

## Estate Planning and Will Information Form

WHEN YOU HAVE COMPLETED THIS FORM, please return it to our office. We rely upon the information you provide us to be accurate and complete in all respects. If the information is not accurate and complete, the recommendations we make may not be appropriate for your situation.

### 1. **Testator** (Person(s) making will)

Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Social Security No. \_\_\_\_\_ U.S. Citizen? Yes \_\_\_\_\_ No \_\_\_\_\_

Spouse Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Social Security No. \_\_\_\_\_ U.S. Citizen? Yes \_\_\_\_\_ No \_\_\_\_\_

Street Address \_\_\_\_\_ Apt. \_\_\_\_\_ County \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

State of Residence \_\_\_\_\_

Telephone Numbers: H \_\_\_\_\_ W (Client) \_\_\_\_\_ W (Spouse) \_\_\_\_\_

E-mail: Client \_\_\_\_\_ Spouse \_\_\_\_\_

### 2. **Marriage**

a. Have you and your spouse signed a Premarital Agreement? Yes \_\_\_\_\_ No \_\_\_\_\_  
If you have, please send a copy of it to our office.

b. Have you or your spouse been divorced? Yes \_\_\_\_\_ No \_\_\_\_\_  
If so, please send a copy of the divorce decree to our office.

### 3. **Children**

Please list ALL your children, including deceased children, children born out of wedlock, and children you wish to omit from your estate plan.

<u>Name of Child</u>	<u>Date of Birth</u>	<u>Address</u>	<u>Child of</u>

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Identify any child who is not a natural or adopted child of both you and your spouse.

a. Have any children received an advance on their inheritance or are any children financially indebted to you? If so, please explain. \_\_\_\_\_

b. Is there any reason NOT to treat your children equally? If so, please explain. \_\_\_\_\_

c. Are any of the children under a disability? \_\_\_\_\_

d. Do you have any special concerns or objectives regarding your children? \_\_\_\_\_

e. **Guardians.** Who should be guardian of your minor children? (A guardian has physical and legal control over your children until they reach the age of 18.)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

Address: \_\_\_\_\_

4. **Personal Representative.** Who should be Personal Representative ("executor") of your estate? A Personal Representative is responsible for probating your will, paying your debts, collecting your assets, and settling your estate. (If married, most people select their spouse as their personal representative and nominate an alternate in case a spouse is not available).

Name: \_\_\_\_\_

Relationship to you: \_\_\_\_\_

Address: \_\_\_\_\_

Alternate Personal Representative: \_\_\_\_\_

Relationship to you: \_\_\_\_\_

Address: \_\_\_\_\_

**5. Spouse's Personal Representative.**

Name: \_\_\_\_\_

Relationship to spouse: \_\_\_\_\_

Address: \_\_\_\_\_

Alternate Personal Representative: \_\_\_\_\_

Relationship to spouse: \_\_\_\_\_

Address: \_\_\_\_\_

**6. Trusts.**

If a trust is appropriate to include in your estate plan, who should be the trustee? A trustee is the person or entity who is responsible for managing the assets placed into the trust. A trustee manages the assets for your children or other beneficiaries until they reach specified ages. If you do not establish a trust, children inherit at age 18. You may name an individual, bank or trust company, or both to act as your trustee.

Trustee Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

Address: \_\_\_\_\_

**7. Spouse's Trust.**

Trustee Name: \_\_\_\_\_

Address: \_\_\_\_\_

Alternate Trustee Name: \_\_\_\_\_

Address: \_\_\_\_\_

**8. Financial Inventory**

Use approximate values under each person showing ownership of each asset.

<b>ASSETS</b>	HUSBAND	WIFE	JOINT
Home			
Other Real Estate			
Checking Account			
Savings Account			
Money Market Account			
Automobile			
Personal Property			
Stocks & Bonds			
Closely Held Business Interest			
Life Insurance (Face):			
On husband's life			
On wife's life			
Retirement Accounts:			
IRA			
Pension			
Profit Sharing/401K			
Other Assets:			
<b>TOTAL ASSETS</b>			

<b>LIABILITIES</b>	<b>HUSBAND</b>	<b>WIFE</b>	<b>JOINT</b>
Home Mortgage			
Other Mortgages			
Debts To Family Members			
Other Debts (describe):			
<b>TOTAL LIABILITIES</b>			

**9. Personal Property**

Describe and give a value of any items of substantial value, such as automobiles, works of art, jewelry, etc. Be sure to include any items listed on an insurance rider.

<u>Description</u>	<u>Approximate Value</u>
Personal Property	
Household Goods and Furniture	_____
Automobile 1	_____
Automobile 2	_____
Collectibles	_____
Jewelry	_____
Boats/Airplanes	
Snowmobiles	_____
Other:	
_____	_____
_____	_____
_____	_____

**10. Health Care Directive.** Do you wish to prepare a Health Care Directive? A Health Care Directive will name someone (health care agent) to make medical decisions for you when you cannot, give your health care agent direction as to your medical care, give direction regarding organ donation and matters regarding cremation or burial. Yes \_\_\_\_ No \_\_\_\_

a. Who should be your health care agent to make medical decisions for you? (If married, most people select their spouse as their primary agent and then nominate an alternate in case a spouse is not available).

Name: \_\_\_\_\_

Alternate Health Care Agent: \_\_\_\_\_

b. Do you want your Health Care Agent to authorize medical treatment even if there is little chance that the medical treatment will benefit you or that you will recover?

Yes \_\_\_\_ No \_\_\_\_ (Check One)

c. Do you wish to donate your organs?

Yes \_\_\_\_ No \_\_\_\_ (Check One)

d. Do you wish to have ordinary burial?

Yes \_\_\_\_ No \_\_\_\_ (Check One)

e. Do you wish to be cremated?

Yes \_\_\_\_ No \_\_\_\_ (Check One)

f. Where do you wish your remains to be placed? \_\_\_\_\_

**11. Spouse's Health Care Directive.** Does your spouse wish to prepare a Health Care Directive? A Health Care Directive will name someone (health care agent) to make medical decisions for him/her when he/she cannot, give his/her health care agent direction as to his/her medical care, give direction regarding organ donation and matters regarding cremation or burial. Yes \_\_\_\_ No \_\_\_\_

a. Who should be your spouse's health care agent to make medical decisions for him/her? (If married, most people select their spouse as their primary agent and then nominate an alternate in case a spouse is not available).

Name: \_\_\_\_\_

Alternate Health Care Agent: \_\_\_\_\_

b. Does your spouse want his/her Health Care Agent to authorize medical treatment even if there is little chance that the medical treatment will benefit him/her or that he/she will recover?

Yes \_\_\_\_\_ No \_\_\_\_\_ (Check One)

c. Does your spouse wish to donate his/her organs?

Yes \_\_\_\_\_ No \_\_\_\_\_ (Check One)

d. Does your spouse wish to have ordinary burial?

Yes \_\_\_\_\_ No \_\_\_\_\_ (Check One)

e. Does your spouse wish to be cremated?

Yes \_\_\_\_\_ No \_\_\_\_\_ (Check One)

f. Where does your spouse wish his/her remains to be placed? \_\_\_\_\_

**12. Financial Power of Attorney.** Do you wish to have a financial Power of Attorney? A financial Power of Attorney gives someone (your attorney-in-fact) the power to handle financial affairs for you. Yes \_\_\_ No \_\_\_

a. Who should be your attorney-in-fact to handle financial affairs for you? (If married, most people select their spouse as their primary agent and then nominate an alternate in case a spouse is not available).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

b. Who should be your alternate attorney-in-fact?

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**13. Spouse's Power of Attorney.** Does your spouse wish to have a financial Power of Attorney? A financial Power of Attorney gives someone (your spouse's attorney-in-fact) the power to handle financial affairs for him/her. Yes \_\_\_ No \_\_\_

a. Who should be your spouse's attorney-in-fact to handle financial affairs for him/her? (If married, most people select their spouse as their primary agent and then nominate an alternate in case a spouse is not available).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

b. Who should be your spouse's alternate attorney-in-fact?

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

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Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**IF MARRIED PLEASE READ AND SIGN THE NEXT PAGE**

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**IF MARRIED PLEASE READ AND SIGN THE NEXT PAGE**

Upon completion, please mail to:  
Richard J. Gabriel, Esq.  
GABRIEL LAW OFFICE, PLLC  
880 Sibley Memorial Highway, Suite 114  
Mendota Heights, MN 55118-1736



**TO MARRIED COUPLES:**

It is possible that in the course of planning your estate, we may suggest that you consider transferring or changing title to your assets, or we may suggest that you consider changing ownership or beneficiary designation of life insurance policies, annuities, IRA accounts, pension accounts, etc. Under some circumstances, these could possibly benefit one of you over the other. We will assume, unless you indicate otherwise, that you want us to plan your estates for both of you and for the benefit of your family as a whole. If, however, you feel that it would be appropriate, you are certainly authorized to, and in fact, encouraged to discuss this with us, and consider seeking separate representation of your individual interest. By having us proceed with your estate planning, we will assume that you are comfortable with us planning for both of you and have decided not to, at least initially, seek independent representation, although you certainly may do so at any time.

**TO GABRIEL LAW OFFICE:**

We have each read the paragraph above. We understand that if we wish to, at any time we can retain independent counsel and terminate your representation of us in the estate planning process. We wish you to continue in assisting us with our estate planning. We understand that in doing so, you may recommend to us that assets be transferred from one to the other or perhaps to others, and that you may suggest that we change ownership, beneficiary designations, etc., which could under certain circumstances have an effect upon one or both of us. We further understand that in the estate planning process you may discuss questions or issues with either or both of us, and may disclose information provided by one of us to the other and perhaps to other family members, advisors of ours, such as life insurance agents, accountants, financial planners, etc. You are authorized to do so, and to that extent, we waive the privileged nature of our communication with you.

Dated: \_\_\_\_\_

\_\_\_\_\_

Husband

Dated: \_\_\_\_\_

\_\_\_\_\_

Wife

## **GLOSSARY OF TERMS**

1. **Last Will and Testament.** This document controls the disposition of assets held in the decedent's name after the date of death. The Last Will and Testament designates someone to administer the estate (the personal representative). The Last will and Testament may contain a testamentary trust and name someone to administer the trust (the trustee). The Last Will and Testament will specify to whom the decedent's property is to be distributed. It may also contain a nomination of a person or persons to raise the decedent's children (guardian).

2. **Testamentary Trust.** This is a trust that is contained in a Last Will and Testament. The trust takes effect after the decedent's death. Once the estate is administered, the personal representative distributes the estate assets to the trustees to be administered in accordance with the terms of the trust. A testamentary trust may contain tax planning clauses and provisions for the financial care of the decedent's spouse or children.

3. **Revocable Living Trust.** This is a trust that is created during a person's lifetime. Generally, the person who creates the trust (the "Settlor") transfers assets into the name of the trust. The Settlor serves as the initial trustee, and names a successor trustee to administer the trust upon the Settlor's disability or death. Assets that are placed in the revocable living trust will avoid probate. A revocable living trust may contain tax planning clauses or special provisions for the financial care of the Settlor's spouse or children.

4. **Trustee.** The trustee is the person responsible for the administration of a trust. The trustee will make decisions regarding the investment and distribution of assets. The trustee will have wide discretion as to how to invest assets and will be instructed in accordance with the terms of the trust as to how those assets are to be distributed.

The trust will generally have a detailed list of instructions as to the distribution of assets. The trust will continue until it terminates in accordance with its terms and provisions. Very often a trust is created for the decedent's children. In that event the trust will terminate when the youngest child reaches a certain age (age 30) or earlier in the event of a death of a child or children.

The person nominated as trustee must be absolutely trustworthy, be able to make intelligent business and investment decisions, and have the ability to make good decisions regarding the allocation of family resources for the benefit of the family members.

5. **Probate Estate.** The probate estate consists of assets that are solely in the decedent's name at the time of death or have been disclaimed by someone else (for example a joint tenant) and by reason of the disclaimer become part of the probate estate. It generally takes 18 to 24 months to completely administer an estate and obtain all necessary income and estate tax clearances. If the will contains a testamentary trust, then the personal representative of the estate will convey all assets to the trustee. If there is no trust created in the will, then the personal representative will distribute the assets to the devisees named in the will.

6. **Personal Representative.** The personal representative is the person who is in

charge of administering the estate. This generally takes 18 to 24 months depending on the nature of the assets and tax issues that may be involved. If the estate is relatively uncomplicated, it may be concluded and wound up as early as four to six months after the initial filings are made with the probate court.

7. **Guardians**. Guardians are nominated in the will. Their job is to raise the children until they become of legal age (age 18 in Minnesota).

8. **Standby or Temporary Custodian**. This person acts as a temporary guardian for the minor children until such time as the parent is once again able to take care of the children or alternatively once a permanent guardian is appointed by the court. They are given authority to act for 180 days. After that time, a permanent guardian would take over.

9. **Health Care Directive**. A health care directive is a document which instructs how a disabled person is to be treated when that person is not able to make or communicate decisions regarding their health care. In addition a health care directive may contain instructions regarding organ donation and cremation or burial.

10. **Health Care Agent**. A health care agent is the person who acts pursuant to the terms and provisions of the health care declaration. A health care agent makes decisions regarding medical matters and post mortem matters as the health care agent is instructed in the health care directive.

11. **Statutory Power of Attorney**. This is a financial power of attorney that designates someone to act on behalf of the principal. The statutory power of attorney is a financial power of attorney that nominates an attorney-in-fact to act on behalf of the principal regarding all financial matters. The person nominated as the attorney-in-fact must be absolutely trustworthy.

12. **Types of Property Ownership**. It is very important to understand the effect of different types of property ownership. Different types of ownership result in the property passing in different ways at death, and can result in significantly different tax treatment.

12.1 **Solely-owned Property**. This type of property refers to property owned by one person. At death, the property passes pursuant to the terms of the Last Will & Testament of the deceased person. If there is no will, the property passes pursuant to the laws of intestate succession.

12.2 **Joint Tenancy**. This form of property ownership involves two or more owners where the ownership document or other pertinent documents clearly show that the parties who own the property intend that the share of a decedent is to pass to the other owner(s) at the time the decedent dies. This type of property is not subject to the provisions of a decedent's Last Will & Testament or the laws of intestacy.

12.3 **Tenants in Common**. This is also a form of ownership involving two or more owners, but when owned as tenants in common (contrary to as joint tenants), the ownership documents do not show that the owners want a decedent's share to go to the survivors. Upon death, the property is distributed pursuant to the

decedent's will or the laws of intestacy if the decedent did not have a will.

12.4 Payable on Death or Transfer on Death Accounts. A POD or TOD account will transfer the account to the named beneficiary upon the death of the decedent. Neither a will nor the laws of intestacy will affect who receives the account after death.

13. Beneficiary. This is a person named in a document who is intended to receive an asset upon the death of the decedent. A beneficiary may be named in a life insurance policy, annuity policy, IRA, profit sharing account, trust, or other documents. Where a document names a beneficiary other than the estate of the decedent, neither the Last Will & Testament of the decedent nor the laws of intestacy will control the disposition of the account or property.