

**INITIAL ESTATE PLANNING QUESTIONNAIRE**  
**(Married Couple with Children)**

**I. PRELIMINARY INFORMATION:**

Name (as to be used in the Will/Trust): \_\_\_\_\_

Spouse's name: \_\_\_\_\_

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

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Place of Employment: Husband: \_\_\_\_\_

Wife: \_\_\_\_\_

**Children (Please indicate if the child is from a previous marriage):**

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

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

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

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

**II. WILL/TRUST**

A significant planning issue emerges very early in the development of your estate plan. If your aggregate estate value exceeds \$2 million, important and somewhat complex tax planning techniques should be considered. If you fall in this category, Mr. Bacon or one of the other attorneys in the firm will speak with you about the tax planning techniques.

\_\_\_ Check here if your general financial picture and net worth falls in this category.

If the tax planning techniques do not need to be employed in the development of your estate plan at this time, most provisions can be covered by the following information and questions.

In most instances, upon the first to die, the decedent leaves everything to the surviving spouse.

Check here if this is generally your desire.

Check here if you are considering a different way of disposing of your assets upon the first of you to die.

### **Residuary Estate:**

Upon the second to die (or in the event of a simultaneous death), the general practice we see is one in which the total assets owned by the couple are transferred to their children, typically in equal shares.

Check here if this is generally your desire.

Check here if you are considering a different way of disposing of your property upon the second of you to die.

### **Testamentary Trusts:**

Assuming you desire to leave your assets to your children as identified above, another matter should be considered. Typically, where children are of an age where they would not be able to handle money or may be subject to influence by others, we suggest that their interests be placed into a trust for their benefit until each child reaches a certain age. A trust is simply a vehicle in which the assets are held, managed and distributed by an independent person or entity known as the "trustee". The property held in the trust is available for the child to assist in needs associated with health, education and general support. The property is generally not available to the child "on demand", although he or she can make a request for funds which would be considered by the trustee and an analysis made to assure that the funds are used for prudent purposes and not recklessly wasted.

Check here if you wish to consider employing a trust in some general way in your estate plan for the benefit of your children. Mr. Bacon will discuss the use of a trust with you in more detail if you check this box.

While you may have specific questions about use of a trust, one matter we want you to start considering (if you are considering the possible use of a trust) is how you want the income and principal to be distributed and at what age the trust is to be terminated for each child. There are many variations on this subject, and a lot of flexibility can be used to fulfill your specific wishes.

An example may be helpful. John and Sara Smith have three children, ages 15, 10 and 6. They desire to have one trust established for the benefit of the children to be split into three equal trust shares. Each share will remain in trust until each child reaches the age of 30. At age 20, the income earned off of the trust (that is, interest, dividends and the like from the investments) will be distributed to each specific child. As he or she reaches the age of 25, one-half of the principal of the trust share is distributed outright to the child, with the remaining one-half of the principal being distributed to him or her at age 30.

While we will discuss the subject with you in greater detail, please write down any preliminary thoughts you may have on the subject of holding and distributing the assets in trust for the benefit of your children, and ages you are considering for possible outright distribution:

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**Trustee:**

You will need to nominate a trustee and a successor trustee to manage the trust assets. If you have identified a person or entity to act in these capacities, please list them here:

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

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

Successor Trustee: \_\_\_\_\_

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

**Laundry List:**

Nebraska law allows you to transfer tangible personal property (for example, one's antiques or a stamp collection) to individuals by listing the information on a separate piece of paper that is prepared by you after the Will is signed, but which then becomes a part of your Will when it is completed. We call this a "laundry list". If you are interested in possible using a laundry list, please check the box below and we will discuss the issue in greater detail during your initial interview.

Yes, I am interested in considering use of the "laundry list".

Besides the transfers generally described so far, you may desire to make specific gifts (we call them “specific bequests”) to individuals or charities. If you have given some thought to making any specific bequest to individuals or charities, please list them below:

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You need to consider how to dispose of your property in the remote event something should happen to the both of you, and all of your children and other designated beneficiaries have predeceased you. This is known as a “remote residuary provision.” Generally, a couple will provide that one-half of the estate is to go to the husband’s heirs, with the other half going to the wife’s heirs.

\_\_\_ Check here if you believe the “traditional” residuary provision described above will work for you.

List any other residuary distributions you would like to explore, including possible charities:

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**Personal Representative:**

You will also need to nominate a personal representative of your estate, who will generally implement your desires set out in your Will, pay estate bills and generally work with the lawyer chosen to assist in the process. In many instances, the surviving spouse is a good candidate to act as the nominated personal representative. We also suggest that you nominate a successor personal representative in the event the first person you nominate is unable to accept that position.

Personal Representative: \_\_\_\_\_  
Address: \_\_\_\_\_

Successor/Contingent Personal Representative: \_\_\_\_\_  
Address: \_\_\_\_\_

**Guardian:**

If you have minor children, an important planning consideration is the appointment of a guardian to take care of the children if something should happen to the both of you. Appointment of a husband/wife “team” (as an example, a brother and sister-in-law) as co-guardians is also appropriate. Please list those whom you wish to nominate as guardian/co-guardians to care for your children until each reaches the age of majority:

Guardian for Children: \_\_\_\_\_  
Address: \_\_\_\_\_

Successor Guardian for Children: \_\_\_\_\_  
Address: \_\_\_\_\_

There are other considerations associated with the development of your estate plan. For example, a “revocable living trust” may be appropriate in your situation, rather than a traditional Will. We will discuss these subjects with you in our initial interview. However, any questions or specific desires you wish to implement should be listed below. Please also list any other issues, concerns or questions below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. POWER OF ATTORNEY**

Just as a Will or trust assists in the transfer of assets and designation of guardians upon your death, the Durable Power of Attorney facilitates administration of your assets and in determining health care needs if you should become incapacitated *during your lifetime*. In essence, the Durable Power of Attorney allows you to designate an “agent” to handle certain affairs and make decisions for you if you are not able to do so on your own. If you do not have a Power of Attorney and you become incapacitated, many times your family will be required to establish a formal guardianship and/or conservatorship in order to take care of your needs and handle your affairs. Guardianships and conservatorships can be costly and require ongoing oversight by a court; use of a power of attorney can usually alleviate the costs, administrative burden and ongoing oversight by a court of law.

Check here if you are interested in establishing a Durable Power of Attorney.

A Durable Power of Attorney can be either “current” or “springing”. If you establish a current Power of Attorney, your agent will have the immediate ability to begin taking care of your affairs. If you elect a springing power, the powers and duties of the agent only “spring” into existence upon a determination by a qualified medical physician that you are incapacitated and unable to take care of your own affairs. Unless you have immediate needs, most Durable Powers of Attorney we currently prepare provide for springing powers. Please check which power you would prefer:

Current

Springing

You will need to nominate an agent to take care of your affairs. Under the standard Power of Attorney, this individual will be responsible for taking care of all administrative matters, including financial needs, banking affairs and the like. Please identify both your primary designated agent and possible successor agent:

Nominated Agent: \_\_\_\_\_

Successor Agent: \_\_\_\_\_

In addition to the general administrative powers, the agent can assist in and make decisions associated with health care. These decisions go to matters such as ordering prescriptions, handling hospital admissions, signing documents for short or long term nursing care and the like.

Check here if you desire health care provisions.

If you desire to include health care provisions, the agent(s) you have identified above would also have those powers. If you would prefer to have someone else act as your agent solely for health care purposes, please list that individual or individuals below:

Nominated Agent: \_\_\_\_\_

Successor Agent: \_\_\_\_\_

#### **IV. ADVANCED DIRECTIVE (“LIVING WILL”)**

An advanced directive instrument, also known as a “Living Will”, is an instrument you can execute which gives guidance to health care providers and your family if you should go into a terminal, comatose, vegetative state. In essence, the Living Will addresses situations in which a person goes into a persistent vegetative state that, without the administration of life sustaining treatment would ultimately result in death within a relatively short period of time. In that instance, the individual directs the attending physician to withhold or withdraw life sustaining treatment. The Living Will is drafted to conform with the provisions of the Nebraska Rights of the Terminally Ill Act.

\_\_\_\_\_ I am interested in having a Living Will prepared.