs in order, but they also have the potential to abuse this document at your expense and his/her gain.

Would you like a general power of attorney?  yes  no

Do you want it to be “**Durable**” that will remain in effect even if you become disabled, incapacitated or incompetent?  Yes  No

Do you want this POA to become effective the day that you sign it or do you want it to become effective only if you become disabled, incapacitated, or incompetent (“**Springing**”)?  
 Now, Effective Immediately OR  Springing, Effective Upon my Disability

Do you want your spouse to act as your agent?  yes  no

Unless you selected your spouse to act as your agent **and** your spouse has the same address you do, please provide the name, address, home phone number, and relationship of your agent:

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**ADVANCE MEDICAL DIRECTIVE/"LIVING WILL"**: An advance medical directive or "living will" is separate from your will, but may be an important part of your estate plan. It states that in the event you have a terminal, incurable medical condition and your life is only being prolonged by means of artificially provided life support, and if you cannot communicate your desires, the living will "speaks for you" so your doctors know and can act upon, your desires regarding the termination of life support. The conditions that trigger your living will, and the extent of the medical care to be withdrawn, vary under State law. Your legal assistance attorney can help you decide which State(s) forms to prepare. Once executed, the document is effective until you revoked it, which you may do at any time by physically destroying the document, or in an emergency, by verbally revoking it before witnesses who can testify that you did in fact revoke it.

Do you want a living will? \_\_\_\_\_ yes \_\_\_\_\_ no

**SPECIAL POWER OF ATTORNEY FOR HEALTH CARE**: Another important health care document is a special power of attorney for health care. You may execute this in addition to, or instead of a living will. It appoints someone you name to make medical care decisions for you if you cannot make your own medical decisions. It applies to more situations than the living will, which addresses only continued life support if you have a terminal condition. The power of attorney for health care gives the person you name as your agent the authority to make a wide range of medical decisions on your behalf. It also gives your agent access to your medical information and authority to fully participate with your treating physicians in deciding the care to be provided to you. Obviously, the person you designate to be your agent should be someone you trust with life and death decisions. Like the living will, the health care power of attorney is usually drafted in accordance with the laws of the state where you reside.

Do you want a Health Care Power of Attorney? \_\_\_\_\_ yes \_\_\_\_\_ no

Do you want your spouse to act as your agent? \_\_\_\_\_ yes \_\_\_\_\_ no

Unless you have selected your spouse to act as your agent **and** your spouse has the same address you do, please provide the name, address, phone number, and relationship of your first choice of agent:

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If you have a second choice, do you want

\_\_\_\_\_ both agents to have the authority to act separately.

\_\_\_\_\_ to require both agents to act jointly unless one is incapacitated.

\_\_\_\_\_ the second agent to be as a successor, acting only if the first choice is incapacitated.

Please provide the name, address, phone number, and relationship of your second choice of agent:

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If you currently live in a state other than the one in which you are a legal resident, you may want your living will to be drafted in accordance with the laws of the state where you actually live and not your state of legal residence, because it is more likely to be used where you currently live and may be hospitalized.

Do you wish to have the living will governed by the laws of the state where you currently live?

\_\_\_\_\_ yes \_\_\_\_\_ no If no, then which state?: \_\_\_\_\_

Do you wish to specify that you desire to donate your body organs for transplant upon death?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, are you also willing to donate organs and tissue for medical, educational, or scientific purposes?

\_\_\_\_\_ yes \_\_\_\_\_ no [Note: many State driver's licenses include space for you to indicate organ donation. Did you do so on your driver's license? \_\_\_\_\_ yes \_\_\_\_\_ no]