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## GENERAL INFORMATION CONCERNING WILLS AND PLANNING DOCUMENTS

I look forward to meeting with you and discussing your ideas for wills and other planning documents. This document will give you some general information to think about before we meet. The State of Washington has passed laws to make the probate of an estate efficient and inexpensive, but it is important that you have a will so that you can designate who you want to benefit from your assets, rather than leaving that up to state law. In your will you name the people you wish to appoint for the jobs necessary in administering your will. If you do not have a will, someone must come forward, petition the court to serve, and post a bond. The cost of the bond is, in most cases, far in excess of the cost of doing a will.

Your will has two basic functions: Asset distribution and designation of representative.

1. **Asset Distribution**. Your will must make a clear statement concerning what you want to do with your assets. In your will you may designate certain items to go to a specific individual or organization, called a specific bequest. This could be a certain amount of money or a certain asset. Your will must have a "rest, residue and remainder" section. This section covers items that have not been covered by a specific bequest or by a tangible personal property letter (discussed next).

If you wish to designate specific tangible items to a particular person, there is a law in Washington, which allows you to write a letter designating who should receive a particular item. This letter is something you write up on your own but it must be mentioned in your will to be valid. Tangible personal property includes pets, jewelry, furniture, cars, electronics, collectibles, etc. It does not include liquid assets or real property. I have instructions for how to prepare this letter, and will give them to you at our meeting. The advantage of this letter is that you may change it at your

convenience without changing your will. If you don't have a letter, your property will go as you specify in your "rest, residue and remainder" portion of your will.

Trusts can be included in your will if you have a beneficiary who, because of age, special need, or another reason, is not able to manage assets, which you would leave. These trusts will not come into existence until after your death.

2. **Designation of Personal Representative, and Trustee or Guardian** (if necessary). Your will appoints people to do various jobs after your death.

The **Personal Representative** (sometimes called executor or executrix) is usually a trusted relative or friend. The Personal Representative uses your assets to pay for expenses of a last illness and funeral, pays bills as they come due, takes care of necessary tax filings, and creates an inventory of the assets so that they may be distributed according to the terms of your will. This job normally takes from six to nine months and the Personal Representative is authorized by law to receive a reasonable fee. The Personal Representative may waive a fee.

The **Trustee** can be a trusted relative, friend, bank trust department, or company in the business of acting as trustee. The trustee follows your instructions concerning how trust assets are to be used, manages assets in a reasonable and prudent manner, makes necessary tax filings, mentors the beneficiary, and distributes the trust money according to the terms of the trust. A trust is set up for minor children or for someone with a special need or disability. This job takes potentially longer than the Personal Representative's job because the trustee serves until all of the trust funds are distributed.

A **Guardian** will be designated in your will, if you have minor children. The guardian is the physical caretaker of a child and raises the child in the guardian's family.

These three jobs may be filled by the same person or by separate people. I suggest that you consider people to serve as back-ups, in case someone that you have in mind is unable to serve.

Your will can be changed at any time if you wish to change the people you have named, or if your financial picture changes. It is also helpful for you to check in with me periodically to see if there have been relevant changes in the law, since I do not send notices to clients when the law changes.

### **OTHER PLANNING DOCUMENTS TO CONSIDER:**

**Durable Power of Attorney.** Washington law allows you to designate someone to act on your behalf for medical and financial decisions (and guardianship of your children) in the event that you are incapable of handling these matters. This power of attorney may be effective now, while you are competent, or only effective upon disability. We can discuss each at our meeting.

An advantage of having a power of attorney is that it avoids the necessity of a guardianship, which can be quite expensive. If you choose a power of attorney effective upon disability, we will prepare a Disclosure Authorization form so your doctor may tell your power of attorney if you are incompetent.

**Healthcare Directive (sometimes called Living Will).** Washington law allows you to direct that you not be maintained on life support systems if you have a terminal condition, or are in a persistent vegetative state. You have some choices in this document. You will decide if you want to have artificially provided nutrition and hydration under the above circumstances. We may discuss this at our meeting. You may wish to make a statement that the directive not be effective, if you are pregnant.

### **WHAT YOU SHOULD BRING TO OUR MEETING**

If you are now obligated for child support, maintenance, life insurance, or other financial settlements, it could affect the will we prepare. Please bring your dissolution decree or other relevant court order to our meeting.

If you have a prenuptial agreement, community property agreement, or trust agreement (or are beneficiary of a trust), you should bring these documents to our meeting.

If you have life insurance, pensions, IRAs or other assets, for which you have designated a beneficiary, we need to discuss them so that your entire plan is consistent. The will that we prepare does not change the beneficiaries that you designate in these plans.

If you have transfer on death accounts or a transfer on death deed, please let me know (and bring copies of these, if available).

If you have a minor child, it is helpful to know what Social Security survivorship benefits are available from you for your child. If you cannot find a recent letter, you can log onto [www.socialsecurity.gov](http://www.socialsecurity.gov) and find your benefit statement.

If you or your spouse are not a US citizen, some different rules may apply to your estate plan. Please let me know if this is your situation.

If a beneficiary is disabled and/or on an assistance program, please let me know.

For 2020, in Washington State there are no estate taxes unless a person's estate is over \$2,193,000.00. For 2020, there are no federal estate taxes unless a person's estate is over \$11,580,000. There is a cost of living index adjustment to these exemption amounts each year. The combined state and federal estate tax rate for estates above the exempt limits is around 52%. Estate value is based upon all assets, including life insurance and pension plans. We can discuss estate planning methods that may reduce or eliminate estate taxes, even if your estate is above the exempt amount. We can also make a plan that is flexible, in the event that the exempt amounts change over time.