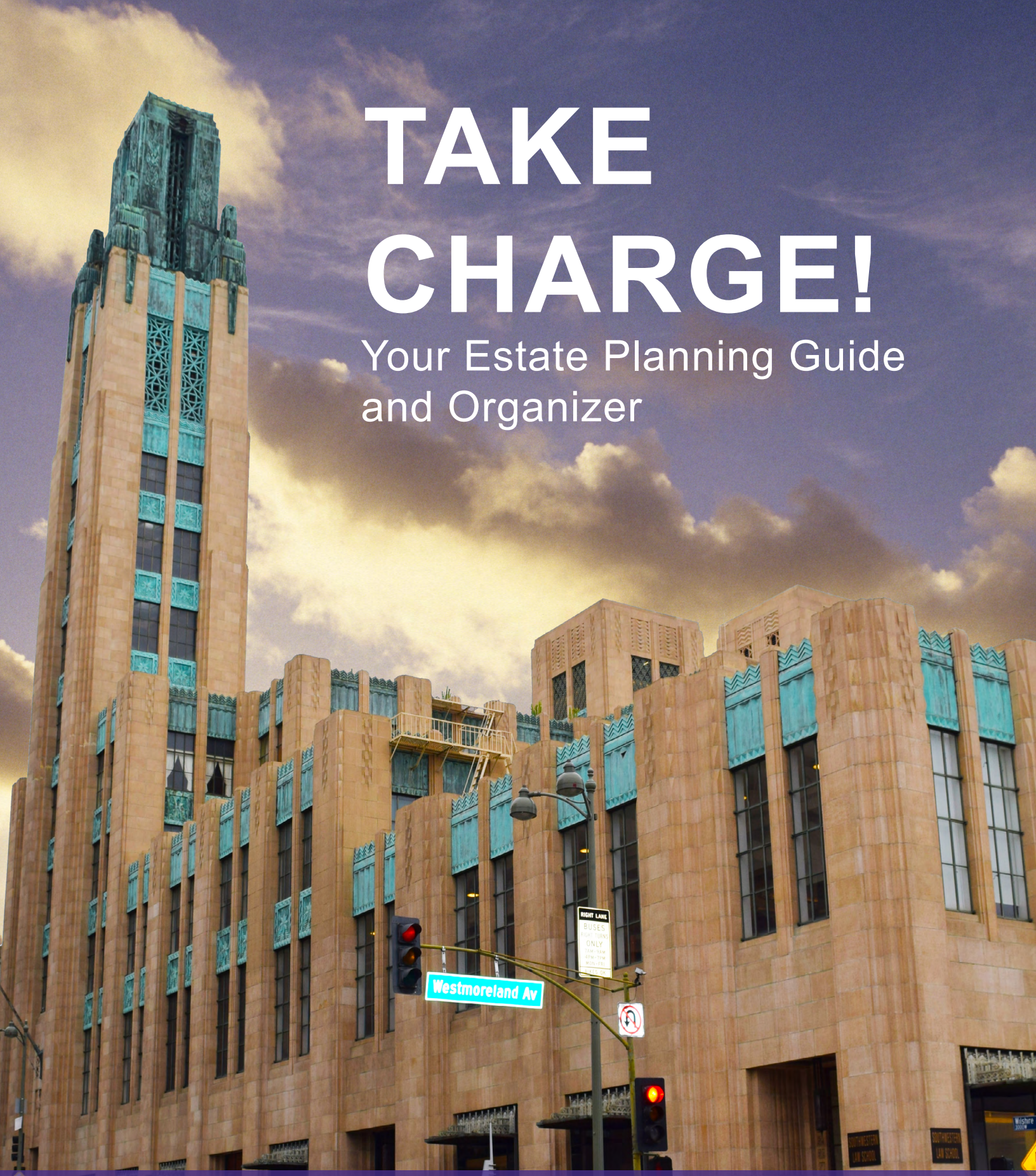
TAKE CHARGE!

Your Estate Planning Guide and Organizer



SOUTHWESTERN LAW SCHOOL
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Do I need to have an estate plan?

Do I need to see an attorney?

How often should I update my plan?

What if I have a plan but want to change one thing?

Introduction

Let's start with a simple question: do you really need an estate plan? The simple answer is "yes," unless you are willing to relinquish to others – who may be perfect strangers – the decisions about your family, your bank accounts, your investments, your care, and anything else important to you. To be candid, putting an estate plan in place requires some effort. But like those seemingly daunting projects you may confront at work and in the home, once done you will feel a sense of accomplishment and even relief. And you will have given your loved ones the gift of stability should an unanticipated event make you absent from their lives.

There are several benefits to making an estate plan:

- Peace of Mind for You — an estate plan is designed to provide for you during life should the unforeseen (your incapacity) happen and for your family when the foreseen (your passing) does occur.
- Peace of Mind for Your Family — an estate plan and documents will help guide your family if they need to make difficult decisions about your care and provide the authority they might need to do so, and to know what to do when you are gone. Consider your plan a final gift to your family and other loved ones at the very time they need it the most.
- Distribution that You Want — without an estate plan of some type, the laws of your state determine what happens to your property. This is called *intestate succession* (property inheritance when there is no will). Very likely the distributions it dictates will NOT be the ones you would have chosen. And no state distribution law provides for gifts to friends or charities, or makes provisions for your pets. Make sure what you've earned and accumulated in your lifetime goes to help those you love and causes you care about.

- Provisions for Your Family — an estate plan is especially important if you have minor children, as it will name a guardian to care for your children and in many instances establishes a trust to help ensure their financial well-being.
- Financial Wisdom — a good estate plan will help streamline the distribution process, minimize administrative costs, and possibly reduce taxes that might otherwise be owed. That means you leave the most you can to the people you love and the causes you care about.

In this booklet, we will first spend some time talking about the key elements of an estate plan, the documents you should have, and some charitable giving ideas you might want to incorporate into your estate plan. Then you'll have the opportunity to record personal and financial information that you need to share with your family and to create your estate plan. (Note: If you are married or have a partner, it will be most helpful if each of you complete separate information inventories.) Finally, we end with some frequently asked questions and answers.

Let's get started.

Key Elements of an Estate Plan

DOCUMENTS RELATED TO YOUR FINAL WISHES

- **Will.** A valid will is generally typed, dated, and signed by you, as well as two legally competent witnesses. States differ as to whether a handwritten will, with or without witnesses, is valid.
- **Revocable Living Trust.** This can be used instead of a will as the main document to distribute your property. You might hear it referred to as a "living trust" or "RLT." The trust is created while you are living, most often people serve as their own trustee, and the power to change and even revoke it can be retained. The living trust becomes **irrevocable** upon your death. A living trust requires that you actually transfer your property into it for it to be effective.

There are pros and cons with each approach, and an estate planning attorney can advise you as to which is best for your situation.

Note: Even if you decide upon a revocable living trust, you should still have what is called a "pour-over" will. It catches any property that was, intentionally or inadvertently, left out of the trust during your life and is not transferred in another way. While this property will still need to go through probate, it will eventually be distributed according to your trust instructions instead of being distributed under state law provisions.

- **Beneficiary Designations**. These are the forms you fill out when you do things like open a bank or stock brokerage account, establish an IRA or other type of retirement plan, purchase a commercial annuity or life insurance policy. They indicate who will receive whatever remains upon your passing (or the death benefit in the case of life insurance).
- **Form of Ownership**. Jointly owned property that is "jointly owned with right of survivorship" passes directly to the surviving joint owner regardless of what the will or living trust might provide. This is most often seen with real estate but can involve other types of property as well. If you live in a community property state, your half of the community property will pass automatically to your spouse.

These latter two means of passing property can have a profound impact on how your overall estate is distributed and should be considered as part of any coordinated plan.

DOCUMENTS PROVIDING FOR PHYSICAL OR MENTAL INCAPACITY

- **Power of Attorney** (POA) for financial matters. This document grants to someone you trust the ability to act on your behalf for a variety of potential transactions and responsibilities. When the POA becomes effective, the extent of the authority granted can be tailored to your particular desires.
- **Power of Attorney** for health care decisions. This document appoints someone to make decisions for you regarding medical treatment if you are not able to do so. It allows you to specify who is in charge of making critical treatment decisions and, perhaps more importantly, who does not have that authority.
- **Health Care Directive**. Sometimes referred to as an "advance directive" or "living will" (not to be confused with a living trust), this specifies the type of end-of-life treatment you want to receive. It is a directive to the physicians treating you and for the person holding your Health Care Power of Attorney.
- **Physician's Order for Life Sustaining Treatment (POLST)**. This allows for your doctor, working with you, to document for the benefit of health care providers your wishes regarding resuscitation and other life-sustaining procedures.

If you have any questions about our estate planning guide, or you would like to learn more about how your gift can help Southwestern Law School, Los Angeles, please contact us:

- call 213.738.6814
- email dev@swlaw.edu

Steps to Having an Estate Plan

Depending on your situation, creating an estate plan doesn't have to be overly difficult or expensive. Here are some practical steps to get you started:

1. Take inventory of what you own. List all of your assets and their approximate value. Include pertinent information about each asset. There is a section later in this booklet for just this purpose.

2. Make a list of tangible personal property, such as jewelry, dishes, books, furniture — items other than real estate and investments — and who is to receive each item upon your passing. You may want to maintain this as a separate list rather than designating this in your will, for maximum flexibility.

3. Make a list of all your electronic devices, along with the passwords needed to access the information. Then make a list of all digital accounts with a coordinated list of passwords. Place the lists in a secure place known to your fiduciary and possibly one other trusted individual. Give written instructions for what you want to happen to your social media accounts. Do you want them to continue or to be taken down? Make sure your power of attorney gives your fiduciary the right to access your electronic devices and digital accounts.

4. Think about your goals for your estate plan, for example, who you want to benefit, how you want to treat each of your children, any special needs that you want to provide for, what happens if you and your spouse both pass away close in time, and if there are charities or organizations you want to remember. Your attorney will most likely ask you about goals you didn't consider, but at least you'll have a head start on those that are most top-of-mind.

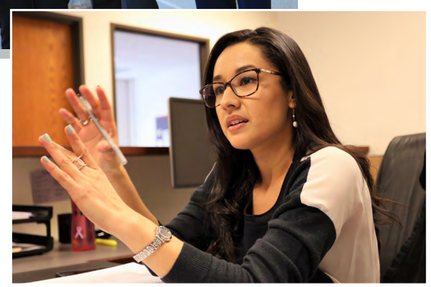
5. Consider whom you would like to name as your agents - e.g., the executor of your will or the trustee of your trust, the person to hold your power(s) of attorney - and gather pertinent information about them. There is also a section in this booklet for that purpose.

6. Go see an attorney, preferably one who specializes in estate planning. If you don't have one or know of one to call, ask us for referrals or check with family, friends, or co-workers for recommendations.

7. Follow through on whatever actions are decided upon in the meeting with your attorney. Rely on the advice of your attorney and other professional advisors as you make your decisions.

8. Share your plans with others. Key documents are of little or no value if no one knows what they say or where to find them when they are needed. This is especially true for the person(s) you have designated to serve as your personal administrator/executor under your will or the trustee of your living trust. It's also important to give loved ones at least a general sense of what to expect, so that there won't be surprises later on.

9. Rest assured that you have made good decisions and have a plan in place.



Consider Your Charitable Legacy

You may have charities that you believe in strongly, and you may have supported these organizations throughout your lifetime. Making a gift provision to one or more charitable organizations in your estate can be a natural extension of that support. You might be surprised at how much you can leave or the personal and other family goals you can achieve with a charitable gift.

Bequest. This is a gift made through your will or living trust. You can leave a specified amount of money, a particular piece of property, or all or a portion of the "residual" of your estate (what remains after your final expenses, debts, and specific gifts are paid). You can also make such a gift contingent. A contingency ensures your wishes are carried out even though your circumstances may have changed since you wrote your will or living trust.
See page 27.

Beneficiary Designation Gift. Just as you designate individuals to receive certain assets directly as your named beneficiary, you can name a charity to receive all or part of the assets controlled by your beneficiary designations. Beneficiary designations are most commonly associated with IRAs and other retirement plan assets and life insurance policies, but it can also work with assets such as checking and savings accounts, brokerage accounts, and commercial annuities. Designating charity as a beneficiary of your IRAs and other retirement plans is a tax-smart gifts since we are a tax-exempt organization. By contrast, if you leave IRAs and other retirement plans to heirs, distributions from these accounts are taxable to individuals.

In addition to leaving a final legacy, beneficiary designations have the advantage of being flexible (give as little or as much as you like), revocable (generally they can be changed at any time), and perhaps most importantly, they leave the assets under your control should you need them during your lifetime.

A beneficiary designation gift to charity is eligible for an unlimited estate tax charitable deduction if your estate is subject to taxation.

Charitable Gift Annuity. This is a simple way to make a gift and receive fixed payments for life in return. In addition, you receive an income tax charitable deduction and the payments are partly tax-free. A gift annuity is arranged directly with the charity you wish to support. Once the payment obligation is met, the charity can use the remaining amount in its programs.

Charitable Remainder Trust. This is another way to support your favorite cause and receive tax benefits while securing an income for yourself and/or family members. A charitable remainder trust is an especially attractive gift if you would like to sell an appreciated asset (e.g, real estate held for investment purposes), and generate income from the sale without paying capital gains tax.

Charitable Lead Trust. A lead trust is the opposite of a remainder trust. The charity receives the payments first for each year the trust is in existence, and at the end of the trust term, what is left is returned to you or to your heirs. This can be an excellent way to transfer substantial assets to your children while minimizing gift and estate taxes.

Retained Life Estate. You can give your home or farm to charity and continue living in it for the rest of your life. You have the satisfaction of knowing that this generous gift has been completed and the added benefit of saving on income taxes with the charitable deduction you will receive.

Essential Information Organizer

(Contains confidential and sensitive information — keep in a secure location)

This questionnaire is designed to help you organize your important information. This will in turn help you when you see an attorney to prepare your will and other key planning documents. It will also help your loved ones at a time when they need it the most — if you are no longer able to make decisions for yourself or if you have passed away.

While it will take some time to complete, the time couldn't be better spent. While death (and taxes) is a certainty, when it will happen is not, and there are other uncertainties in life. Imagine the peace of mind that will come from knowing you have done all that you can do for yourself and your loved ones to be prepared for the unexpected. Gathering information is your first step in this process.

Date: _____

I. You and Your Family

You

Full Legal Name _____

Maiden Name *(if applicable)* _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License *(state and number)* _____

Marital Status: ☐ Single ☐ Married ☐ Widowed ☐ Divorced ☐ Legally Separated

If married, place and date of marriage _____

Do you have a prenuptial agreement? ☐ Yes ☐ No

If widowed, divorced, or legally separated, what date did this occur? _____

Are you a U.S. citizen or a Lawful Permanent Resident?

☐ No ☐ Born in the U.S. ☐ Naturalized *(date and place)* _____
☐ Lawful Permanent Resident ☐ Other Citizenship?

Are You: ☐ Employed ☐ Retired

Current or Most Recent Employer

Name _____

Phone _____

Supervisor _____

Position _____ Start Date _____ End Date _____

Company Benefits _____

_____

Military Service

Branch _____

Service Dates _____

Military Identification # _____

Check what planning documents you have and their location:

☐ Will _____
☐ Revocable Living Trust _____
☐ Health Care Directive _____
☐ Physician's Order for Life Sustaining Treatment (POLST) _____
☐ Power of Attorney — Financial _____
☐ Power of Attorney — Health _____
☐ Personal Property Inventory _____

Your Spouse

Full Legal Name _____

Maiden Name *(if applicable)* _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License *(state and number)* _____

Status — Is your spouse a U.S. citizen or a Lawful Permanent Resident?

☐ No ☐ Born in the U.S. ☐ Naturalized *(date and place)* _____
☐ Lawful Permanent Resident ☐ Other Citizenship?

Check what planning documents you have and their location:

☐ Will _____
☐ Revocable Living Trust _____
☐ Health Care Directive _____
☐ Physician's Order for Life Sustaining Treatment (POLST) _____
☐ Power of Attorney — Financial _____
☐ Power of Attorney — Health _____
☐ Personal Property Inventory _____

Your Children

First Child

Full Legal Name _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License *(state and number)* _____

Status ☐ Dependent ☐ Adopted ☐ Previous Marriage ☐ Special Needs ☐ Deceased

Date of adoption or death _____

Second Child

Full Legal Name _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License *(state and number)* _____

Status ☐ Dependent ☐ Adopted ☐ Previous Marriage ☐ Special Needs ☐ Deceased

Date of adoption or death _____

(Add additional pages as needed.)

Your Grandchildren

First Grandchild

Full Legal Name _____

Parents' Names _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License (state and number) _____

Status ☐ Dependent ☐ Special Needs ☐ Deceased Date of death _____

(Add additional pages as needed.)

Your Parents

Mother

Full Legal Name _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License *(state and number)* _____

Date of Death _____ Resting Place _____

Father

Full Legal Name _____

Address 1 _____

Address 2 _____

Phone _____

Email _____

Date of Birth _____ Place of Birth _____

Social Security Number _____

Driver's License *(state and number)* _____

Date of Death _____ Resting Place _____

Your Pets

First Pet

Name _____

Description _____

Vet Contact Information _____

Food/Medicine/Special Instructions _____

Second Pet

Name _____

Description _____

Vet Contact Information _____

Food/Medicine/Special Instructions _____

II. Professional Advisors

(Add additional pages as needed.)

☐ **Physician**

Name _____

Practice/Company _____

Contact Information _____

☐ **Dentist**

Name _____

Practice/Company _____

Contact Information _____

☐ **Attorney**

Name _____

Practice/Company _____

Contact Information _____

☐ **Financial Planner**

Name _____

Practice/Company _____

Contact Information _____

☐ **Accountant**

Name _____

Practice/Company _____

Contact Information _____

☐ **Broker**

Name _____

Practice/Company _____

Contact Information _____

☐ **Life Insurance Agent**

Name _____

Practice/Company _____

Contact Information _____

☐ **Other**

_____

_____

III. Financial Information

☐ **Tax Records**

Location _____

Preparer Name _____

Contact Information _____

☐ **Safety Deposit Box(es)**

Location/Institution _____

Address _____

Box Number _____

Key Location _____

Who Has Access Authority? _____

☐ **Social Security Payments**

Deposited to Account _____

Bank Name _____

Bank City/State _____

Phone Number _____

Account Number _____

☐ **Pension Information**

Type of Plan _____

Company Name _____

Address _____

Benefit Value _____

Named Beneficiary _____

_____

☐ **Insurance Policies — Disability/Accident/Health**

Type _____

Company _____

Contact Info _____

Policy # _____

IV. Assets and Debts

Assets

Cash (checking, savings, money market, CDs)

Type _____

Bank Name/Location _____

Account # _____

Maturity Date _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Securities (stocks, bonds, mutual funds, savings bonds)

Description _____

Location/Firm _____

Number of Shares _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

My securities broker is:

Name _____

Firm _____

Address/Phone _____

Business Interests (Closely Held Stock, Partnerships, LLC Units)

Business Name _____

Location _____

Number of Shares/Percent _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Real Estate

Description _____

Address _____

Date Purchased _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Life Insurance/Annuities

Description _____

Name of Company _____

Insured/Annuitant _____

Beneficiary _____

Policy # _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Retirement Assets (IRAs, 401(k), 403(b), etc.)

Description _____

Custodian Name/Address _____

Beneficiary _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Debts Owed to Me (mortgages held, accounts, or notes receivable)

Description _____

Debtor Name/Address _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Other Income Producing Assets (patents, royalties, copyrights, etc.)

Description _____

Company _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Tangible Personal Property (cars, jewelry, antiques, boats, collections, tools)

Description _____

Date of Purchase _____

Owned by You Alone $ _____

Owned Jointly with Spouse $ _____

If co-owner is someone other than a spouse, note here: _____

Debts

Mortgages (first and second, home equity)

Description/Loan # _____

Creditor Name _____

Owed by You Alone $ _____

Owed Jointly with Spouse $ _____

If co-debtor is someone other than a spouse, note here: _____

Loans (insurance, bank, personal, business, car or boat)

Description/Loan # _____

Creditor Name _____

Owed by You Alone $ _____

Owed Jointly with Spouse $ _____

If co-debtor is someone other than a spouse, note here: _____

Credit Cards

Description/Account # _____

Creditor Name _____

Owed by You Alone $ _____

Owed Jointly with Spouse $ _____

If co-debtor is someone other than a spouse, note here: _____

All Other Debts or Obligations

Description/Loan # _____

Creditor Name _____

Owed by You Alone $ _____

Owed Jointly with Spouse $ _____

If co-debtor is someone other than a spouse, note here: _____

V. Agents

Executor

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship, if not spouse _____

Alternate Executor

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship, if not spouse _____

Guardian (if you have minor children)

Note: If there are two parents, usually the first named guardian will be a spouse.

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship _____

Alternate Guardian

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship _____

Power of Attorney — Health Care

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship, if not spouse _____

Alternate Power of Attorney — Health Care

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship _____

Power of Attorney — Financial

Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship, if not spouse _____

Alternate Power of Attorney — Financial

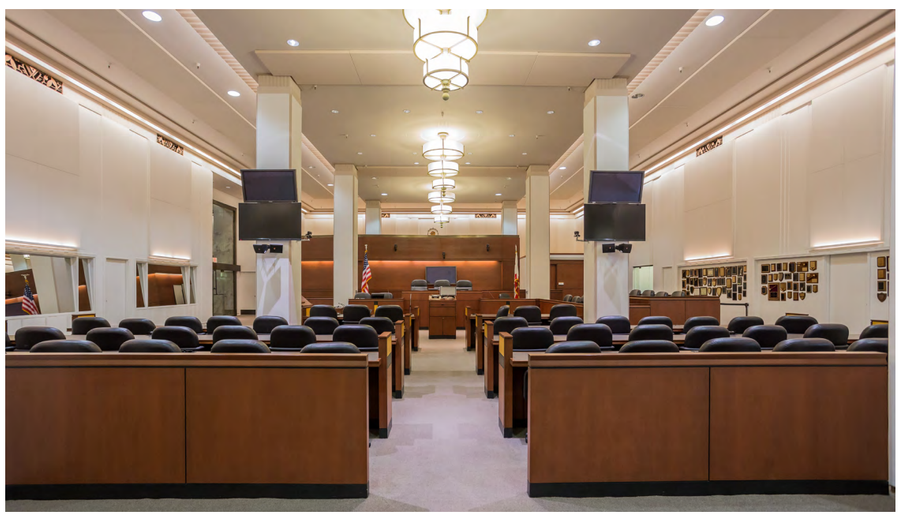
Name _____

Address 1 _____

Address 2 _____

Phone _____ Email _____

Relationship _____



VI. Final Instructions

Body, Organ, Tissue Donation

I wish to donate my body, organs, or tissue ☐ Yes ☐ No

If yes, please describe your intention

_____

_____

_____

Funeral Instructions

Funeral Home

Funeral Arrangements

☐ Cremation ☐ Burial ☐ Body Donation

☐ I have prepaid funeral arrangements with *(company, address, phone, amount paid)*

_____

_____

_____

Preferred resting place _____

Preferred funeral and burial/cremation instructions _____

Obituary *(what you would like included)*

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Personal Statement to Loved Ones

(Take a few moments to think about what you want say to those you love that a will or living trust doesn't convey: what you feel is important in life, how you would like to be remembered, what you would like the next generation to know or, perhaps, simply what makes you happy.)

Distribution of Estate

(If your state allows it, you can create a separate list for gifts of tangible personal property that can easily be changed and updated, see pg. 26.)

Gifts to Spouse

Description of Asset/Percent of Estate

Contingent Beneficiary Name/Address

Gifts to Heirs/Others

Description of Asset/Percent of Estate

Beneficiary Name/Relationship/Address

(Add additional pages as needed.)

Gifts to Charity

Legal Name of Charity/Tax ID #

Location

Amount $

OR Percent of Net Estate

OR Description of Asset

(Add additional pages as needed.)

Residue of Estate

Individual Beneficiaries

Name

Address

Percent of Residue

Charitable Beneficiaries

Legal Name/Tax ID #

Address

Percent of Residue

Gifts of Tangible Personal Property

This list includes personal items that can easily be moved, such as furniture, books, jewelry, kitchen goods, china, clothes, art, and the like. If the items have a high financial value, talk with your attorney about the best way to transfer them. Whenever you update this list, make sure to make a copy and give the original to your executor or your attorney.

	Description	Recipient	Contact Information
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			

Signature: _____ Date: _____

Charitable Gifts — Sample Bequest Language

You may wish to include a charity in your will or living trust. If so, this is sample bequest language to share with your attorney.

Gift of Cash

I give to Southwestern Law School, 3050 Wilshire Boulevard Los Angeles, CA 90010, Federal Tax Identification Number: 95-1246140, or its successor organization, the sum of ($_____) _____ to be used for its general purposes [or specify a different use].

Gift of Property

I give to Southwestern Law School, 3050 Wilshire Boulevard Los Angeles, CA 90010, Federal Tax Identification Number: 95-1246140, or its successor organization, [description of property] to be used for its general purposes [or specify a different use].

Gift of a Percent of the Net Estate

I give to Southwestern Law School, 3050 Wilshire Boulevard Los Angeles, CA 90010, Federal Tax Identification Number: 95-1246140, or its successor organization, all (or stated percentage) of the rest, residue, and remainder of my estate to be used for its general purposes [or specify a different use].

Contingent Gift

If my [name of primary beneficiary] does not survive me, or shall die within ninety (90) days from the date of my death, or as a result of a common disaster, then I give to Southwestern Law School, 3050 Wilshire Boulevard Los Angeles, CA 90010, Federal Tax Identification Number: 95-1246140, or its successor organization, [describe cash, property or percentage of residual estate] to be used for its general purposes [or specify a different use].

NEXT STEPS:

To receive further information and assistance on estate planning, or to learn more about how your gift can help Southwestern Law School, Los Angeles, please contact us:

- call 213.738.6814
- email dev@swlaw.edu

Frequently Asked Questions

Do I need to have an estate plan?

Yes. Regardless of the size of your estate, you still want your assets to go to those you love and care for, and you want to be assured that your wishes are carried out. But a good estate plan does far more than that. It cares for you, as well as your things. It grants a Power of Attorney for financial and health matters should you become incapacitated and states your wishes regarding final medical care. Your estate documents become a last expression of what you have valued in your life, expressed through a personal statement and by what you leave to whom. By being thoughtful and organized about your affairs, you will have left a final, loving gift to your family and friends.

Do I need to see an attorney?

Yes. Estate planning is a very complex area of the law and shouldn't be left to a one-size-fits-all arrangement. This is especially true when you have a combined family. What is best for your sister and brother-in-law is not necessarily best for you! While there is a cost involved in preparing your plan, it is modest compared to the value of having appropriate arrangements for your family, minimizing probate fees and costs, and possibly saving state and federal estate taxes.

How often should I update my plan?

It is a good idea to update your plan every seven to ten years. Some people have an annual check-up with their attorney. Certainly whenever there is a significant event in your life, such as the birth of a child or grandchild, sale of a business, retirement, or death of a spouse or other loved one, you should review your plan for necessary changes.

What if I have a plan but want to change one thing?

If your plan is fairly current, it is easy to make a change or two, such as adding a charitable beneficiary. Your attorney can prepare an amendment to your will (called a "codicil") or to your living trust. Many times this can be done quickly and for a nominal cost.

*The information provided in this booklet is offered solely as general education information and is not intended to be a substitute for professional estate planning or legal advice. Because the laws of each state vary and your own circumstances are unique, you should seek the advice of your own attorney, tax advisor, and/or financial planner before deciding on a course of action and in creating your estate plan.