



## ESTATE PLANNING WORKBOOK

***Bring this worksheet to your next appointment.*** If you need assistance completing the information, call our office (208) 345-6308, and we will help you. Total accuracy is not required – just do the best you can, and we will discuss your concerns at your design meeting. We look forward to designing a lasting legacy for you and your family!

**ALL INFORMATION PROVIDED IS STRICTLY CONFIDENTIAL**

## PERSONAL INFORMATION

Information Requested:	Client No. 1	Client No. 2
Full Legal Name <i>(Name most often used to title property and accounts which we will use as your signature name)</i>		
Also Known As/Other Names Used To Title Property and Accounts		
Prefer To Be Called		
Address		
Phone Number(s)		
Email		
S.S. No.		
Vet ID No.		
Birth Date		
Birthplace		
Citizenship		
Occupation		

Married: Date of Current Marriage \_\_\_\_\_
  Divorced
 Widowed
 Single

**Please supply a copy of any divorce judgments or gift tax returns previously filed.**

Cohabiting: Domestic Partnership Registration Filed?  Yes State: \_\_\_\_\_  No

Do you have a specific deadline to complete planning, such as an upcoming trip, surgery, etc.?  Yes  No

If yes, please explain: \_\_\_\_\_

Please indicate whether you are a party to any of the following types of agreements. If yes, please furnish copies of documents.

PRE-MARITAL AGREEMENT <input type="checkbox"/> YES <input type="checkbox"/> NO	POST-MARITAL AGREEMENT <input type="checkbox"/> YES <input type="checkbox"/> NO	COMMUNITY/SEPARATE PROPERTY AGREEMENT <input type="checkbox"/> YES <input type="checkbox"/> NO
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Please indicate if you have completed prior estate planning. If yes, please furnish copies of these documents.

WILLS <input type="checkbox"/> YES <input type="checkbox"/> NO	TRUSTS <input type="checkbox"/> YES <input type="checkbox"/> NO	OTHER <input type="checkbox"/> YES <input type="checkbox"/> NO
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**ADVISORS (ACCOUNTANT, FINANCIAL ADVISOR, INSURANCE AGENT, PRIOR ATTORNEY):**

Name:	Address (or e-mail address)	Phone

## CHILDREN AND BENEFICIARIES

### CHILDREN OF CURRENT RELATIONSHIP

Name	Date of Birth	Adopted	City & State	Disinherit

### CHILDREN OF FORMER RELATIONSHIP(S)

Name	Date of Birth	Parent	City & State	Disinherit

### OTHER BENEFICIARIES (Include Charities)

Name	Date of Birth	Relationship	City & State	Disinherit

**Have you previously made plans for the disposition of your remains?**

If yes, indicate any involved agency and /or a summary of your wishes: \_\_\_\_\_

If no, please indicate whether you wish to be  cremated  buried  would like to explore options

## Planning Objections, Concerns & Anxieties

Our objective is to assist clients in identifying their concerns and anxieties. All too often in the planning process, a client will discover that there are other, more pressing concerns than the one that caused them to begin the planning process. Please review the following common risks and identify those which concern you. This information will assist us in focusing our conversations towards your most pressing issues.

### Tax Protection Concerns

- Risk of the IRS “inheriting” half the estate when you die
- Risk of capital gains taxes paid on the sale of property
- Risk of unnecessary income taxes being paid on investment assets

### Family Protection Concerns

- Running out of money if you or your spouse become ill and require significant care
- Risk that assets left to your spouse (whether by virtue of joint tenancy or by will) might not pass to your intended heirs as a result of your spouse remarrying
- Risk of a child or other beneficiary losing his or her inheritance to creditors, lawsuits or to a divorcing spouse or to mismanagement of the money
- Risk that an inheritance passing to a minor child or grandchild might be squandered or stolen by the person in charge of managing the money for that grandchild
- Risk that an inheritance received by a child or other beneficiary who has a disability would render them ineligible for governmental benefits
- Risk of unnecessary litigation from heirs who receive less than they desire
- Risk of relatives who would be poor, abusive or even dangerous guardians or from foster care.

### Disability Concerns

- Risk of loss of control over your assets in the event of your disability
- Risk of unwanted efforts made to save your life if you feel that it would be better to cease such efforts and die peaceably and without pain
- Risk of an unnecessary conservatorship or guardianship
- Risk of elder abuse in the event of your incapacity

### Creditor Concerns

- Risk of lawsuits against you
- Risk of loss of your assets to a nursing home or State recovery system
- Risk that a co-owner’s creditor may seize your property to satisfy the debt of the co-owner

### Post-Death Concerns

- Risk of unnecessary costs and delays of probate
- Risk of private matters unnecessarily being made public
- Risk of having to sell assets in a “fire sale” to create the liquidity needed to pay taxes and expenses
- Risk that the person(s) charged with managing your affairs after you’ve passed will innocently make mistakes and be subjected to personal liability for those mistakes

# Leave a Legacy

Ethical wills, unlike traditional wills, bequeath values, ideas and personal reflections to family members and loved ones. This practice, which can be traced back to Biblical times, reinforces the idea that one does not have to be materially wealthy to pass on a rich legacy. An ethical will, like the stories of your life which precede it, is a treasure of the heart that may be lovingly passed along to enrich the lives of children and their descendants, helping them to better understand the singular legacy to which they are heir. We have seen situations where, after mom and dad are gone, the fabric of the family becomes unraveled. However, when kids who initially think first and foremost about the money receive an ethical will from our office (which can be as simple as letters written by their parents), the result is mind-blowing: brothers and sisters are suddenly holding hands! The process for our clients is similarly therapeutic. It can help you see that beyond the money, you still have something valuable to offer. Please let us know if you are interested in leaving a statement of your family history or family philosophy to your children, or in the alternative, if you would like to leave a legacy to any charitable organizations. Some of our clients have allowed us to share examples of prior ethical wills to help other embark on the process.

## I would like to:

- Leave a lasting legacy through a family philosophy, history, or ethical will:  written  video recording
- Benefit a charitable organization or activity
- Support a common family goal through coordinated planning
- Provide guidelines for how children should be supported while their assets are in trust
- Provide for the orderly continuation and transfer of family business interests

## ***IMPORTANT FAMILY QUESTIONS***

(Please check "Yes" or "No" for your answer)	Yes	No
Are you (or your spouse) receiving Social Security, disability, or other governmental benefits?		
If married, have you lived in any of the following states while married to each other? <i>Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin</i>		
Are you (or your spouse) currently the beneficiary of anyone else's trust?		
Are you (or your spouse) a party to any lawsuit or do you (or your spouse) expect any lawsuits will be filed against you? If yes, please describe: _____		
Do you (or your spouse) owe any past taxes?		
Do you wish for your estate plan to address your religious beliefs?		
<b><i>SPECIAL QUESTIONS FOR PARENTS</i></b>		
Do any of your children have special educational, medical, or physical needs?		
Do any of your children receive governmental support or benefits?		
Do you provide primary or other major financial support to adult children or others?		

# Asset Assessment

Determining the ownership, value, and character of your assets is important to your estate and legacy plan. The title "ownership" is important for tax and transfer matters. The "value" will be important in determining potential tax liability. The "character" is relevant in assessing the manner by which the asset can transfer. If necessary, approximate current total values.

## REAL ESTATE

Address	Ownership (List all names on the deed)	Market Value	Balance of Mortgage
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

## CASH ACCOUNTS

Please provide copies of your most recent statements.

Name of Institution & Account Number	Ownership (List all names on each account)	Checking	Savings Or Money Market	CDs

Do you know if you have named payable on death beneficiaries for any of your accounts?

\_\_\_\_\_

Safe Deposit Box No.: \_\_\_\_\_ Name of Institution: \_\_\_\_\_

Ownership: H  W  JT  Other: \_\_\_\_\_

## LIFE INSURANCE

Please provide most recent documentation.

Company	Type	Owner	Beneficiary	Alternative Beneficiary	Death Benefit	Present Value	Policy Loans

## RETIREMENT BENEFITS

(Including IRAs, 401(k)s, and similar tax-deferred plans or accounts. **Please provide most recent statements.**)

	Owner	Beneficiary if Any	Present Value
			\$
			\$
			\$
			\$

## ***SPECIAL QUESTIONS FOR BUSINESS OWNERS***

Special issues arise for business owners who embark on the estate planning process. It is imperative that your business plans coordinate with your estate plan to avoid unnecessary costs, tax, and litigation.

**Business Interests:** (For type use "C" for Corporation, "P" for Partnership, "LLC" for Limited Liability Company, "SP" for Sole Proprietorship, "S" for S Corporation. **Please provide a copy of Articles and By-Laws/Agreement**)

Name of Business	Ownership (List all owners)	Type					% of Interest	Value
		C	P	LLC	SP	S		
								\$
								\$
								\$
								\$
								\$

Please supply a copy of the most recent financial statement for each business

If your business is a partnership or limited liability company, what is your interest and who are the other partners or members? If your business is a corporation, how much and what kind of stock is outstanding and who owns it? In what amount?

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Is there a partnership, LLC or shareholder agreement? (Please supply a copy of the agreement.)  Yes  No

Is there a written employment agreement with any corporation? (Please supply a copy of the agreement.)  Yes  No

Is there a buy-sell/shareholder agreement? (Please supply a copy of the agreement.)  Yes  No

### **FIREARMS**

**TYPE:** List how many NFA firearms you have. Are any of them registered in a state registry? Then list the legal owner and approximate value.

Number of NFA Firearms	Number in a State Registry	Owner	Approximate Value of Collection
			\$

### **FARM AND RANCH EQUIPMENT**

Type	Value
	\$
	\$
	\$
	\$
	\$

### **LIVESTOCK + PET ANIMALS**

**TYPE:** List Livestock in groups with approximate number and values, and list pet animals individually

Livestock + Pets	Number of Livestock	Value
		\$
		\$
		\$
		\$
		\$

## STOCKS AND BONDS

**TYPE:** List any and all stocks and bonds you own. If held in a brokerage account, lump them together under each account.

Stocks, Bonds or Investment Accounts	Type	Account Number	Owner	Amount
				\$
				\$
				\$
				\$
				\$

## MONEY OWED TO YOU

**TYPE:** Mortgages or promissory notes payable to you, or other moneys owed to you.

Name of Debtor	Date of Note	Maturity Date	Owed To	Current Balance
				\$
				\$
				\$

## ANTICIPATED INHERITANCE, GIFT, OR LAWSUIT JUDGMENT

**TYPE:** Gifts or inheritances that you expect to receive at some time in the future; or moneys that you anticipate receiving through a judgment in a lawsuit. **Describe in appropriate detail.**

Description of Inheritance, Gift, or Lawsuit Judgment	Approximate Expected Date of Receipt	Approximate Amount
		\$
		\$

## AUTOMOBILES, BOATS AND RVs

**TYPE:** For each motor vehicle, boat, RV, etc. please list the following: description, how titled, market value and encumbrance:

Description	Name(s) on Title	Market Value	Encumbrance
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

## PERSONAL EFFECTS

**TYPE:** List separately only major personal effects such as jewelry, collections, antiques, furs, and all other valuable non-business personal property (*indicate type below and give a lump sum value for miscellaneous, less valuable items.*).

Miscellaneous Furniture and Household Effects (Total)	Owner(s)	Market Value



## OTHER ASSETS

**TYPE:** Other property is any property that you have that does not fit into any listed category.

Type	Owner	Value
		\$
		\$
		\$

## ESTATE SUMMARY

**Assets:**

	Husband	Wife	Total Value
Home	\$	\$	\$
Other Real Estate	\$	\$	\$
Cash Accounts (Bank accounts, Certificates of deposit)	\$	\$	\$
Marketable Securities (Stocks & Bonds)	\$	\$	\$
Notes & Receivables (Money owed to you)	\$	\$	\$
Business Interests (from page _____)	\$	\$	\$
Life Insurance	\$	\$	\$
Retirement Plans	\$	\$	\$
Personal Property (Cars, jewelry, etc.)	\$	\$	\$
Anticipated Inheritance / Lawsuit Judgment	\$	\$	\$
Other Assets (Not described above)	\$	\$	\$
<b>TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**Liabilities:**

	Husband	Wife	Jointly
Mortgage on home	\$	\$	\$
Mortgage on other real property	\$	\$	\$
Loans against life insurance	\$	\$	\$
Other debts	\$	\$	\$
<b>TOTAL LIABILITIES</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Net Worth	\$	\$	\$
Combined Net Worth	\$	\$	\$

**Other Matters:** Describe or list here any facts or concerns that do not seem to be covered by the other sections of this questionnaire and that you believe may be relevant in connection with your estate plan.

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## INCAPACITY PLANNING

### FINANCIAL AGENT/TRUSTEE UPON INCAPACITY

Please indicate below who you would like to serve as your financial agent (e.g., Agent under your Power of Attorney, Trustee of any Trust). You may choose to have co-representatives. Naming co-representatives creates a built-in balancing of powers, but at the same time may cause conflict (if either can act separately) or more difficult administration (if both are required to act together). If you nominate co-representatives, please indicate whether they must act together or may act separately.

Spouse Primary? <input type="checkbox"/> Yes <input type="checkbox"/> No    NA	Spouse Primary? <input type="checkbox"/> Yes <input type="checkbox"/> No    NA
<p><b>Primary</b> (after spouse, if applicable).                      1. Name(s): _____  <input type="checkbox"/> Co-representatives must act together?  <input type="checkbox"/> Co-representatives may act separately?</p>	<p><b>Primary</b> (after spouse, if applicable).                      1. Name(s): _____  <input type="checkbox"/> Co-representatives must act together?  <input type="checkbox"/> Co-representatives may act separately?</p>
<p><b>Alternate.</b>                      2. Name(s): _____  <input type="checkbox"/> Co-representatives must act together?  <input type="checkbox"/> Co-representatives may act separately?</p>	<p><b>Alternate.</b>                      2. Name(s): _____  <input type="checkbox"/> Co-representatives must act together?  <input type="checkbox"/> Co-representatives may act separately?</p>
<p><b>Alternate.</b>                      3. Name(s): _____  <input type="checkbox"/> Co-representatives must act together?  <input type="checkbox"/> Co-representatives may act separately?</p>	<p><b>Alternate.</b>                      3. Name(s): _____  <input type="checkbox"/> Co-representatives must act together?  <input type="checkbox"/> Co-representatives may act separately?</p>

Are your above nominees the same persons you would nominate to act as guardians and conservators of any minor children you may have?    Yes    No    If not, please specify: \_\_\_\_\_

### HEALTH CARE ADVANCE DIRECTIVE

An Advance Directive (also called a Health Care Power of Attorney) authorizes another person (called your "Medical Agent"), to make decisions with respect to your medical care in the event that you are physically or mentally unable to do so, as certified by two physicians. This document includes the type of provisions that are commonly referred to as "Living Will" provisions allowing you to indicate your wishes concerning the use of heroic or extraordinary measures to prolong your life artificially in the event of a terminal illness or injury.

<p><b>Primary Medical Agent</b></p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p><b>Primary Medical Agent</b></p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>
<p><b>Alternate Medical Agent</b></p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>	<p><b>Alternate Medical Agent</b></p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____</p>

Do you want to authorize your Medical Agent to take whatever steps are necessary to keep you in a personal residence rather than nursing home? Husband:  Yes  No Wife:  Yes  No

Who should decide that you are incapacitated/no longer able to manage your own affairs?  Two Doctors  Doctor & Spouse  
 Disability panel consisting of the following people: \_\_\_\_\_

If you are no longer managing your own assets, do you want your trustee to:  Continue a gifting program  Spend down your estate for Medicaid  Begin a gifting program  Support dependents or others: \_\_\_\_\_

Do you wish for your Health Care Plan to address any of the following (please circle): Pain Control Pregnancy  
 Visitation by non-relatives Chemotherapy Auto resignation of agent for not following my wishes Loving / Dignified care  
 treatment with antibiotics (in the event of secondary infection) Autopsy Religious beliefs: \_\_\_\_\_

### *Post-Death Planning*

Please indicate the persons you wish to administer your estate or trust in the various categories below.

**Who would you choose to administrate and distribute your estate?**

Spouse Primary? <input type="checkbox"/> Yes <input type="checkbox"/> No	Spouse Primary? <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Primary</b> (after spouse, if applicable). 1. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?	<b>Primary</b> (after spouse, if applicable). 1. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?
<b>Alternate.</b> 2. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?	<b>Alternate.</b> 2. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?
<b>Alternate.</b> 3. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?	<b>Alternate.</b> 3. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?

**Who would you choose to administrate and distribute any trusts established for your children / beneficiaries?**

If same as above, check this box:  Nominations are the same for all trusts. If different, please specify below:

Spouse Primary? <input type="checkbox"/> Yes <input type="checkbox"/> No	Spouse Primary? <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Primary</b> (after spouse, if applicable). 1. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?	<b>Primary</b> (after spouse, if applicable). 1. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?
<b>Alternate.</b> 2. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?	<b>Alternate.</b> 2. Name(s): _____ <input type="checkbox"/> Co-representatives must act together? <input type="checkbox"/> Co-representatives may act separately?

## ULTIMATE DISTRIBUTIONS: SPECIFIC GIFTS

Using the table below, please list any special bequests that you would like to make, i.e., specific *amounts of money or specific assets of your estate* that you would like to give to specific persons or institutions (including any charities) upon your death, **prior to the distribution of your residuary estate**. Please do not list personal effects or specific items of tangible personal property such as clothing, jewelry, furniture, furnishings, household goods, and vehicles, as these items may be disposed of via your Personal Property Memorandum (PPM). We will provide you with a sample PPM form in connection with your will or trust. If you decide to use the PPM, you will fill it out yourself and you can then add to it or modify it at any time, and simply keep an updated copy with your will.

Beneficiary	Asset

## ULTIMATE DISTRIBUTIONS: RESIDUARY ESTATE

Please indicate below how your residuary estate should be distributed upon your death. Your *residuary estate* is comprised of the liquidated value of all your financial assets remaining in your trust or estate after satisfaction of your specific monetary bequests listed above. Unless you request otherwise, the share of a deceased beneficiary will be distributed to that beneficiary’s living children in equal shares; or if the deceased beneficiary has no living children, then the deceased beneficiary’s share would be redistributed proportionally among your other residuary beneficiaries.

Client No. 1	Client No. 2
<input type="checkbox"/> All to my spouse, or if my spouse predeceases me, then to my children in equal shares	<input type="checkbox"/> All to my spouse, or if my spouse predeceases me, then to my children in equal shares
<input type="checkbox"/> All to my children in equal shares ( <input type="checkbox"/> If a child predeceases me, said child’s share shall go to such child’s <input type="checkbox"/> children or <input type="checkbox"/> my surviving children	<input type="checkbox"/> All to my children in equal shares ( <input type="checkbox"/> If a child predeceases me, said child’s share shall go to such child’s <input type="checkbox"/> children or <input type="checkbox"/> my surviving children
<input type="checkbox"/> As follows:	<input type="checkbox"/> As follows:

**REMOTE CONTINGENT BENEFICIARY:** Who do you want to receive your property in the remote event that no one listed above is alive to receive your property? Determining the remote contingent beneficiary is not so important that it should cause you to delay completion of your entire estate plan. It can always be changed at a later date.

In the remote event no one listed above is alive to receive my property I want my property distributed as follows:

- One-half to each client’s heirs at law.
- To the following named individuals and/or charities: \_\_\_\_\_

## ESTATE PROTECTION

Many married couples use a Family Trust (and sometimes an additional Marital Trust – a trust that qualifies for the marital deduction but places some restriction on the surviving spouse’s use of the trust funds) in order to protect some of their estate for their children, guarding against the possible dissipation of the marital estate as the result of a surviving spouse becoming remarried and/or having additional children (whether through birth or adoption) and/or becoming a victim of fraud or deceit. To accomplish this, the surviving spouse’s rights to the principal of the Family Trust (and/or the Marital Trust) are written either to terminate or be reduced in the event the surviving spouse becomes remarried or has additional children.

**Estate Protection Decisions:** If you decide to establish an estate plan using a Family Trust (with or without a Marital Trust) upon the death of the first spouse, then you should also decide on certain variables concerning the surviving spouse’s rights in the Family Trust. In the table below, please select one of the options in each of the two outside columns. These same options will apply to the Marital Trust if you elect to have a Marital Trust.

Surviving Spouse is Not Remarried	The Surviving Spouse Shall Receive All Income From the Family Trust and Shall Have the Following Rights to Distributions of Principal:	Surviving Spouse Remarries
	<b>Maximum Rights:</b> (1) Five Percent of the principal per year, plus (2) unlimited support without regard to need.	
	<b>5% + More if Needed:</b> (1) Five percent of principal per year, plus (2) unlimited need based support.	
	<b>5% Only:</b> Five percent of principal per year only. No additional principal regardless of need.	
	<b>Need-Based Only:</b> Unlimited need-based support only.	
	<b>No Rights to Principal:</b> Income only.	
	<b>Require a Prenuptial agreement or lose status of Trustee</b>	

## SPECIAL QUESTIONS FOR PET OWNERS

If you now own pets, or may in the future own pets, then you should have us include our standard “pet provision” in your Will or Living Trust. You must designate a Primary Pet Caretaker and, if desired, one or more Successor Pet Caretakers to care for each type of pet you may have (i.e., if you may have both a dog and a cat, you may designate a different caretaker for each; if you have or may have other types of pets, feel free to change the column headings and/or use additional sheets of paper). You should also designate a monetary distribution to go to the Pet Caretaker to be used for the care, feeding, and veterinary services for each pet. Our standard provision states that if all the Caretakers you have named are unable or unwilling to care for your pets, and a suitable alternative caretaker cannot be found, then the pets- along with the monetary distribution- will be given to a local animal shelter- [www.animalshelter.org](http://www.animalshelter.org). You may change this default if desired.

<b>Primary Pet Caretaker for Pet(s) (specify number &amp; type)</b>  Name: _____	<b>Primary Pet Caretaker for Pet(s) (specify number &amp; type)</b>  Name: _____
<b>First Successor Caretaker</b>  Name: _____	<b>First Successor Caretaker</b>  Name: _____
Gift in cash to trust for the care of the above pet(s)?  Other monetary distribution:	Gift in cash to trust for the care of the above pet(s)?  Other monetary distribution:
Do you wish for your trustee to receive compensation for caring for your pets? If so, how much?	<b>If you establish a pet trust, you can require your trustee adhere to your specifications regarding the care of your pet(s). We will provide you with the necessary forms to complete for this purpose. Please check here <input type="checkbox"/> if you wish to leave detailed directions regarding the care of your pet(s).</b>

## ***SPECIAL QUESTIONS FOR PARENTS***

### **ASSET PROTECTION TOOLS FOR CHILDREN**

If you have minor children or if you desire to delay final distribution of your estate until your children (or other beneficiaries) have reached what you feel will be an adequate level of maturity, you must choose from the three types of delayed distribution options explained below. **PLEASE NOTE: TRUSTS FOR DISABLED BENEFICIARIES (SPECIAL NEEDS TRUSTS) WILL BE SPECIALLY DRAFTED AND DO NOT ALLOW FOR THE DISTRIBUTION OPTIONS OUTLINED BELOW.**

**Step 1- How Assets Are To Be Held:** Please read the explanations after each of the following three options and then select one of the three options that best meets your desires with regard to how trust assets should be held:

<p><input type="checkbox"/> <b>Option 1 – Separate Trust Funds for Each Beneficiary:</b> Most people select this option, which calls for each beneficiary’s inheritance to be held by the trustee in a <b>separate fund for each beneficiary</b>. Whatever is left in each beneficiary’s trust fund, if anything, will be distributed to that beneficiary when he or she attains the age(s) indicated below. This option is generally much easier for the trustee and it ensures that all of your beneficiaries are treated equally.</p>	<p><input type="checkbox"/> <b>Option 2 – Single Trust Fund for Multiple Beneficiaries:</b> This option calls for the entire inheritance to be held by the trustee in a <b>single trust fund for the benefit of multiple beneficiaries</b>. The trustee may make unequal distributions during the term of the trust. Whatever is left in the trust, if anything, will be distributed equally when your youngest beneficiary attains the age(s) indicated below. This option will allow the trustee to accommodate a particular beneficiary’s needs by distributing more of the inheritance to that beneficiary during the time of the trust.</p>	<p><input type="checkbox"/> <b>Option 3 – No Trust (Not Recommended):</b> Beneficiary’s inheritance may be paid, at the <b>election of the personal representative</b>, to the beneficiary, to a guardian or a custodian under a Uniform Gifts To Minors Act, OR the executor may hold the bequest until the beneficiary attains the age of 21. Whoever holds the funds may use the funds at any time for the health, education and support of the beneficiary, but whatever is left will be distributed directly to the beneficiary at the age of 21.</p>
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I wish for my beneficiaries to receive their distributions in  Separate Trusts  Common Trust

Special Needs Trust to allow prevent disqualification of government benefits  Outright / No Trust

### **SUPPORT OPTIONS**

Select the age or milestone at which time your beneficiaries can manage their inheritance.

- |  |
|--|
| <p><input type="checkbox"/> I wish for the property to remain in trust for as long as possible, or until my trustee chooses to terminate the trust <input type="checkbox"/> My beneficiary may act as co-trustee / trustee (circle one) of the trust at age _____ or upon the occurrence of the following event(s): _____</p> <p><input type="checkbox"/> Other (please specify below or on attached sheets)</p> |
|--|

Do you have any other special concerns about any of your children or beneficiaries?  Yes  No

If “yes”, please specify: \_\_\_\_\_  
\_\_\_\_\_

## *A Bit About Trust Planning*

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For too long, Americans have been taught to rely on the government for their needs: Social security will pay your retirement. The Affordable Care Act will take care of your medical expenses. Medicaid will pay for your nursing home. The court will handle your affairs if you are incapacitated or when you die.

Astute estate planning attorneys know that the government-controlled court system is not the answer to their client's legal problems any more than social security is the answer for living expenses during retirement. When we explain the difference between planning with a will and the planning and protection that can be done with a living trust, clients almost always choose to prepare a trust, because the benefits by far outweigh the costs. Trusts are excellent investments for you and your family.

We know that there is much misinformation on the internet about living trusts, even from sources you might expect to be neutral. Having an estate with a certain dollar value is not the marker on whether or not a client should consider a living trust. There is no dollar value that needs to be achieved to want to avoid a public, complicated, inefficient process during your or your family's most difficult times. Too many Americans are using the court system as their estate plan simply because they don't know that they have an option. The option is to take control of your own affairs and plan to protect yourself, your loved ones, and your legacy with a legal document called a living trust.

Think of a living trust as writing your own, personal "rulebook." When you create a living trust, you are completely replacing the government-controlled court system, where a judge will oversee your affairs if you are incapacitated and oversee the court process that will take place when you die. Both of these proceedings take place in a court known as the "probate" court. The probate courts are clogged, inefficient, public, and expensive. When clients understand that they can completely avoid both of these ordeals AND choose the people they would like to be in charge of their affairs, AND save money in the process, they always choose the living trust. Knowledge is, after all, power.

We recommend living trusts for our clients who have any one of the following situations:

1. Want control of the process that will take place if they become incapacitated (disabled) or die;
2. Do not want to lose their gun rights simply because they cannot balance their checkbook
3. Prefer a private, simple process rather than a complicated, public, court process;
4. Prefer to save their loved ones time, expense, and stress should anything happen to them;
5. Have trouble with one or more family members and wish to ensure the problem relative is not involved in their affairs;
6. Will be disinheriting a child;
7. Would prefer to protect a child's inheritance from creditors and predators, including divorce;
8. Wish to motivate a child to attend college or otherwise become a productive member of society;
9. Have real property in more than one state; or
10. Have a child with special needs.

Any one of the above reasons is reason enough to consider preparing a living trust.

If you would like to avoid the government's plan for you and your family if you are disabled or pass away, and you would like a streamlined, efficient process where you are in control of what will happen and who is in charge of carrying out your wishes, then a living trust should be a part of your estate plan. ***We would love to meet with you and answer your questions. Call us at 208-345-6308*** to schedule your ***free estate planning consultation***, where you can ask all your questions about living trusts and make an informed decision about the plan that will be best for you and your family.

## TAX CONSIDERATIONS: HOW ESTATE TAX WORKS

Federal tax law allows an unlimited transfer of property to a surviving spouse without imposing any estate tax. This is a result of what is called the “unlimited marital deduction”. In addition to the unlimited marital deduction, federal tax law allows every individual to transfer a specific amount tax-free during his or her lifetime, or at death, to a beneficiary or beneficiaries other than a spouse. This amount, called the “exclusion amount”. The State of Oregon has a separate “exclusion amount”. The State of Idaho does not.

Year	Exempt Amount
2018	\$11,200,200 Federal
2018	\$1,000,000 Oregon Not applicable in Idaho

### Estate Tax Exemption Table

**Without Tax Planning:** Accordingly, if you are married and you leave everything to your spouse without proper tax planning, then upon your death your estate will not have to pay any federal estate taxes due to the effect of the unlimited marital deduction. However, upon the death of your spouse, all amounts in excess of the exclusion amount will be subject to both federal and state tax rates.

#### Example of Estate Tax Without Tax Planning:

For example, let’s assume you and your spouse have a combined taxable estate of \$15,000,000 (note that your taxable estate included everything you own or have control over – including life insurance proceeds – at the time of your death). If you were to die in the year 2018 leaving everything to your spouse, no federal estate taxes would be due at that time. If your spouse then were to die in the year 2018, the first \$11,200,000 would pass free of federal estate tax, but the remaining amount would be fully subject to federal estate tax unless your accountant makes a portability election or you have otherwise planned to use both exemptions. This is because your estate’s second exclusion amount was lost when you left everything to your surviving spouse under the unlimited marital deduction. In addition, a Tax would be due for Oregon residents.

### TAX PLANNING USING A FAMILY TRUST

The primary way to avoid or minimize this tax problem for most married couples is to establish an estate plan so that upon the death of the first spouse a “Family Trust” (also called a “Credit Shelter Trust” or “Bypass Trust”) is created. The purpose of the Family Trust is to provide support for the surviving spouse during his or her lifetime, with the remainder of the trust then going to the children upon the death of the surviving spouse. Because the children are the ultimate beneficiaries of the Family Trust, the amount going into the Family Trust is able to qualify for the exclusion amount.

#### Example of an Estate Plan with a Family Trust:

Using the above example, upon your death your estate would be left to a Family Trust instead of directly to your spouse. Your spouse could be the trustee of the trust and would be allowed to receive all the income from the trust and 5% or five thousand dollars from the principal of the trust every year. Your spouse can even withdraw additional principal from the Family Trust so long as the money withdrawn is not used by your spouse to exceed the standard of living established while you were alive. Upon the death of your spouse, the Family Trust will terminate and whatever is left in the Family Trust will go to your children – completely free of Estate Tax, even if the amount they receive has grown to be more than the amount that went into the trust at the time of your death.

#### Other Benefits of Family Trust Planning:

Some couples choose to create family trusts, even though they may not have an estate large enough to be subject to any estate taxes. Reasons for creating a family trust beyond tax planning include asset protection planning for the surviving spouse and preventing the disinheritance of children from a prior relationship. If you have children from a relationship prior to your current marriage, then you should consider creating a family trust.

**Your specific tax planning and asset protection planning needs will be discussed during your design meeting. The above information is provided as an introduction to the current estate tax laws.**



## For Attorney Only

This page will be completed during your design meeting.

### PROVIDING FOR THE SURVIVING SPOUSE UPON DEATH OF FIRST SPOUSE TO DIE

**TO SURVIVING SPOUSE WITHOUT TAX PLANNING:** We recognize this does not provide any tax planning which may result in our beneficiaries paying significant optional estate taxes.

- All to surviving spouse.  \_\_\_\_\_% to surviving spouse.  
 Minimum allowed by law to surviving spouse.

**DIVIDE INTO MARITAL AND FAMILY TRUSTS:** Designed to maximize estate tax savings. To accomplish this an amount up to the "applicable exclusion amount" will be transferred to the Family Trust and the balance, if any, to the Marital Trust. This is sometimes referred to as "A/B Trust Planning". The Marital Trust is sometimes referred to as the "A Trust" or "QTIP Trust". The Family Trust is sometimes referred to as the "B Trust", "By-Pass Trust" or "Credit Shelter Trust". Also provides protection for surviving spouse from creditors and predators. You decide how much control you want the surviving spouse to have. In the event of remarriage protects property for your heirs from a new spouse in case of death or divorce.

#### MARITAL DEDUCTION FORMULA:

- Disclaimer Provision  Clayton Election  
 Marital Pecuniary  Marital Fractional  
 Credit Shelter Pecuniary

#### DESIGN OF MARITAL SHARE:

**OUTRIGHT:** We want to leave property outright to the surviving spouse. We recognize that this offers no protection from creditors or predators. Allows surviving spouse to leave property to whomever he or she wants. Also allows a new spouse to possibly make claim on property in case of death or divorce

**GENERAL APPOINTMENT TRUST:** All income and principal are available to the surviving spouse upon demand. The surviving spouse is free to do as he or she pleases. This would include the ability to remove all property in the Marital Share from the trust.

**ALL INCOME – PRINCIPAL FOR NEEDS:** All income is distributed to surviving spouse; principal is available for his or her needs (health, education and maintenance).

**ONLY INCOME:** Only income is distributed to surviving spouse. Principal is not available to the surviving spouse.

#### DESIGN OF FAMILY SHARE:

**ALL INCOME – PRINCIPAL FOR NEEDS:** All income is distributed to surviving spouse; principal is available for needs (health, education and maintenance).

Are descendants permissible beneficiaries of principal? \_\_\_\_\_

**INCOME AND PRINCIPAL FOR NEEDS:** All income and principal is available for needs. Income may be accumulated and not distributed.

Are descendants permissible beneficiaries of income and/or principal? \_\_\_\_\_

**ONLY INCOME:** Only income is distributed to surviving spouse. Principal is not available to the surviving spouse.

**WHO IS RESPONSIBLE FOR DETERMINING LIFETIME DISTRIBUTIONS:** Is surviving spouse the sole trustee with a right to appoint co-trustee (surviving spouse then determines the management and distributions for his or her needs)? Do you wish to name someone to be the co-trustee with the surviving spouse? \_\_\_\_\_

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**LIMITED POWER OF APPOINTMENT:** Do you want the surviving spouse to be able to modify the way property is to be distributed upon his or her death? \_\_\_\_\_

If so, to whom may the surviving spouse distribute your property:  Your descendants  Your descendants and their spouses  Your descendants and charities  Your descendants, their spouses and charities  Anyone, no limitations