



A Guide to Your Will Based Estate Plan

Thank you for choosing Thomason Law. It was truly a pleasure working with you to create your Estate Plan. I hope that this process has provided you with peace of mind for your future. Please keep in mind that every document created in this plan can be updated or modified by you at any time. It is important to review your documents every 3-5 years, or after any major life altering events. If you ever need assistance reviewing or updating your documents, please do not hesitate to contact this office.

Features of Your Estate Plan

Your Estate Plan includes the following documents, which will work together to ensure that you are taken care of. This guide will go through each of these documents in more detail:

- ▶ **Last Will and Testament:** this document will distribute your assets upon your death. It also appoints a guardian to care for your minor children.
- ▶ **Uniform Durable Power of Attorney:** this document appoints a person to act on your behalf, either immediately or upon your incapacity.
- ▶ **Advance Directive for Health Care:** this document allows you to make decisions regarding end-of-life medical care.

Probate Avoidance Techniques

Probate is a legal process that occurs after death. It is required for assets that are titled in an individual's name and do not have a co-owner or beneficiary. The process can be time consuming and expensive. Your Will does not eliminate the need for Probate upon your death. However, there are a few things that you can do to reduce the risk of needing a Probate or help minimize the time and expense of the process.

- ▶ Ensure that all Life Insurance policies, IRA's and 401(k) accounts have a primary beneficiary and a contingent beneficiary named.
- ▶ Add a Payable-on-Death (POD) beneficiary to all bank accounts.
- ▶ File a Transfer-on-Death (TOD) Deed for property, land, and minerals.
- ▶ File a Transfer-on-Death Notice for your vehicles. *This option is only available for vehicles that are paid off and do not have a loan.

Do not add your children, or any other person aside from your spouse, as a current owner on your bank accounts, titles, or deeds, without contacting this office first. This action can have unintended consequences and may not be in your best interest.

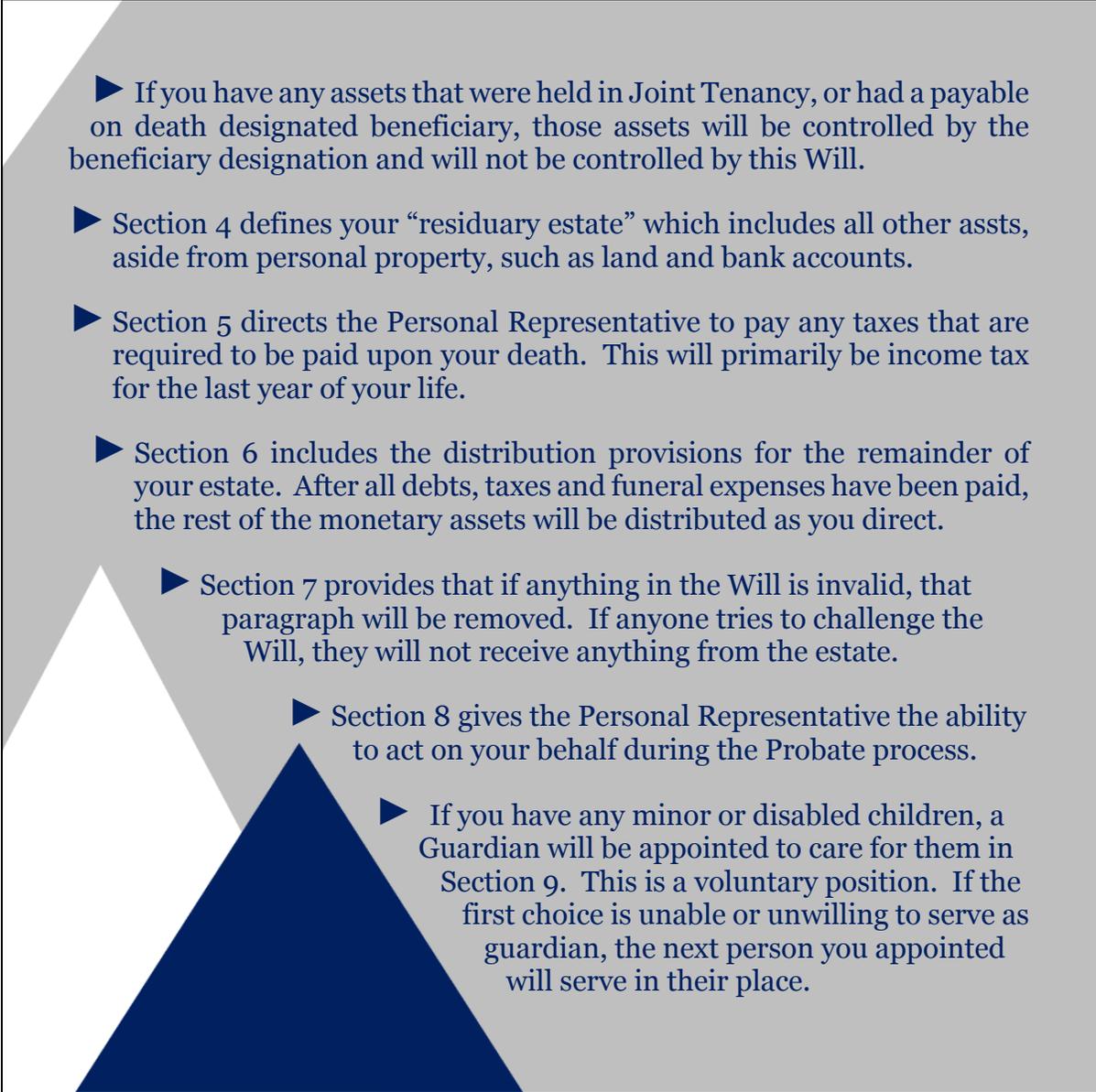
Beneficiary designations provide a layer of protection for assets, but there are instances where Probate could still be needed.

If you have minor beneficiaries or if avoiding Probate is your primary objective, a Living Trust may be a better option. Contact this office for more information.

Last Will and Testament

Your Last Will and Testament gives the Judge guidance on how to distribute your property during the Probate process. Any assets that are subject to Probate will be controlled by this Will and will be distributed accordingly.

- ▶ Your full legal name, different variations of your first, middle and last name, and any other names that you commonly go by are listed in the first paragraph. This will ensure that any assets titled in a different manner are also covered by this Will.
- ▶ Section 1 describes your family status; if you are married or single, and how many children you have. It gives the legal definition of a spouse and child and appoints a personal representative. The Personal Representative is the person who will act on your behalf during the Probate process. It is a voluntary position, so if the person you appoint is unable or unwilling to serve, the next person you appointed will serve in their place. If you have chosen to exclude anyone from receiving assets from your estate, they will be named in this section as well.
- ▶ Section 2 allows the Personal Representative to pay for any funeral expenses.
- ▶ Section 3 tells the court how you want your personal property to be distributed. Personal property includes things like pictures, clothing, jewelry, furniture, tools, etc.



▶ If you have any assets that were held in Joint Tenancy, or had a payable on death designated beneficiary, those assets will be controlled by the beneficiary designation and will not be controlled by this Will.

▶ Section 4 defines your “residuary estate” which includes all other assts, aside from personal property, such as land and bank accounts.

▶ Section 5 directs the Personal Representative to pay any taxes that are required to be paid upon your death. This will primarily be income tax for the last year of your life.

▶ Section 6 includes the distribution provisions for the remainder of your estate. After all debts, taxes and funeral expenses have been paid, the rest of the monetary assets will be distributed as you direct.

▶ Section 7 provides that if anything in the Will is invalid, that paragraph will be removed. If anyone tries to challenge the Will, they will not receive anything from the estate.

▶ Section 8 gives the Personal Representative the ability to act on your behalf during the Probate process.

▶ If you have any minor or disabled children, a Guardian will be appointed to care for them in Section 9. This is a voluntary position. If the first choice is unable or unwilling to serve as guardian, the next person you appointed will serve in their place.



Uniform Durable Power Of Attorney

The Power of Attorney will have the ability to do nearly everything for you. Their actions will have the same effect as if you are doing those things for yourself. It is important to appoint someone that you trust to serve in this capacity. The document can be changed at any time.

- ▶ **The Effective Date:** If the Power of Attorney is effective Immediately, the named person can start acting on your behalf right away. If the Power of Attorney is effective upon your incapacity, it will require two doctors to evaluate you before the named person can act on your behalf.
 - ▶ If you elected the same people to make medical and financial decisions, then you will have one document that covers both areas. If you chose to have different people then you will have two separate forms, one that covers financial powers and one that covers medical powers.
 - ▶ **Medical Powers** include the ability to talk to doctors, approve operations and medications as well as a HIPAA release to access medical records.
 - ▶ **Financial powers** include but are not limited to writing checks, paying bills, buying/selling property, signing contracts and conducting business in your name and on your behalf.
 - ▶ A copy of the document is just as valid as the original.
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Advance Directive For Health Care

This document is also referred to as a Living Will. It covers end of life medical situations and organ donation and allows you to make your wishes known if cannot speak for yourself at the time.

- ▶ This document is different from a DNR. With the Advance Directive, the doctors will do everything that they can to save you. Once they reach a point where they do not think that you will recover, they will turn to this document for guidance on what to do next.
- ▶ If you can speak for yourself, you will be able to do that at the time. If you can eat and drink on your own, or breath on your own, you will be able to do those things as well. The Advance Directive will apply to the three specific medical situations covered on pages one and two.
 - ▶ You can direct if you want pain medication to be given.
 - ▶ The Health Care Proxy can make medical decisions for you if you cannot make decisions for yourself. They must do what you directed if you are in a condition covered by this form
 - ▶ The organ donation section allows you to specify what organs you are willing to donate, if any, and the uses you are willing to donate those organs for.

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This guide is intended to be general and applies to documents prepared by Thomason Law only. Each Estate Plan is unique. This guide will touch on some of the key provisions of each document but does not cover every paragraph. It may not correspond directly with your Estate Plan. If you have question about your specific documents, or need further clarification, please contact this office.