

LAST WILL AND TESTAMENT QUESTIONNAIRE

1. Full Name (s) of the testator/testatrix: _____
2. Permanent address: _____
3. Telephone number(s): _____
4. Existing Will:
 I have a Will
 I do not have a Will
5. Marital Status:
 married [once/ several] - date of marriage: _____
Name of spouse: _____
 widow(er)
 divorced
 single
 a party to a civil union, domestic partnership or same-sex marriage
6. Military status:
 in service
 a spouse of person in service
 a dependent of person in service
 retired from service
 stationed outside of state of domicile - place: _____
7. Advisors:
Accountant: _____
Insurance agent: _____
Physician: _____
Investment advisor: _____
Banker: _____
Clergy: _____
8. Children:
 NONE 1 2 3 4 Number: _____
 more children are anticipated
 no child, but children are anticipated
Adopted children are to be expressly included, expressly excluded or this Will is to be silent on the subject.
 there are grandchildren
Provide the names and ages of the children (indicate gender, if minor, deceased with issue, by prior marriage, adopted, and any special treatment):

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

9. Provide any information you have regarding other relatives (identify father, mother, siblings, nieces/nephews, cousins, etc., and indicate if deceased):

10. Provide information regarding Spouse's relatives (if applicable, identify father, mother, siblings, nieces/nephews, cousins, etc., and indicate if deceased):

11. Citizenship and domicile of testator and spouse: _____

12. Date and place of birth of testator and spouse: _____

13. Real Estate:

a. Who possesses title to home or other real estate and provide information about type of ownership if known (examples include sole ownership, joint, fee simple, life estate, future interest, lien holder, easement holder):

b. Disposition of Real Estate:

- real estate [or a coop apartment] is to be disposed of under this Will -
- the spouse is to be the beneficiary of all real estate
 - the property is to be sold if spouse predeceases]
- spouse is to have just a life estate [in just the house]
- some other person is to have a life estate:
 - just the house to the spouse (other real estate to pass in residuary estate)
 - all real estate is to pass in residuary estate
 - all real estate is to be sold
 - to one or more other beneficiaries (identify beneficiaries and shares if unequal):

Identify the property location or any description you may have:

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

14. Other Assets:

- a. Approximate assets of the testator: \$ _____
- b. Approximate assets of spouse: \$ _____
- c. Additional assets anticipated by death (including life insurance proceeds and assets which may be inherited): \$ _____
- d. Combined assets: \$ _____

15. Location of safe-deposit box: _____

16. Information Regarding Pension/IRA: _____

17. Information Regarding Spouse's Pension/IRA:

18. Life Insurance (and beneficiaries):

19. Other Insurance (disability, medical, home owners, automobile, umbrella, malpractice):

20. Cash Gift Giving Plans (and use of the gift tax exclusion which currently is \$1,000,000):
__ there are to be specific cash bequests (enter amounts, beneficiaries and whether they are to lapse). Describe any cash gift giving plans:

21. Are you subject to some agreement (e.g., a separation agreement, divorce judgment, prenuptial agreement, partnership agreement, shareholders agreement, community property agreement, etc.) which restricts the disposition of your assets: _____

22. How are the personal effects and other tangible personal property to be bequeathed:
__ all to the spouse
__ as per a schedule or a personal property memo because some items will not be bequeathed to the spouse
__ as per a schedule or a personal property memo because some will not pass as part of the residuary estate if the spouse is not living (the following states authorize personal

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

property memoranda: AK AR AZ CO DE FL HI ID IA KS MA ME MI MN MO MT ND NE
NJ NM SC TX UT VA WA WI WY)

all to the children

as provided about the residuary estate

all to one beneficiary (enter name):

OTHER (Enter the specifics _____)

23. Wills rarely contain any of the following but may be useful and should be discussed.

Please indicate if you are already considering any of the following:

a pour-over of assets to an existing trust (property to be included, name and date of the trust)

the exercise of a power of appointment given by a third-party instrument (identify title and date of instrument, beneficiaries to be designated, outright vs trust)

a charitable trust (wholly charitable vs lead vs remainder trust, annuity vs unitrust, property to be included, identity of charity and lead or remainder beneficiary, percentage per annum)

a supplemental needs trust for a specific beneficiary or beneficiaries (identify the beneficiary and property to be used to fund the trust) and/or any beneficiary who becomes disable

a pre-residuary trust for a minor or minors (beneficiaries, amounts or property)

the purchase of an annuity (beneficiaries, amounts)

a trust for one or more pets

a pre-residuary disposition of a family-owned business

disposition of specific investments. Enter the specifics: _____

24. The residuary estate is to be bequeathed as follows:

to the spouse outright

if spouse predeceases, to issue by representation

a marital deduction trust f/b/o spouse [QTIP, QTIP with limited power of appointment, general power of appointment, an "estate" trust]

spouse is foreign person, so QDOT provisions are to be included - spouse may disclaim to the QDOT trust

spouse is to have \$5,000/5% right to invade

if annual income is less than a specific percentage of principal, spouse is to receive not less than that minimum percent - 6%/ other:

executor to allocate the generation-skipping transfer (GST) exemption [and expressly create a separate QTIP trust for the GST exemption in excess of the credit shelter trust, merely authorize splitting of trusts to allocate the exemption, authorize trustee to confer general power of appointment on children so that they may make gifts to grandchildren not subject to the GST tax]

a minimum bequest to spouse (disinheriting spouse to the extent permitted by law)

[balance to the children or other beneficiaries]

to a Family Trust [or Dynasty Trust] for the spouse and descendants

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

to children and issue of the testator, by representation [outright or in trust]

to one beneficiary outright

to one beneficiary in trust

to more than one beneficiary, in equal or unequal shares, either outright or in trust

Enter specifics: _____

designate alternate beneficiaries (as opposed to having residuary estate pass as if the testator died intestate). The alternate beneficiary may be an individual, entity or group of people (such as parents or brothers and sisters), and you can designate a series of successor alternate beneficiaries:

25. Minor Beneficiaries.

a. A beneficiary must have attained what age to be entitled to receive a bequest outright -

18 19 21 25 30

25 but 1/2 of the legacy is to be released when 21

30 but 1/3 is to be released when 21, and 1/3 when 25

35 but 1/3 is to be released when 25, and 1/3 when 30

Other: _____

b. If a child of the testator is a minor, are bequests to the child to be -

paid, at the ELECTION of the executor, to the child, a guardian or a custodian under a Uniform Gifts to Minors Act, OR the executor may hold the bequest in trust (usually this option is best)

held in trust [by a TRUSTEE or the executor] until child attains majority

26. Appoint as executor (personal representative):

the spouse

the spouse and a co-executor

the spouse and one or more successor executors

one executor

one executor and one or more successor executors

two co-executors

If a co-executor fails to qualify -

the other may act alone

the other may appoint a new co-executor

another co-executor is to be designated in this Will

Enter the name(s) of executor, co-executor or successor executor (s) and relationship to the testator:

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

27. Testamentary Trusts.

a. If a Trust is created by the Will, then appoint:

- one trustee
- one trustee and one or more successor trustees
- two co-trustees
- two co-trustees, one appointed by the executor after the death of the testator
- different trustees for different trusts

If a co-trustee fails to qualify -

- the other may act alone
- the other may appoint a new co-trustee
- another co-trustee is to be designated in this Will

Enter the name(s) of proposed Trustee (s) and relationship to the testator:

a different trustee is to be appointed for a different trust - identify the trustee and the trust and whether a bond is required: _____

a trustee is also a beneficiary (if so, you should have a co-trustee)

omit "decisions of trustee are conclusive" clause

a majority of beneficiaries may remove a trustee and appoint a successor (who is not "related or subordinate" within the meaning of 26 U.S.C. 672(c)) - except for the following trust(s):

income beneficiary is to be entitled to demand each year \$5,000 or 5% of the principal of the trust

create a single trust, rather than separate trusts, for minor children (permitting unequal payments)

if a minor grandchild becomes a beneficiary, bequest must be held in trust (discretion to release to grandchild or guardian is preferable)

trustee may liquidate a trust for a minor to the minor's guardian - only if trust principal is less than \$

appoint one or more "Trust Protectors" with powers to remove testators, amend trusts, and take other actions to further assure that the intent of the testator is carried out - Name(s) and address (es) of Trust Protector(s):

appoint one or more "Investment Advisors" to manage investment of the trust assets - Name(s) and address (es) of Trust Protector(s):

b. Trusts for Estates in Excess of \$500,000.

(1) The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the "2010 Tax Act") provides for a federal estate tax at the rate of 35% on estates in excess of \$5,000,000 (indexed after 2011 to the cost of living). And the

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

basic exclusion amount of a surviving spouse may be increased by the unused exclusion amount of the deceased spouse, effectively letting a couple exclude \$10,000,000 from the federal estate tax, i.e., the exclusion amount is "portable" without having to use a credit shelter trust. [The \$5,000,000 "basic exclusion amount" plus the unused exclusion amount of the deceased spouse is referred to as the "applicable exclusion amount."] However, in 2013, absent further legislation, the federal estate tax will revert to 55% on estates in excess of \$1,000,000 (indexed up to \$1,300,000), and a surviving spouse will no longer be able to use the unused exclusion amount of the deceased spouse. Future legislation may change the estate tax yet again. For example, in connection with later efforts to reduce the deficit, the unified credit and applicable exclusion amount might be set at the 2009 level so that estates above \$3,500,000 would be taxed at a 45% rate. Also note that many states modify their estate and inheritance tax laws with thresholds for taxes substantially below the federal estate tax. The exclusions for the gift tax and generation-skipping transfer tax currently are \$5,000,000 but also will revert to \$1,000,000 in 2013, arguably making aggressive gift giving to heirs or irrevocable trusts before 2013 advantageous for large estates. These dynamics cause difficulties for estate planners.

(2) Several types of trusts can give flexibility to an estate plan. Creating a credit shelter trust that is funded only to the extent the spouse elects to disclaim a bequest lets the spouse decide what's best at the time. Or one can put a dollar or percentage cap on the amount of the credit shelter trust. Or if you create a marital deduction trust with QTIP provisions, instead of a credit shelter trust, the executor rather than the spouse can decide what's best after the death of the testator. Or the creation of a credit shelter trust can be contingent upon the exclusion amount in effect upon the death of the testator.

(3) If the spouse is not a U.S. citizen you can elect to prepare a marital deduction trust with qualified domestic trust provisions so that estate taxes may be avoided.

(4) Please provide information and guidance regarding:

create a credit shelter trust -

fund the trust with the amount spouse disclaims (usually best) [vs available unified credit and applicable exclusion amount or fixed amount:

\$ _____]

if funded with the maximum available credit, put a limit on said amount:

a dollar cap - \$

limit to a fraction or percentage of the gross estate -

credit shelter trust is not to be created if upon the death of the testator (1) the exclusion amount is \$5,000,000 or greater [or \$3,500,000 or greater] and (2) a surviving spouse can use the unused exclusion amount of a deceased spouse (since the credit shelter trust is not needed to avoid the federal estate tax if that law is still in effect)

a disinterested executor may transfer assets from the credit shelter trust to a marital deduction trust to reduce state death taxes

credit shelter trust is to be a pre-residuary bequest, with the marital deduction trust as the residuary estate (usually best) [vs credit shelter trust as the residuary or fractional share]

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

use date of distribution values rather than the values determined for federal estate tax purposes
 distribution of income is to be discretionary rather than mandatory (i.e., a "complex trust")
 f/b/o spouse [f/b/o spouse and children, sprinkling, but give primary consideration to the needs and desires of the spouse]
 spouse is to have a limited power of appointment
 spouse is to have \$5,000/5% right to invade [exercisable only on December 31st of each year so that 5% of the credit shelter trust is not included in spouse's estate]
 f/b/o children [cash bequest, trust for minors, in trust throughout lives of children]
 f/b/o other beneficiaries [cash bequest, trust if minor, in trust throughout life]. Specifics:

28. Guardians.

- a. If there are minor children, does the testator wish to appoint -
 one guardian
 a guardian and one or more successor guardians
 two co-guardians
 no guardian is to be appointed in this Will
 different guardians are to be appointed for different children
 a bond is to be required of a specific guardian
 exonerate fiduciaries from liability absent proof
 and appoint a conservator of the children's property (in appropriate jurisdictions)
Enter the name(s) of proposed Guardians and relationship:

29. Survivorship Clause. -

the spouse is to be deemed to survive a common accident (may reduce estate taxes to be paid by a couple by shifting assets to the spouse pursuant to the marital deduction, appropriate where testator's assets are large, and spouse's assets are modest)
 survivorship is to be based on surviving for a prescribed number of days - 30 days/
 other: _____

30. Other. Wills rarely have the following provisions but may be useful in some instances. Please indicate if you have considered any of the following:

- apportion estate taxes
 include provisions re use of a pension plan or retirement account to fund a trust
 provide for per capita, rather than per stirpes, distributions
 require a bond from executor
 request executor to waive his commission
 use a bank's or trust company's commission schedule
 waiver an inventory and account of proceedings

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

- direct payment or prepayment of debts
- state preferences regarding investments - income vs growth / diversification is a priority
- expressly treat disclaimers of bequests
- expressly disinherit one or more persons (other than the spouse) - name(s):
- include an "in terrorem" clause (there may be questions of enforceability in some jurisdiction)
- authorize fiduciaries to allocate fees and expenses to a beneficiary who causes them
- include a "virtual representation" clause to minimize need for guardian ad litem in any proceeding [approval by adult beneficiaries is to bind minor beneficiaries]
- include a rule against perpetuities savings clause
- protect the testator from liability under environment laws
- separate agreement with spouse not to modify this Will and/or not to claim an elective share

31. Ancillary Documents. Please indicate if you would like any of the following to be drafted:
 a "living will" (withdrawing medical treatment if the testator is terminally ill) and/or an appointment of a health care agent to act if testator is incapacitated, and whether agents are successor or alternate agents, whether any organs are to be donated, and whether agents are to handle funeral arrangements. Please provide the names, addresses and telephone numbers of proposed agent (s) (including the spouse): _____

a statement re funeral arrangements - cremation, medical or scientific purposes, buried with military honors, buried at sea, other: _____

- _____
- a general or special power of attorney:
- expressly to survive incompetence
 - power to make gifts [limited to annual exclusion, but exempt tuition and medical expenses not so limited]
 - authority for tax matters
 - sell a specific parcel of real property
 - power to amend trusts
 - power to create trusts f/b/o the testator (such as qualified income trust to qualify for Medicaid)

Provide the name(s) and address (es) of attorney-in-fact, and if more than one whether they are successors or alternate: _____

a community property agreement (in appropriate jurisdictions) [preserve some property as separate property]

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

SUMMARY OF ASSETS AND LIABILITIES

1. ASSETS. For each item state the location of the asset (name, address and account number), title holder, date of acquisition/opening, estimated value, amount of any unpaid mortgage/lien, and any other relevant information. If any asset is held jointly with the spouse or another, so state, and set forth your respective shares. Use the second Summary, which follows this one, to itemize the assets and liabilities of your spouse.

a. Cash accounts:

b. Checking:

c. Savings (individual, joint, Totten trust, certificates of deposit, treasury notes, etc.):

d. Security deposits, earnest money, etc.:

e. Other:

f. Securities:

g. Bonds, notes, mortgages (obligor, maturity date, principal amount):

h. Stocks, options and commodity contracts:

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

i. Transfer on Death (TOD) accounts:

j. Broker margin accounts (broker and credit balance):

k. Other:

l. Loans to others and accounts receivable from others:

m. Interest in any business (name and address of company, whether it is a corporation, partnership, sole proprietorship or trust, your capital contribution, net worth of the business, percent of your interest, and any other information):

n. Life insurance (amount, carrier, policy number, beneficiary):

o. Vehicles (auto, boat, plane, truck, campers, etc.):

p. Real estate (include all types of interests such as leaseholds, life estates, etc., and identify any mortgage by the amount and holder):

q. Pension plans and retirement accounts:

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

r. Vested interests in trusts (profit sharing, legacies, deferred compensation, etc.):

s. Contingent interests (stock options, interests subject to life estates, possible inheritances, annuities):

t. Household furnishings:

u. Jewelry, furs, art, antiques, precious objects, gold and precious metals:

v. Other assets (e.g., collections, hobbies, judgments, causes of action, patents, trademarks, copyrights, and any other assets not herein above itemized):

TOTAL ASSETS: \$ _____

b. LIABILITIES. For each item state the purpose, date of incurring debt, debtor, creditor, original and current amount of debt, and any other relevant information. If jointly with the spouse or another, so state, and set forth your share.

1. Accounts payable (credit cards, security agreements, chattel mortgages, broker margin accounts):

2. Notes payable:

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

3. Mortgages payable on real estate:

4. Loans on life insurance policies:

5. Other liabilities:

TOTAL LIABILITIES \$ _____

ESTIMATED NET WORTH (Assets minus Liabilities) \$ _____

[NOTE: Attach to this statement a summary of any information which your executor would find useful when administering your estate, such as the locations of safe deposit boxes and other assets, the names of financial and personal advisers and persons familiar with your assets, etc.]

SUMMARY OF ASSETS AND LIABILITIES OF SPOUSE

1. ASSETS. For each item state the location of the asset (name, address and account number), title holder, date of acquisition/opening, estimated value, amount of any unpaid mortgage/lien, and any other relevant information. If any asset is held jointly with the spouse or another, so state, and set forth your respective shares. Use the second Summary, which follows this one, to itemize the assets and liabilities of your spouse.

a. Cash accounts:

b. Checking:

c. Savings (individual, joint, Totten trust, certificates of deposit, treasury notes, etc.):

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

d. Security deposits, earnest money, etc.:

e. Other:

f. Securities:

g. Bonds, notes, mortgages (obligor, maturity date, principal amount):

h. Stocks, options and commodity contracts:

i. Transfer on Death (TOD) accounts:

j. Broker margin accounts (broker and credit balance):

k. Other:

l. Loans to others and accounts receivable from others:

m. Interest in any business (name and address of company, whether it is a corporation, partnership, sole proprietorship or trust, your capital contribution, net worth of the business, percent of your interest, and any other information):

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

n. Life insurance (amount, carrier, policy number, beneficiary):

o. Vehicles (auto, boat, plane, truck, campers, etc.):

p. Real estate (include all types of interests such as leaseholds, life estates, etc., and identify any mortgage by the amount and holder):

q. Pension plans and retirement accounts:

r. Vested interests in trusts (profit sharing, legacies, deferred compensation, etc.):

s. Contingent interests (stock options, interests subject to life estates, possible inheritances, annuities):

t. Household furnishings:

u. Jewelry, furs, art, antiques, precious objects, gold and precious metals:

v. Other assets (e.g., collections, hobbies, judgments, causes of action, patents, trademarks, copyrights, and any other assets not herein above itemized):

LAST WILL AND TESTAMENT QUESTIONNAIRE (CONT'D)
SUMMARY OF ASSETS AND LIABILITIES

TOTAL ASSETS: \$ _____

b. LIABILITIES. For each item state the purpose, date of incurring debt, debtor, creditor, original and current amount of debt, and any other relevant information. If jointly with the spouse or another, so state, and set forth your share.

1. Accounts payable (credit cards, security agreements, chattel mortgages, broker margin accounts):

2. Notes payable:

3. Mortgages payable on real estate:

4. Loans on life insurance policies:

5. Other liabilities:

TOTAL LIABILITIES \$ _____

ESTIMATED NET WORTH (Assets minus Liabilities) \$ _____

[NOTE: Attach to this statement a summary of any information which your executor would find useful when administering your estate, such as the locations of safe deposit boxes and other assets, the names of financial and personal advisers and persons familiar with your assets, etc.]