

SOME BASIC FACTS ABOUT WILLS

ASSETS THAT PASS UNDER YOUR WILL

All property which is in your name alone will be disposed of by your Will. For example, a bank account, stock, real estate, your automobile, furniture, household items and similar items in your name will pass under your will. If you own an interest in real estate as tenant in common with someone else, your interest will also pass under your Will.

ASSETS THAT DO NOT PASS UNDER YOUR WILL

- _ Property that has a joint co-owner will pass to the co-owner who outlives you
- _ Real estate in joint names with rights of survivorship will not be included in your probate estate or will not be affected by the terms of your Will; it will pass to the other joint owner who outlives you.
- _ Life insurance payable to named beneficiaries will pass directly to the beneficiaries.
- _ Pension, retirement or other employee benefits payable to named beneficiaries will pass directly to the named beneficiaries.
- _ U.S. Savings Bonds which are in joint names will pass to the survivor. Those payable on death to a named beneficiary will pass to the named beneficiaries.
- _ Property which has been transferred to a trust will pass to those people named as beneficiaries.

(If the named beneficiary in any of the above examples is “your estate” or your “Personal Representative”, then this property does pass under your Will.)

HOW TO DISPOSE OF YOUR PERSONAL ASSETS

If you would like a particular beneficiary to receive a specific item of property or a specific amount of money, this should be clearly expressed in your Will. For example, you might say: “My wedding band shall be given to my niece, Amanda.” However, it is not necessary that you name or describe each item separately. Your assets can be described by groups, categories or in any other way which adequately describes your property. For example, “All of my firearms to my son, Michael” or “All of my jewelry to my daughter, Sharon.” 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, such as: “My stamp collection equally to my two children, share and share alike.”

All of our wills also contain a clause that allows you to use a handwritten list to dispose of personal items. Such a list is legally binding if made in your handwriting and dated and signed. The list can be made and changed at any time without amending your entire Will.

HOW TO DISPOSE OF YOUR FINANCIAL ASSETS

If you wish to leave a specific sum of money to someone, you should think about the fact that your estate may increase or decrease in size between the time that you sign your Will and the time of your death. You might want to consider a percentage instead of a dollar amount. For example: Assume your estate is worth \$50,000.00 and you wish to leave someone \$500.00, or 1% of your estate. If your estate shrinks to \$25,000.00 by the time of your death, this bequest of money may be more than you would have intended under the circumstances. However, if you gave the person 1% of your estate, rather than \$500, then the gift would shrink to \$250, proportionate with the total estate.

HOW TO DISPOSE OF YOUR REAL ESTATE

If you own a residence or other real estate, they may be subject to a mortgage. You should make clear whether your personal representative is required to pay off the mortgage before giving the real estate to the beneficiary. If this is not what you want, you should make clear that the residence or land is left to a beneficiary subject to the mortgage, and this will mean that the Personal Representative cannot be required to pay off the mortgage. Instead, it will become an obligation of the person receiving the property.

HOW TO SELECT YOUR PERSONAL REPRESENTATIVE

It will be necessary for you to name a personal representative (previously called “executor”) for your Will. The job of a personal representative (PR) is to collect your assets, pay your debts and distribute your property to the people named in your Will. Many people name their surviving spouses and, alternatively, adult children as PRs in their Will. It is advisable to name one PR and any number of alternates to serve in the event that prior named PRs cannot serve. For example: A surviving spouse can be named as primary PR, the oldest child as first alternate PR, and the second oldest child as second alternate PR, etc. A PR must be 18 years of age or older to serve. However, a minor child can be named in a Will and can serve as PR if that child is over 18 when the Will is probated.

It is possible to name two or more persons to serve as Co-Personal Representatives and such Co-PRs will serve with each other. They will need to agree on all decisions.

HOW TO NAME A GUARDIAN OR CONSERVATOR

It is also possible to appoint in your will a guardian (who will have the physical care and custody of your minor children) and/or conservator (for the supervision of assets of

your minor children). For our clients who have minor children, we believe that the appointment of the guardian and conservator is the most reason to create a will. You should also decide on the age(s) at which your children will be entitled to manage their own inheritance without the supervision of anyone else.

HOW TO GET YOUR QUESTIONS ANSWERED

Please do not hesitate to give us a call if you have any questions. Seemingly insignificant or trivial questions have a way of becoming significant if they go unanswered.

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