

*Legal Office, NAS Whiting Field, Milton, Florida.  
To make, cancel or reschedule an appointment, call (850) 623-7231*

## **FAQ's While Completing Your Will Worksheet**

### **What is a Last Will and Testament?**

A last will and testament is a legal document. It directs how your property will be distributed upon death. A last will is your most recent will.

### **What is a Living Will?**

A living will is a legal document that states your intention to refuse medical treatment if you become both terminally ill and cannot communicate your desire to refuse medical treatment.

### **What is a Health Care Surrogate?**

This is often called a durable power of attorney for health care or an advance directive. A health care surrogate takes effect upon incapacitation. It names someone to make health care decisions for you, when you cannot communicate to your doctors. We recommend a health care surrogate along with your living will.

### **What is a Durable Power of Attorney?**

A durable power of attorney gives someone the authority to act on your behalf, to sign your name as if you are signing. It is like a general or special power of attorney, because it spells out what authority you are giving your agent. However, unlike a general or special power of attorney, a durable power of attorney is still effective if you become incapacitated. Also, it generally does not have an expiration date. Because this is a very powerful document, we suggest that the durable power of attorney only becomes effective if you are actually incapacitated and cannot handle your financial affairs for yourself.

### **Why does it matter if my estate is worth over \$1,500,000.00?**

Your estate could be heavily taxed if your entire estate, including the payout on insurance policies, is greater than \$1,500,000.00. Please tell your attorney if your estate is over \$1,000,000 or could exceed \$1,500,000.00 in the near future.

### **What is a personal property memorandum?**

Florida and a few other states allow a personal property memorandum to be kept with the will. A personal property memorandum is a hand-written list of specific assets (no cash or real estate) that is to be given to specific people upon your death. You may write a new personal property memorandum without executing a new will.

### **What is a primary beneficiary?**

A primary beneficiary is the person or people who will receive all of your property when you die. This property does NOT include jointly titled property with right of survivorship, insurance proceeds with designated beneficiaries, trust assets, and other property with pay-on-death beneficiaries.

**What is a secondary beneficiary?**

A secondary beneficiary is the person or people who will receive your property if ALL of your primary beneficiaries die before you.

**What is an alternate beneficiary?**

An alternate beneficiary is the person or people who will receive your property if ALL of your primary and secondary beneficiaries die before you.

**What is an executor/ personal representative?**

This is the person who will carry out your desires as is outlined in your will. The executor/ personal representative will have numerous duties under the probate code. In Florida, this person must be your relative or a Florida resident.

**What is an express trust for a minor child?**

This is where you leave property (including money and real estate) to a minor child without them legally owning or controlling the property until they reach a certain age. The property is held by the trustee for the benefit of the minor child. The trustee is subject to state law fiduciary duties, and trusts must be created and maintained according to state law. You can also leave property to a minor child without creating an express trust. Your executor/ personal representative can hold the money until an age you specify, usually 18-21, and use it for the health, welfare, support and education of the child.

**What is a Credit Shelter Trust?**

This is also called a bypass trust. A credit shelter trust is a way to minimize federal tax on estates valued over \$1,500,000.00. If your estate is valued over \$1,500,000.00, you will need to discuss this option with your attorney.

**What is a guardian for a minor child?**

A guardian is a person you nominate to be the caregiver and legal custodian of your children if your spouse has died or is incapacitated. In Florida, this person must be your relative or a Florida resident.

**What should I expect when I come to the legal office for my will?**

Make sure you have an appointment and come with your military ID and will worksheet filled out. If you do not understand something in the will worksheet or need to discuss an issue with an attorney, just leave the space blank and put a star next to the question. If you and your spouse are getting wills from this office, at the same or different times, make sure you both sign a dual representation letter. If you are getting a Health Care Surrogate and/or a Durable Power of Attorney, write down the name, address, and phone number of your agent AND your alternate agent. It will take approximately 30 minutes per person, and your will and other documents will be drafted and executed on the same day. Please call our appointment desk if you are unable to make your appointment.