

# Wallis Law Firm, P. A.

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## **ESTATE PLANNING QUESTIONNAIRE**

FOR MEETING ON \_\_\_\_\_ at \_\_\_\_\_

Completing this Questionnaire will help you organize the information you need at your fingertips to plan your estate. It will save us time and assure that we do not overlook some important item. Please complete *as much as you can* and bring it with you to your Estate Planning Conference. The charge will be \$250.00 per hour for this conference and subsequent estate planning. At the time we meet you will receive information on the documents you need for your particular situation.

### I. **BASIC PERSONAL DATA**

Name \_\_\_\_\_

Address \_\_\_\_\_ Email Address \_\_\_\_\_

Home Ph \_\_\_\_\_ Work Ph \_\_\_\_\_ Cell Ph \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Citizenship: \_\_\_\_\_ Social Security # \_\_\_\_\_

Spouse's Name \_\_\_\_\_ Email address \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Citizenship: \_\_\_\_\_ Social Security # \_\_\_\_\_

Spouse's Work Phone # \_\_\_\_\_ Spouse's Cell phone \_\_\_\_\_

**Children**     *Please note if any children listed are adopted, are stepchildren of one of you, or are disabled or otherwise in need of special attention.*

1. Child's name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Numbers (home, work, cell) \_\_\_\_\_

Occupation \_\_\_\_\_ Spouse's name \_\_\_\_\_

Child's Children (names, sex and ages): \_\_\_\_\_  
\_\_\_\_\_

2. Child's name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Numbers (home, work, cell) \_\_\_\_\_

Occupation \_\_\_\_\_ Spouse's name \_\_\_\_\_

Child's Children (names, sex and ages): \_\_\_\_\_  
\_\_\_\_\_

3. Child's name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Numbers (home, work, cell) \_\_\_\_\_

Occupation \_\_\_\_\_ Spouse's name \_\_\_\_\_

Child's Children (names, sex and ages): \_\_\_\_\_  
\_\_\_\_\_

4. Child's name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Numbers (home, work, cell) \_\_\_\_\_

Occupation \_\_\_\_\_ Spouse's name \_\_\_\_\_

Child's Children (names, sex and ages): \_\_\_\_\_  
\_\_\_\_\_

Add a separate sheet if needed for additional children. Are there any family members that are now or might be dependent on you for care or support, might leave you a substantial bequest, or whom you wish to name as a beneficiary in your will. If so, list those details for us.

**II. DISPOSITION AND SPECIAL CONCERNS**

1. Please state briefly how you want to dispose of your estate: the names of the beneficiaries and the amounts or percentage of your estate and the names of any alternate beneficiaries who will take in the event that your primary beneficiary dies before you.
  
2. Do you have any specific items or sum of money you wish to leave to specific persons? If so, describe the items and give the name of the person and any alternate beneficiary.
  
3. If you have young children, you should name guardian(s) and alternate guardian(s) to care for your minor children if you are not survived by your spouse. *Please talk to the prospective guardians to make sure they are willing to serve. Being a guardian is a big job, as the guardian takes over all the duties of a parent. Also, if you have young children, you should name a Trustee to handle their financial affairs should the children outlive both parents. The Trustee can be the same or a different person from the Guardian.*

Guardian \_\_\_\_\_

Address \_\_\_\_\_

Alternate Guardian \_\_\_\_\_

Address \_\_\_\_\_

Trustee \_\_\_\_\_

Address \_\_\_\_\_

Alternate Trustee \_\_\_\_\_

Address \_\_\_\_\_

4. You should also name an Executor to settle your estate, usually your spouse, and then another as an alternate.

Executor \_\_\_\_\_

Address \_\_\_\_\_

Alternate Executor \_\_\_\_\_

Address \_\_\_\_\_

5. Do you have other special concerns or questions? If so, please write them down so that we will be sure to discuss them.

### III. ASSETS AND DEBTS

We should review your assets and debts to make sure that everything is structured in the best way to accomplish your goals, and to determine whether there are possible tax consequences to be avoided, identify types of properties that need special treatment to transfer ownership, or discuss any items that you wish to bequeath to a particular person. Please list on a separate sheet any of the following which you own.

1. **Bank Accounts**

List each account, the average or approximate balance, and the exact manner in which the account is titled (in your name alone or jointly with another).

2. **Stocks and Bonds**

For each group of stocks and bonds, estimate the fair market value and note the exact way in which the security is registered (your name alone or jointly with another).

3. **Real Estate**

Identify each parcel of real estate you own, including your residence, list its fair market value, the amount of any mortgage, and the exact names of the owners of the property.

4. **Life Insurance**

List the face amount of each life insurance policy you own, the beneficiary, and the amount of any loan on the policy.

5. **Business Interests**

List any interest you may own in a business and estimate its fair market value.

6. **Vehicles and Other Valuable Personal Property**

List each vehicle, the fair market value, and indebtedness. Also list any boats, coin collections, guns, family heirlooms, or any other items of valuable personal property and give your opinion as to value.

7. **Estates, Trusts, etc.**

Are you the beneficiary of an estate or trust, or do you have a right under a trust to require the payment of any money to yourself or anyone else? Give details.

8. **Miscellaneous**

(a) Retirement Plan; If you are a member of a pension or profit-sharing plan, describe the benefits you or your survivors will receive.

(b) Safe Deposit Box; If you have one, is it jointly held?

(c) **Your Present Will; *Please bring it with you.***

(d) Other Assets – Did I miss something? List anything else of value you have and the approximate value.

## **ESTATE DOCUMENTS YOU MAY WANT TO KNOW MORE ABOUT**

### **1. WILL**

A will distributes property you own when you die. It cannot control property subject to a right of survivorship or that does not terminate at your death. A will should be drafted in general terms to control whatever assets you own at your death and to cover whatever beneficiaries are living at your death, so you do not have to revise it frequently. We do witnessed, self-proving wills that can be presented for probate without the testimony of family, friends and witnesses.

### **2. LIVING TRUST**

A living trust has a settlor (you), one or more trustees who manage the assets in the trust according to the terms you set out, and one or more beneficiaries who receive the assets in the trust according to the terms you set out. It is in effect during your life as well as after your death. A living trust is used to manage assets for your benefit if you are disabled, or for the benefit of your dependents (such as children) if you are not available to handle these affairs yourself. Assets in a trust are not subject to your will and do not go through probate at your death.

### **3. GENERAL, DURABLE POWER OF ATTORNEY FOR BUSINESS**

Everyone should have a power of attorney that appoints a trusted person as their attorney-in-fact to handle business for them whenever they cannot manage themselves. When you execute a general, durable power of attorney, you authorize your attorney-in-fact to carry on any business matter which you yourself could do, if you are unable to handle the business yourself for any reason.

### **4. HEALTH CARE POWER OF ATTORNEY**

You may appoint someone to make health care decisions if you are ever unable to decide for yourself. By executing a health care power of attorney, you appoint an agent, and one or more alternates, who are authorized to consent to or refuse any health care that may be considered for you. You may indicate your general wishes for health care and may make this power limited or broad.

### **5. LIVING WILL**

A living will allows you to indicate to your family and health care providers that if you are terminally and incurably ill or in a permanent vegetative state you do not wish extraordinary life support measures or artificial hydration and nutrition (tube feeding). This may be in addition to or instead of a health care power of attorney. A Living Will expresses a decision; a Health Care Power of Attorney delegates decision making to someone who understands your wishes.

## **SOME BASIC FACTS ABOUT WILLS**

### **INTRODUCTION**

The following will not answer all your questions, but will acquaint you with some of the important facts involved in planning your estate.

### **WHAT IS PROBATE?**

Writing a will does not eliminate probate. However, planning your estate involves deciding what you want to have pass under your Will through probate and what should pass to beneficiaries in other ways outside of probate.

### **WHAT PROPERTY WILL PASS UNDER MY WILL?**

All property which is in **your name alone** will be disposed of by your will: a bank account, stock, real estate, automobiles, household items and similar items. If you own an undivided interest in property with another, your undivided interest will pass under your will, but not if the property which you own with another is joint with rights of survivorship.

### **WHICH ASSETS WILL NOT PASS UNDER MY WILL?**

Property in joint names with rights of survivorship will pass to the surviving joint owner. For instance, homes owned by a married couple usually go to the survivor. Joint bank accounts generally have a right of survivorship.

Life insurance will go to the named beneficiary.

Pension, retirement or other employee benefits will go to the named beneficiaries.

U.S. Savings Bonds which are in joint names will go to the survivor. Those payable on death to a named beneficiary will go to the named beneficiary.

However, if the named beneficiary in any of the above examples is "your estate" or your "executors and administrators," then this property will pass under your will.

### **WHAT ARE CONSIDERATIONS IN DECIDING HOW TO BEQUEATH PROPERTY?**

Your first step should be to think carefully about your goals and how the terms of your will can accomplish your goals.

With property which will pass under your will, it is **not** necessary that you name or describe

each item. Your assets can be described by groups, categories or in any other way which adequately describes your property. It is also possible to leave all of your property or certain categories of it, to more than one beneficiary by providing that each beneficiary is to receive a fraction or percentage of all or any category of property.

If you would like for a particular beneficiary to receive a specific amount of money, such a provision should be clearly expressed in your will. However, because your estate may increase or decrease substantially between the time you sign your will and the time of your death, you may wish to consider whether or not the amount of money should be limited by a percentage of your estate. For example, assume your estate is worth \$50,000.00 and you wish to leave a beneficiary \$500.00. Five Hundred Dollars is 1% of your estate. If your estate should shrink to \$25,000.00 by the time of your death, the bequest of money may be more than you would have intended under the circumstances. If, however, your bequest is made in terms of the lesser of \$500.00 or 1% of your estate, then the bequest would shrink proportionately with the total assets.

### **WHAT ABOUT PERSONAL AND HOUSEHOLD EFFECTS?**

In dealing with your personal effects, household goods, etc., (which includes furniture, appliances, silverware, china, wearing apparel, automobiles, etc.) we frequently recommend leaving all of such property to a surviving spouse and alternatively to children, grandchildren, etc., rather than specifying in your will that such and such item goes to so and so, etc. You can always write up a memorandum to keep with your will which specifies who you want to receive particular items within the group that you have named in your will. Although such a memorandum is not legally binding, it is usually persuasive for your family members. It gives you the advantage of being able to change it any time without amending your will and avoids the necessity of obtaining a receipt from each beneficiary. (There may also be additional tax consequences of these specific bequests.)

### **WHAT ABOUT MY DEBTS?**

All your debts that come due will be paid from the assets of your estate. However, if you own land subject to a mortgage, unless you provide otherwise in your will, the person to whom you leave the land, takes the land subject to the mortgage. The executor will not pay off the mortgage. If this is not what you desire, you may direct the executor to pay the mortgage out of the other estate assets.

### **WHO HANDLES MY ESTATE?**

The "executor" handles your estate, which means that this person does everything necessary to carry out the intentions of your will, complete your business affairs, and satisfy court requirements. More specifically, the executor will collect your assets, pay your debts, compute and pay any taxes that are due and distribute the remainder of your property to the beneficiaries named in your will. This usually takes six months to a year.

In your will, you will name the executor and usually an alternate executor. Many people name their surviving spouses and alternatively, adult children, but it can be any competent adult. The alternates are named in the event that by the time you die, the primary executor cannot or will not for some reason serve. You can also, if you wish, name more than one person to serve as co-executors, or name a bank as a corporate executor.

It is not necessary that your executor, if an individual, be a resident of North Carolina. However, this is generally a good idea for practical reasons. It can be inconvenient for the out-of-state executor to spend a lot of time in North Carolina and to make repeated trips to take care of details. Also, the out-of-state executor will be unfamiliar with the necessary services offered locally. There may also be an expense to your estate to post a bond for this out-of-state executor.

### **WHAT ABOUT GUARDIANS FOR MY CHILDREN?**

Your will is the best place to name who will physically take care of minor children, should you die before your children are grown and on their own (legally at age 18). You should pick one or more persons you would trust with your children, and equally important, people who are willing to take on the tremendous responsibility of taking care of your children. Whatever you do, contact these people and get their permission before you name them in your will.

### **WHAT ABOUT THE MONEY FOR MY CHILDREN?**

Should both parents die before minor children are grown, there can be severe money problems for the children and the guardians. Money going directly to a child from your estate will be supervised by the court until the child reaches the age of 18. It is a burden on the guardian to be responsible for your children, and also accountable to the court for all expenditures from your children's money. Then, at age 18, your children will get all their money, no strings attached. \* The financially immature child often squanders the inheritance, leaving the child with no money and no real long-term benefit. You should have some type of trust to address these problems. We will discuss this in more detail when we meet if you have minor children.

## SOME DEFINITIONS OF TECHNICAL TERMS

(a) **Bequest, bequeath** - A bequest is a gift by will of money or personal property (excluding land). To bequeath means to make such a gift.

(b) **Codicil**- A codicil is an amendment to a will which changes the will in some manner. It is a separate document and must be executed with the same formalities as a will.

(c) **Devise, devisee** - A devise is a gift by will of land. A devisee is the person to whom land is given by a will.

(d) **Descendants** means lawful blood and adopted descendants, whether children, grandchildren, great grandchildren, etc. We can define it to specifically include or exclude step-children, etc.

(e) **Legacy** - This term is frequently used as a synonym for bequest, but technically means a gift by will of money only.

(f) **Lapsed legacy or devise** - When a beneficiary under a will dies before the person making the will, the gift lapses, which means that it does not pass to the deceased person or his estate. There is an exception: if the surviving descendants of the beneficiary would have been heirs of the person making the will, they will step in and take the bequest.

(g) **Per stirpes** - This is a Latin term which when used in a will means that if a beneficiary of a will dies before the testator leaving surviving children, those children will take their deceased parents' share under a will.

(h) **Residuary estate** - The residuary estate is that portion of your total estate covered by a residuary clause in your will. The residuary clause of your will disposes of all of your property not disposed of earlier in your will. In other words, after you have made specific gifts, a residuary clause normally provides that you leave "all the residue" of your estate to one or more beneficiaries.

(i) **Testator/Testatrix** - The term for the man or woman who is making a will.