THE KENTUCKY WILLS AND TRUSTS MANUAL

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FOREWORD AND DISCLAIMER

Please Read the Entire Manual! It is meant to be read cover to cover and it is a short explanation of Social Security, Medicaid and Medicare as well as Wills, Trusts, and other retirement subjects. It is packed with information and the subjects are all related to your retirement and estate.

If you don't plan your retirement and passing your wealth to you kids or heirs the government and others will take everything. But, please remember that this Manual is to provide generalized information only. It is impossible for any attorney to give you legal advice through a Manual because every person's legal situation is different. However, this manual should give you an understanding of most of the retirement and estate planning laws and problems that can arise and how to avoid them and how to protect your children's interests. It will also provide a basis to help you formulate specific questions that you may wish to ask your attorney, CPA, financial or estate planner.

DISCLAIMER: THIS MANUAL ONLY PROVIDES GENERAL INFORMATION ABOUT WILLS; RETIREMENT, MEDICARE AND RELATATED SUBJECTS. NOTHING IN THIS MANUAL SHOULD BE CONSTRUED AS SPECIFIC LEGAL ADVICE. IF YOU HAVE INDIVIDUAL QUESTIONS ABOUT WILLS, CONTACT US ABOUT YOUR PROBLEM. WE ASSUME NO LIABILITY FOR ANY ACTIONS TAKEN AS A RESULT OF INFORMATION DERIVED FROM THIS MANUAL. SHOULD YOU REQUIRE ACTUAL LEGAL SERVICES PLEASE CONTACT MY OFICE AT THE ADDRESS AND PHONE NUMBER LISTED ON THE FRONT PAGE OF THIS MANUAL.

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There is nothing wrong in tactical planning for your lemon auto, bankruptcy or divorce case. Understanding the proper steps to take, keeps you out of trouble and makes it far more likely that you will win your case. This principal also applies to the planning of your estate. This manual was designed to help you to pass your assets to your spouse and children. It is divided into three parts. The part on wills explains wills the part on trusts explains trusts the part on probate explains how to probate a will. Either you are looking to pass your property to your children and spouse, or you have been given the job of probating your parents estate.

Using this manual it will help you to avoid giving unnecessary sums to the government. There are a few lawyers that would be upset if they knew I was telling the public all these secrets about probate and wills but in the next few pages I am going to tell you exactly how to probate a will in Kentucy and how to save your assets for your children and spouse. At the outset, I know this is not written like a perfect college textbook, but it clearly wasn't meant to be. This is a tactical manual on how to probate a will and how to keep all your assets for the heirs. You can also protect certain assets from the creditors such as Social Security that is now set up to take away your property after you die to reimburse itself for your nursing home care and final expenses. The manual may not be written on a college level, but it wasn't meant to be. It will only take a couple of hours to read. I practice statewide in all of the Kentucky Counties. I have therefore prepared this manual in broad terms dealing with an overview of all of the applicable counties.

Probating an Estate in Kentucky

If you downloaded this manual you are probably probating an estate. I will give you the basic guidelines and try to summarize how to do it within 20 or so pages. Probate is first of all a time driven job. There are a lot of very strict guidelines miss a deadline and you will be hauled into court and fined by the judge for not doing something on time. Or worse you will lose money from the estate by not meeting certain deadlines and being able to take advantages of certain deductions that are only given to people that file on time.

One of the worst mistakes that you can make is not to use a qualified CPA or attorney. There are

good and bad ones. Find one that specializes in estate practice. Each attorney is an individual and will have strong and weak points. One will do well at trial the other will have excellent writing skills. Each attorney also does an area he likes to work primarily in. Expect to pay for your attorney's time. Currently the rates run at least 200 an hour for an attorney. If you expect him or her to work for free or cheap expect the quality of the work to be poor.

Preparing your own estate taxes is not something you want to do. Do it wrong and you will over pay thousands. Also asking for the tax department to help you prepare the return is like asking the fox to guard the chicken house. In one recent test over half the time the tax department gave out wrong advise. On top of that if the return is wrong you still owe the penalty even if they are the ones who incorrectly prepared it. Probating the estate is something best left up to the professionals who are normally paid about 5% of the estate for doing the tax and document work. Of course the attorney can do it all someone will have to track down the records. Don't worry about the attorney overcharging his fees are limited by statute to 5 % of the personal assets and income he collects and all his fees will be reviewed by the court and approved. The value of real estate is by law not factored into his fees or at least it shouldn't be. As long as his fees are normal for the level of difficulty in the case they will be approved. In the long run you are better off paying and using a professional to help you to probate the estate.

Don't try to be your own attorney it takes 3 years of legal training at a good law school and years of cases to begin to think like one. You are far better off leaving the surgery to surgeons and the legal work to lawyers. If you are trying to do the legal work on your own you should at least try to get some legal assistance to review your paperwork. Never represent yourself if a mistake would be costly, if you are dealing with major important matters, or if your opponent is represented by a lawyer. Making a legal mistake may permanently affect you and cost you far more than the cost of an attorney. Reading this manual will at least help you to prepare for probate but you shouldn't attempt to probate an estate without an attorney and at least have an attorney look over the documents you are signing and submitting to the Court.

An important mistake to avoid is failing to follow your attorney's advice. You must ask, however, questions and tell him fully about your case. You should expect that your work is done

on time and done well. If you change attorneys several times it can become a signal to the judge that you are not mentally stable or that you are a problem client. If you have changed attorneys 2 or 3 or 4 times you have strongly signaled to the judge that you are a problem client that shouldn't be believed or listened to and you have strongly prejudiced your case. It implies that you can't work with any attorney and that they are all dumping you. Therefore, it is important to pick a good attorney at the start of your case, for you to follow his advice, that you ask him questions and for you to tell him fully about your case. For these reasons it is a good idea to meet with your proposed lawyer and decide if he/she is someone you can get along with. Without these factors he/she cannot help you as fully as he/she should.

Most states allow an attorney to specialize in some area of practice such as domestic practice or bankruptcy. Many attorneys still have a general practice. The law is so interrelated like a seamless web where, for example, bankruptcy issues crop up in divorce court, that specialization may not be an advantage. In Kentucky, we are not allowed to say that we specialize as attorneys. Some attorneys limit their practice to only probate practice but neither good grades nor limiting your practice guarantees quality representation. The best test of an attorney is questioning him and what he believes he can do. If what he promises sounds too good it may be a problem. If he claims he can't help you or that he can't handle your case, he probably can't. Always tell your attorney the truth and fully disclose all facts about your case. A failure to advise him may cost you time and money.

Here are two checklists of issues for you and your attorney when you meet to discuss planning your will or probating an estate. The checklist are just some possible subject you may want to discuss.

<u>CONSIDERATIONS AND QUESTIONS IN PLANNING YOUR WILL</u>

Custodial and Support arrangements for children	College education for children after they reach age 18	Tax considerations will these gifts be estate taxed??	What are my assets and how should they be transferred	Organ Donations so that others may live or have sight
Making Certain that Debts do not eat up the estate that must go to	Is the estate small enough that probate can be avoided altogether and how	Special Gifts collections heirlooms	Making Certain property and investments	401K Pensions, IRAs Stocks and Bonds Transferring

the children and spouse	do we do that?		are secure	Investements and Business

Checklist of Items for Probate

If the Person made an organ donation notify the doctor at time of death	Obtain 10 copies of the Death Certificate	Arrange for security at the home of the deceased or it will be stripped	Arrange for the funeral with the person(s) that have the right to make arrangements	Provide for the care of minors or others that may not be able to care for themselves
Secure the business personal assets and all the documents	Provide for the immediate needs of the survivors	Collect receipts for the final funeral and health expenses	Transfer the mail to yourself until you are legally appointed.	Notify Social Security and VA to begin the process of getting these benefits
Locate the Will and all other documents for safekeeping.	Locate an attorney and become appointed as personal representative	Probate the will with the Court by filing it with the Court	Arrange for your bond if necessary (it will be)	Call the insurance agent and check all insurance policies for coverage ()IRS Form 712)
Contact Bank if there is a safety deposit box and contact all area banks for date of death balances	Open an estate Checking Account and place all the funds in the account separate from your funds.	For the close family that survived redraft their wills if necessary.	Locate all of the property the decedent may have had see our checklist	Contact any employer or past employer about benefits insurance
Attempt to negotiate any debts for partial payments	If there is a business obtain permission from the court to continue it or sell it	File final Taxes for the periods before and after death	If necessary file the estate taxes if necessary both Fed and State	Pay taxes and then court costs and attorneys fees then other debts
Pay the unsecured debts after the court expenses are paid	Prepare a final accounting for the Court for your expenses paid and the distribution	Notify unpaid creditors of filing of the account and time and date of audit	Obtain the Courts approval to distribute remainder to which heirs.	Petition for your discharge after you have completed your duties

Common Assets to Locate Where to Look For Them

Bank Accounts Contact all Banks in the Area	Real Property Real Property Records in any State lived in	Look at last 3–5 years of tax returns and checks for assets	Pension and profit sharing with employers	Securities with area investment houses
Financial Records for all businesses involved with	IRS Section 691 income	Boats and Cars in the Vehicle Records	Contact all the friends relatives and	Contact Local Neighbors and ask as the

			business associates	executors if they know of assets
Check Courts for lawsuits				

THE KENTUCKY PROBATE PROCESS

A lot can go wrong in a will and in probate. You have to know what you are doing. The children can get into fights just like a divorce for years and the resulting attorney fees can soak up everything if your estate isn't planned and drafted perfectly. Creditors and the tax man will try to take it all and if it isn't planned and probated right they will get it. You simply have to do it right and if you don't have a will or trust it is guaranteed you have given it all away. If you want to see a dog fight case look up: Lucas v Manning 745 S.W. 2d 654 (1987) where just because the person making a will wasn't specific enough about what acre he was giving to each child the will battle went on forever.

The probate of a will has to be done on time it is very time driven with due dates. If you are probating a will you will need to following forms Tax forms 200, 201, 204, 202 and 205. From the AOC office or your local court clerk you will need some of the following forms if there is a trust in the will AOC form 820, Intervivos trusts will need ACO 056-62, AOC 51, if the claims are more than the assets you will need form AOC 830, Final Settlement form 850, as a checklist of what to do you may want to look at AOC 056-54 and if you do it right you will need a form for approval AOC 056-54 and if you haven't and you got into trouble for not timely filing and by not reading this manual there is a form for that Failure to file inventory form AOC 845. The tax forms are downloadable from Kentucky Revenue Cabinet.com the AOC forms are downloadable from Kyct.net-forms. Especially see form AOC 056-54 as a checklist of just some of the things you can do wrong before you attempt to do this yourself. I guarantee you that the judge will use it as a checklist to see if you did it all right.

This is just a partial list of what needs to be done on time in Kentucky:

1. Your fiduciary bond is due on the date you are appointed no bond….no appointment

2. you must file the inventory with the court or you are fined at least 10 dollars per day. Gather the assets and don't forget insurance reimbursements for the final hospital expenses. Most people and even other attorneys forget to apply for this.
3. Proof of claims are due in 6 months, Creditors can wait 2 years to make a claim if no personal rep is appointed social security often has a claim for your nursing home care and this often takes all of the estate if you haven't planned your will and estate carefully.
4. If a claim is filed it must be objected to within 60 days of filing or it is accepted and must be paid
5. The representative may settle a claim for a partial amount and negotiate it but is must be paid if not objected to. Otherwise debts and the assets of the estate are paid in this order:
    a. Costs and administrative expenses
    b. funeral expenses
    c. Taxes
    d. Debts with preferences and then
    e. all other debts and finally
    f. the gifts are given out if there is anything left. If the deceased planned it properly there was if you didn't plan it properly there probably won't be.
        i. Gifts to minors require that you get a guardian for them
        ii. Gifts of stock require that you get a statement up front from the person whether he wants the stock or whether he wants you to cash it in and give him the cash. If you fail to do this he may sue you if the stock drops or increases in price for his losses.
6. Federal State tax is due 6 months from the date of death (if no taxes due you can file an affidavit of exemption)
7. If anyone wishes to renounce the will you must within 6 months of probate (if no taxes due you can file Ky form 92A 201 or 92 A 200)
8. Disclaimers must be within 9 months of date of death
9. Federal Estate tax returns are due 9 months after date of death (very few attorneys and even very few accountants and CPA's know how to properly file a

return) You may need a CPA that is a financial or investment advisor for historical pricing or valuations.

10. Kentucky State Estate tax returns are due 9 months after date of death
11. Federal Income tax returns are due no more than 18 months after date of death. That is right a final income tax return. Often the spouse must file this and you file her copy of this return. Any refund is apportioned (shared) between the spouse and the estate.
12. Also look at KRS 394.2450 about deadlines and objections or rejections.
13. Final settlement can take a year for approval. Just because you filed it all on time doesn't mean that the judge won't take his time. (The final settlement must be supported by cancelled checks in Jefferson county you have to attach a tape from a adding machine totaling the income and the disbursements. This is something we suggest no matter what county you are in.)

Probating a Will starts with the Death of the testator. Hopefully you and your adult family members will have invested in the cost of a will, so that the heirs won't have to pay the high court costs involved if there is no will. Making a will requires only that you know what your property is and whom you want to give it to when the time comes. Most lawyers will charge about $100 to $200 dollars to prepare a will. This is a small cost compared to the trouble that it will cause if you or an adult family member dies, without a will, which is called dying intestate.

Even if you do have a will, the Court must hold a hearing to determine the admissibility of a proposed will. If the testator was of legal age and understood what property he owns and whom he wants to give it to, he generally has the ability to make a will. A person may have mental problems therefore and still be able to make a will. In Kentucky and most others states, a will is presumed to be valid and the testator (the person making the will) is presumed to be sane enough to make a will. If a will is contested, statistically 75 % of the time it is upheld if it is contested. Wills and probate in Kentucky are governed by KRS 395 (Kentucky Revised Statute section # 395).

A will is not valid, however, unless it is in writing and properly witnessed. A will that is completely hand written by the testator is called a holographic will. It can be admitted in probate; however, if even the slightest part is either typed or written in by someone else, the will is invalid. In addition, a will has to be properly witnessed. In West Virginia, three witnesses are required. All of the other states including Kentucky seem to only require two witnesses. All of the persons must sign the will along with the testator simultaneously so that they can see each other sign. If the will is not properly witnessed it is invalid. A self-proving will is notarized and does not require the witnesses to be at a hearing to testify about the signing. The process of making a will is so complicated and prone to you making a mistake that you should use an attorney. All wills have to be proved in Court but self proving wills do not require testimony because they are notarized. If a witness lives outside of the state the will may be proved by deposition and that witness may not have to appear.

When a person dies one member of the family should take the responsibility of becoming the personal representative for the probate of a will is the fiduciary under KRS 395.001 and is entrusted with the assets. A personal representative is also called an executor. Executors gather the assets, pay the final expenses and debts of the deceased and give the remainder to the heirs of the estate. Any Kentucky resident may be a personal representative but you must be over 18 and non residents must be related by blood, adoption or marriage. Non residents must also have someone that is a resident serve as an agent for service of process. Personal representatives can’t sign a power of attorney and have a CPA or Attorney do their jobs for them. But professionals and attorneys can be employed and can assist the representatives. Representatives are the ones responsible for the probate process and you cant give that duty away.

If the will appoints the executor or personal representative then that person will be appointed unless someone can show that he can’t legally serve regardless of the objections of others KRS 395.015 (1). The first duty of the executor is to locate the will. Any proponent of a will must file the will for administration within 10 years after the death of the decedent. Normally it will be located in the attorney’s records but it may also be filed with the county court clerk KRS 394.110.

If the will does not appoint an executor or personal representative then the Court shall grant the administration to anyone that applies. The court will prefer the surviving spouse and then any others that are next entitled to shares 395.040. But if noone applies for 60 days it will appoint any person in it's discretion KRs 395.040(2). The "will" always means the last will and testament and a will is defined under KRS 394.010 and 394.020. Who inherits and in what proportions is controlled by KRS 391.010 and 391.030.

There are several forms that must be filed with the Court and the Tax department and these duties are normally best performed by an attorney. I suggest that you chose an attorney that has a financial planning background. A qualified attorney with a CPA or accounting background should be used or at least use an attorney that handles a lot of wills and estate planning cases. The rules involved in estate practice and probate requires a knowledge of taxes and accounting. Most attorneys, however, have never worked for the state tax department or have an accounting background. It is therefore a good idea in cases where large estates are involved to retain a lawyer who concentrates in wills and estates. Most attorneys lack the training to understand some complicated tax and accounting matters which may cost the heirs by poor estate planning.

This is a simple check list of the things you should do when you first have to probate a will.

1. Immediately meet with your attorney. This is normally the attorney who is designated in the will or who wrote it. The attorney who wrote the will is far more likely to know where the assets are and what was intended.

a. If you have a copy of the will, bring it to your attorney. Get several copies of the death certificate (10 to 20). You will be appointed the executor or personal representative after you later appear in Court. You will need several copies of the court order appointing you as the personal representative or Executor to help you handle the estate. Any Bank will require a copy of this order to turn over assets to you.

b. Start to get together a listing of all the assets so that you can file an inventory with the Court this include

i. Bank accounts

ii. Stocks

iii. Autos boats planes trailers

iv. Real estate deeds and mortgates

v. Furniture jewelry art objects collections

vi. Pensions and profit sharing plans debts owed to the deceased and refunds

c. After you are appointed executor or personal representative you will need to collect the assets and protect them as if they were your own property. However do not mix this property with property of your own or use it as if you owned it. You are the guardian of this property and you only hold it for the benefit of others. Stealing it will be treated as theft. If the assets are under 7500 and there is a surviving spouse or surviving children and no spouse, then you may be able to avoid the administration of the will and do special short form procedures under KRS 391.030 and 140.064. If the assets are less than the death expenses you may avoid it under KRS 395.455(3) and use a simple form. Also if all the beneficiaries are in agreement they can agree to dispense with any administration if there are no claims or demands against the estate KRS 395.470 (4) but if a claim arises within one year then the case will have to be administered and later claims can cause the case to be reopened under KRS 395.500 (Sears always seems to file a claim they actually employ people to read all the obituaries to insure they get paid).

i. Keep accurate and complete records of the bills you pay, income and the assets. Remember that these assets are not your property and you must keep these assets separate from your property. Do not mix these assets in your bank account. You must keep a separate account. The Court will watch over what you spend and where the property went. If you do not safeguard it you will be held responsible.

ii. You and your attorney will file a report 6 months after the case starts and you will have to file reports annually if the estate takes over 2 years to probate.

1. Six months after the date of death you can set an alternate value of the estate.

2. Two months after your appointment the inventory of the assets is due

3. If the widow wishes to renounce the will she must renounce it within six months after the date of probate or she accepts the will KRS 392.080. You can't disinherit your spouse if you do she can renounce the will and take her share by statute but it shall only be a 1/3 share of the real estate.

4. A widow can relinquish (give up) her share to the children or others but if she chooses to relinquish her share so that it can pass to the children to avoid taxes it must be filed with the County clerk **<u>not</u>** the clerk of the court. File it with just the court clerk and you fail to relinquish gift and she pays the tax. Filing with the wrong court clerk is fatal to her relinquishing. The purpose to renouncing is to allow her to transfer the asset to the next generation often tax free. See **<u>Bagbee v Koch</u>**

5. Any disclaimer of assets must be filed within 9 months after death provided no beneficial interest in the property has been taken prior to the disclaimer.

6. At nine months the Federal Tax return is due. The Kentucky return accrues at the date of death. It is due within 18 months but if you file it within 9months a 5% credit is given. There are stiff penalties for not filing the taxes on time. (didn't I tell you it was time driven)

7. Decedants tax return is due April 15th just like anyone else. If he made money in the year of his death you still file the return and pay the tax.

8. If the estate has income it has a return due on that income three months after the close of the estate's fiscal year.

2.

Your attorney will file the inheritance, estate, and income taxes. Leave this and the legal matters to him.   You should do most of the other clerical work to keep your costs down. You properly manage the assets and he does the paperwork and the court appearances. This may include working with you to file the reports that are filed every 6 months or annually.

3.

Eventually you will be required to distribute the assets to the heirs and to file a final settlement. The final settlement will be filed by your attorney and a court order approving the final settlement. It is necessary to send a copy to your bonding agent. He will then cancel the bond and return any unused premium to you.   If you have taken care of the property properly no claim can be made against you.   You have no duty to pay the claims of creditors unless they are properly presented to you.   You have no duty to hunt down the people the deceased person owed. You only have to properly safeguard the property, pay the debts presented to you by notarized claims, do the accounting and reporting to the Court and the tax agencies and pay the heirs.

This is a very simple explanation of the process of probating a will. But the process is very close to this. A will has to be probated in the domicile of the Deceased. The Domicile is the State and County the deceased lived in. The Drivers license, voting, principle residence address, permits, car registrations, and boat licenses, can all be used to establish residence. A person can have many homes or residences but only one domicile. Still if property is in several states, each state may be able to tax the Decedent, especially if there is no will. In the case of the owner of Campbell Soup, four different states taxed the estate. Therefore, it is important to establish which state is the domicile especially if you live in several states. Clarifying your domicile will avoid a situation several states are taxing property as estate property for that state. Poor estate planning may cost your heirs everything. The choice of which state is the proper domicile in which to probate the will, can substantially impact taxes and who gets how much or what.

In Kentucky, probate is administered by the District Court regardless of the amount of the estate unless there is a will contest. A will contest will automatically place the

matter into Circuit Court regardless of the amount of the estate. When a person first dies a diligent search must be made for the will. Consider checking with the spouse, friends, family members, family attorney, banks and business partners. A will prepared by an attorney will normally be filed with the County Court Clerk according to Kentucky Statute KRS 394.110. However a marriage or dissolution may revoke the will under KRS 394.090, 394.080 and 394.092 and make it invalid or even revive a will that was revoked long ago. So wills have to be updated after any marriage or divorce. Under KRS 394.080 no will is revoked except by subsequent marriage or subsequent will or codicil or by the testator subsequently destroying the will.

If a will is found while an estate is being probated, the administration is stopped and the will is probated according to it's terms. If there is a safety deposit box the Kentucky Department of Revenue must be present at the opening of the safety deposit box. Both the Department and Executor are given copies of the will and the Court will retain the original will.

Executors are appointed by the will and the Court. If the Executor appointed in the will is unable to serve or, if he is incapable to do his or her duties, an executor will be appointed. Often this person will be an attorney and the attorney will be able to bill for his time spent on the case. However, it is far better if a family member performs most of the duties and the attorney only does the court appearances, paperwork and accounting. If there is no will, the court will often appoint an attorney as the Executor or the court may appoint any relative who applies for the duty. Under KRS 395.040 (1) the surviving spouse is preferred. The spouse normally knows the assets and the debts incurred in the marriage. In rare cases, a creditor of the estate may be made an executor if no family member or person can or will probate the estate 395.040 (2). An executor must be a resident of the state and be over age 18 or be a spouse of the deceased. In rare cases a testator in a will can make a minor child close to the age of majority the executor. However the judge will review this and may not allow the minor to probate the will. Non residents can only serve as an executor if someone else will serve as his ageant and lives

as a resident of the county where the will is probated.

Under KRS 395.130 every Executor must have a bond or surety. The purpose of a bond is to insure that the personal representative or Executor will not improperly use or take the property belonging of the heirs and the estate. If your will states that the Executor can serve without a bond the Court may allow it. Any Executor must include in his application the names, addresses, and birth dates of all known heirs and the spouse.

Your heirs are the persons named in your will. But who takes what? The will normally controls who is an heir and what share the heirs receive. However, a spouse may always reject a will and take a spouse's legal share of the estate. If a person in a class dies before the deceased person dies his heirs take his share. Under KRS 391.040, this is inheriting per stirpes the share that the parent or spouse would have taken. Whenever any person or all of a class are dead his heirs takes per stirpes.

Kentucky Statute 391.010 determines who the heirs are and who is the lineal collateral and legal line. The lineal lines are the grandparents, parents, children, and grandchildren of the testator. The non-lineal line are the brothers, sisters, aunts, uncles and cousins. The legal lines are the adopted children and spouses of the testator which are not genetically related but inherit as members because of legal relationships. Kentucky Statute 391.030 explains which class inherits. The children of the Decedent are one class and the parents of the decedent are another class. As long as there is someone surviving in a superior class the lower classes take nothing. Children take before parents and grandparents. Even if only one child remains, and four grandparents survive, the child takes all. Issue or children are the most important class. Issue means decendants. Children are in a higher class than grand children and grand children are in a higher class than great grand children. All of these are decedents. Decedents (children and grandchildren) take before ascending classes (Parents and grandparents). Adopted and illegitimate children take as all other children. See the Kentucky Anti lapse statute 394.400. If a Child dies, their children take their share (per stirpes rule).

Parents, grandparents, and great grand parents are not issue instead they are ascending heirs and they are up the line. Ascending heirs take only if there are no children. One problem can occur in Kentucky when a child is given real estate by gift or inheritance and the person getting the property dies without issue (children) the property then goes back to the parent that made the gift. If the person gave the property by inheritance it goes to the donor’s estate. This can work to deny property to the heirs and to reopen old estates to give property to the deceased persons siblings. If an ancestral home is given to a child, that home may go back to the parent making the gift of the home, if the child dies before the parent. Although, who is an heir is normally a simple legal question, it is best to always get the advice of an attorney.

Generally, we do not think of a spouse as a surviving heir but when the term is used in a will the spouse is treated as an heir. We do not think of the spouse as an heir because they acquire their marital property share. A surviving spouse has special rights and benefits. Kentucky Statute 391.030 provides that a Kentucky surviving spouse may take the spouse's share under the will or the spouse may reject the will and get 1/2 of the surplus property and 1/3 of the real property. Spouses can also take the first $7,500 of the estate before any creditor gets any part. Spouses may elect to withdraw the first $1,000 dollars from the bank account of their spouse; however, all of these need court approval. Kentucky Statute 427.060 protects the home from the dead spouses creditors but only to the extent of $10,000 dollars. Under 427.070, upon the death of a spouse, the surviving spouse or underage children may live in the home as long as the spouse lives and occupies it. If there is a will or trust you need to safeguard it. Under Kentucky law 140.050, as stated earlier, you are allowed to obtain a copy of the will from your spouse's safe deposit box but someone from the Kentucky Revenue Cabinet must be present at the time of opening.

A burial and funeral allowance may be paid for deceased veteran spouse who was entitled at the time of death to receive Veterans Pensions or Compensations. But a surviving spouse has to file this claim within 2 years of the death of a non- service connected veteran. There are other benefits for the veteran's spouse or children. In order to get these benefits the widow will need the discharge papers, the service serial number, the marriage license, or children's birth certificates and the death certificate. Social

Security payments in the month of death are not property of the estate. Death Benefits may be available from the Veterans Administration. Funeral Expenses are always priority Expenses of the Estate. If a decedent is receiving Social Security payments at the time of death, any checks received thereafter should be returned to the address listed of the checks.

Obtaining the information about the location of the assets are in an estate case is done by examining the titles, deeds, and mortgages at the courthouse. Also the County Clerk may be able to help in locating all of the cars and boats registered in the name of the deceased. Stock Certificates, Insurance Policies, and other assets have to be located. If there is a business, the profits of that business must be accounted for and permission normally obtained from the Court to continue to operate or sell it. Never rely on just the assertions of family members that may hide assets or simply not remember them. Letters are often written to all of the banks and financial institutions in town. Assets that are jointly held in survivorship are not property of the estate but any account or property solely or jointly owned without the right of survivorship are property of the estate. Deeds for property held by both Husbands and Wives are often held "with the right of Survivorship" if these words are used in the deed for the family home the Home does not pass through the estate instead the property automatically becomes the property of the Spouse. Safety Deposit Boxes must be opened with a member of the Department of Revenue present. This also avoids the allegations that the will has been tampered with. Generally on the death of the testator however the box is sealed by the bank and is not available until the Department of Revenue can open the box and prepare and inventory.

Often a person may have property in several states. In such cases it may be necessary to probate the will in several states. In order to avoid this, the testator may want to establish a trust or transfer the property before death. Otherwise property in other states, particularly real property, will need to be probated to change the title on the property so that it can be sold. Certain tangible and intangible personal property may also need ancillary administration if it is located in other states.

By now you have seen that the Executor is required to gather the assets pay the debts and then distribute the balance to the heirs. During the administration of the estate the

Representative must file the inventory, locate the heirs and assets, file periodic settlements, negotiate with creditors and heirs, file tax returns, file accountings with the Court, and do the final accounting. He has no power to take any action until he is appointed by the Court. However, an executor may provide for burial services and to preserve the assets before the actual appointment. In most cases the executor needs to protect these assets, by insuring them and making normal mortgage payments. He, therefore, has to move quickly so that he is acting with the full power. If the executors or family members have paid the funeral expenses they are allowed reimbursement (if there are sufficient assets available to pay them back).

In Kentucky there are no set attorney fees or formula to set attorney fees in a will case. The attorney fees in Kentucky are reviewed and set by the probate Court. Attorney fees in Kentucky are based on the skill and expertise of the attorney. Persons that are interested in the estate can challenge the amount of the attorney fee, however an attorney is allowed to charge for explaining and accounting for his fee. The Court will review the fee to determine if it is reasonable. In Kentucky attorneys are allowed to charge only one fee in a wills case. This rule applies even if he is the attorney for the estate and the personal representative.

A personal representative is not required to hire an attorney in a Wills or Trusts case. However, executors are normally far better off if they do hire an attorney. A non attorney who lacks a personal interest in the estate cannot appear in probate court and file necessary petitions required by probate Court. Such conduct is the unauthorized practice of law and may have criminal and civil penalties. Even bank trust departments cannot file petitions or appear in court without an attorney.

Some matters must or at least only be handled by attorneys. Attorney Fees often include a flat minimum fee, plus a percentage of the total estate under the will. For example an attorney fee may be $500 dollars, plus 5 per cent of the gross estate. Other attorney fees may be based completely on hourly rates. Recently, attorney fees in will cases were reported by the Courier Journal to range from $200 to $350 per hour. Attorney fees vary based on attorney skill, time involved, urgency of the matter, and the complexity of the case. Often attorney fees for probate matters are a little higher because

the responsibility is so important and the cost of insurance and bonding are additional expenses in these cases. Simply put you tend to get what you pay for. The costs of an attorney will normally outweigh the time trouble and expense of not having one.

Will Probate is a process. All of this can be a simple process for the Executor or it can be a nightmare. There are understandable forms for the Executors use in our manual that can streamline this into a simple process. These forms are for Kentucky probate. As an Executor you will work with the attorney to gather the assets and to pay the debts of the estate. If the attorney for the estate had to do everything while he charged $200 or $300 an hour, there would be little left of some estates. It is far better for a family member to be the Executor or personal representative and do the everyday tasks of handling the burial to limit the attorney's work to filing the tax returns, the accounting and the court documents.

If the deceased has only a few minor assets Executors may be able to avoid probate by filing form aoc79-830 (for Executors that paid the funeral expenses and have assets left) or 79-835(for a surviving spouse Executor) with the Court. These forms are available from the Court Clerk and allow you to avoid probate in the case of very small estates. If the assets are above these amounts you will have to file the will with the court, using form 81-805 and 840. If the person has no assets you may still need to probate the estate. KRS 395.455 allows you to change real estate Deeds to the surviving spouses name if the only assets are assets held in joint survivorship. If the $7,500 dollar exemption of the surviving spouse exceeds the assets this simple form and faster process should be used to transfer all of the property to the spouse and to dispense with administration by using a these simple forms 830 or 835.

Within six months after the will or probate case was filed executors must file an inventory and an accounting. At that time Executors may pay debts and distribute assets. Claims against the estate must normally be made within 6 months of filing the estate. No claims may be made more than 2 years after death whether or not an estate was probated. There is no general statutory duty of the Executor to notify creditors. Under Kentucky law. See, Kentucky Statutes, KRS. Sections 396.015 396.011. However, the Court Clerk is required to publish in the local newspaper the requirements

of Kentucky Statute 424.120. There are no requirements for the executor to help or hunt down creditors. The executor may also negotiate with creditors and settle a claim for less than it's full value. This may be a good idea were the amount claimed is disputed or where the estate funds may not be enough to pay all claimed bills and satisfy the statutory minimum interests on the heirs.

WILLS IN GENERAL

A will is a written document detailing instructions as to how you want your assets divided up after your death. You might also include information as to a child's guardianship, how (or if) you are to be buried and the appointment of an executor of your will.

The two main types of wills are:

attested
holographic

The attested will is the most common. It is usually prepared by a lawyer in typewritten form and signed in front of several witnesses who have no benefit in the will whatsoever. The will must be signed by witnesses in front of all the other witnesses and in front of the person making the will. It must also be signed by the person making the will in front of all the witnesses so that they see him sign. He sees them sign and they see each other sign, all at one time in the same place. If this is not done the will is invalid. A self proving will is one which is properly notarized and in the notarization the notary certifies that the witnesses and the testator properly signed the will. The self proving will is then normally filed with the Court prior to the death or following the persons death, and made a part of the public records.

The testator does not have to be totally mentally competent he only needs to know what the extent of his property is and how he wants it to be distributed at his death. If

property is left without a will, the heirs often will fight among themselves as to who is allowed to take what property and often the attorneys, the creditors of the deceased, the tax agencies, and the courts can take much of what should be left for the children.

The holographic will is made without a lawyer, written on plain paper in your own handwriting, dated and signed. KRS 394.040 defines how a will must be witnessed. A holographic will must be completely in the handwriting of the testator or it is invalid. No part of a Holographic will can be in anyone else's handwriting, and no part of it can be typed but it does not have to be witnessed. If it is witnessed it isn't completely in the testator's handwriting. If your wishes are clear and the will is completely handwritten, it should be as effective as the attested will. But holographic wills are much more likely be disputed and have errors than an attested will and is more likely to be subject to the interpretation of the courts, where anything could happen. Attested wills are much safer for carrying out your final instructions.

Trusts wills and estate planners allow you to plan for that time when you are no longer around to take care of them. They also help you to control your property, what it is used for and who is to get it long after your death. Many people do not have a will because estate planning is generally not a high priority to many people and many people don't want to deal with the idea of their own death. But, this failure to deal with the issues can only make the problem worse for those that you do leave behind. There are many fine estate planners around the country who work with individuals, but the average person doesn't put much thought, time or effort into addressing this important financial task of preparing for asset distribution after death. Often people don't understand the complex tax problems and they don't expect or understand the problems that their spouses and children will have later after they are gone. These problems can include creditors taking the property, other relatives taking it or fighting over it.

Attorneys will be glad to help you do an attested will and may not charge much to do so. Normally they will get paid later— when the will goes through probate court. Often this is about 5% of the estate and what you leave to others. This may not be a substantial cost if no other expenses are incurred. But if a will is contested the payors are your beneficiaries, who may see assets drain as a result of legal fees and court costs. Often

relatives and attorneys will even file nuisance claims and they may be paid just to avoid the costs and problems of litigation. Probate can be lengthy, especially if the will and estate is a complex one. Probate fights diminish the value of the estate by the costs of probate, and it can slow down the time it takes to actually transfer it to the designated beneficiary.

A will does let you choose your heirs, but the advantages over a trust stops there. Trusts can avoid probate, estate taxes (if any), income taxes, privacy of transfer and incapacitation. Wills don't. These are just some of the primary reasons one might set up a living trust instead of a will. Still wills can have advantages over trusts. Wills allow you to own the property until death and Trusts only let you use and control it.

There is a will that can be important when establishing a living trust. It's called the pour-over will. This document puts any assets you failed to place in your living trust during your lifetime into the trust after your death. In effect, it "pours over" assets from the will to the trust. This document may also name the guardian for minor or incapacitated children. The pour-over will is a "fail-safe" device to ensure that any property left out of the trust will be poured into a trust. However a pour over will has the problems of any other will. It is only a back-up to the living trust in case it's invalidated for any reason. The pour-over will can substantiate the trust simply by reaffirming its terms. It would be difficult for one or more heirs to challenge successfully both a living trust and a pour-over will if their conditions and instructions are similar.

Estates

Exactly what is an estate? Exactly what are we trying to protect with a will or living trust? An estate is all the property you own (your assets) minus anything that you owe (liabilities). Your estate at death is the property that you did not transfer before death and the bills left after death. If you file bankruptcy your estate is that property that you own and the debts that you have. This calculation, assets minus liabilities, should yield a positive net worth for you or your heirs/beneficiaries. This is the value of your estate.

The size of your ***taxable estate*** is important. This will equal, roughly, the value of your estate less property left to your surviving spouse or to charity. Property left to your

spouse in a will is not taxed. It will only be taxed on the surviving spouse's death. Of course if that spouse remarries and they leave it to their new spouse, that spouse will not be taxed.

Another estate calculation is the ***probate estate***. This is the portion of your estate that must go through probate before it can be distributed. Leaving your assets via a will puts them through probate. The difference between the taxable estate and the probate estate should be considerable if you plan your estate properly. For example, let's say your estate calculation is $400,000. By transferring the title of your house, valued at $250,000 and your Chrysler stocks, valued at $75,000, to a living trust, you have reduced your probate estate by $325,000 to $75,000. Your goal should normally be to try and reduce the probate estate to zero if possible unless you want it to pass by will for other reasons.

Living trusts will save probate costs. But they do not avoid death income taxes. There are other things you can do, planning-wise, to reduce your taxable estate, but a living trust is not one of those. You can and should, however, reduce or even eliminate your probate costs.

Proper estate planning, in general, can accomplish all of the following:

select your heirs
choose amount and time of distribution of inheritance to heirs
avoid probate
eliminate or reduce federal estate taxes
eliminate death income taxes
maintain control over your assets
maintain both privacy and flexibility
leave directions and the power to act if you are incapacitated
leave funeral instructions
leave organ transplant instructions
make the administration of your estate as simple and quick to execute as possible.

These are important goals. A living trust is one example of addressing these goals in your estate planning. It is by no means the only thing you should do, but it is a document that can help you and your heirs immensely.

WHAT IS A LIVING WILL?

A living will is not a will. A will disposes of property. A living will allows your spouse, parent, or someone else to make decisions for you if you are mentally or physically unable to make these decisions. Kentucky Statutes have made this a simple form which is in our manual. A living will only allows others to make health decisions for you including the right to die in certain medically serious circumstances and to discontinue some types of medical treatment. It does not allow them to dispose of your property or to take care of your business because you are away or unable to, handle your affairs.

WHAT IS A POWER OF ATTORNEY?

A power of attorney however is a way to have others make business decisions for you while you live. A living will allows others to make health decisions for you including the right to die and to discontinue medical treatment. A power of attorney allows someone else to dispose or sell your property make bank deposits contracts for you and in general to run all the matters of your business while you are away or unable to. If you are going to be in a nursing home or in a situation where you may be unable to manage your affairs, you should consider one of these options. The forms for a power of attorney are in our manual and they are on disk if you purchased the manual. A Durable power of attorney allows the person to make these decisions for you even if you become mentally disabled.

LIVING TRUSTS

Many people do all of their estate planning using wills. Wills keep property in your name until your death. Wills are often used by the elderly because they understand wills and they trust wills to transfer property. However there are at least 4 other ways to transfer property in a manner similar to a will. Each tool has it’s own benefits and

problems. The most common tool to substitute for a will is a trust. A trust is also used in conjunction with a will in many instances to give the benefits of both a will and a trust.

Living trusts are an expedient way to transfer property at your death. Living Trusts allow you to keep the property, use, transfer, sell or alter the property until your death and then the property transfers to your heirs. It is different from a Living Will, which determines how you should be treated medically if you are unable to make decisions for yourself. A living trust is a legal document that controls the transfer of property in the trust when you die. Most living trusts allow you to sell exchange, control and use the property until you die. Living trusts are established during an individual's lifetime and can be modified or changed while that person is still alive. Circumstances change and the option to make alterations in the trust is important. For this reason, a living trust may be set up on a "revocable" basis. Revocable means you can modify or change the trust's provisions. However making a trust revocable may mean that Creditors can still attach it. Normally a Trust must be irrevocable if you wish to avoid taxes and creditors.

The other option would be to create an irrevocable trust. Once put in place, you are unable to change the terms of irrevocable trusts or take back property regardless of the circumstances. Living trusts speed up the process by which your property moves to your designated beneficiaries after you die and removes property from creditors. Trusts are therefore a way to transfer property and wealth and avoid wills when a will would create tax or other problems. This can also be a way to avoid losing the property if a person is sued. In Kentucky creditors can reach back up to five years, in circumstances where the trust is ruled as a fraudulent transfer, but in most cases creditors can only reach back one year. Other states have similar rules.

It is estimated, according to "Fortune" magazine, that some $6.8 trillion worth of assets will soon pass from parents to children, grandchildren, friends, charities and others. In many cases money and assets have to be transferred now while the person has the mental capacity and he still needs the use and the control of the property yet it needs to go to others after his death. In some cases money and assets need to be safe from creditors and others that would take it while the owner is still alive. Trusts are often the best way to accomplish these goals. Sometimes creditors and outside parties attempt to

take the money and assets in probate court from your heirs after you have died. Probate can have high costs in taxes, attorney fees, and court costs, especially if you have no will. The question is how to transfer money and assets? Should traditional methods of wills and probate or incorporated living trusts be used and when where and why? Living trusts are just one tool of wealth transfer. Joint property, business partnerships and corporations, are other methods to transfer your property. By placing property into partnerships and corporations property may also be managed and transferred. In many cases, we use life estates for elderly persons, so that they can live in their home for life. Upon death it transfers to another person outside of probate Court and without the need for it being included in a will as an asset to be taxed.

The concept of living trusts has created a split of opinion in the legal profession. Some estate planners seem to favor living trusts but there are both attorney and accountants that favor wills and are opposed to the living trust concept. The best concept is to know when to use a trust and when to use a will. Living trusts are called "inter vivos" trusts, a Latin term meaning to transfer during the life of the testator. The Internal Revenue Service calls them "grantor" trusts. All mean the same thing. The Internal Revenue Service, however, recognizes the living trust as a valid estate-planning tool and exhibits no prejudice against it. There are specific provisions in the tax laws that deal with living or grantor trusts.

The revocable provision means that you no longer “legally” own any of the property that has been transferred into the trust. However, you possess and control it as an equitable right. You can sell it, spend it, give it away; in short, do anything you wish since the property is still in your control and possession. You hold it, however, for the benefit of others. The trust itself is a document that doesn't completely transfer control and possession until some event happens. Normally this event is your death. However in a trust some other person may control the property or hold legal title to the property. The trust operates to transfer your property privately, outside of the reach of probate, to the specific individuals or organizations to whom you wish to leave your worldly possessions. In a trust, one person holds the legal title, control, and possession of the property and another person is the eventual owner which holds what we call equitable title to the property. What is probate? Why do people try to avoid it?

Technically speaking, probate is the process by which one proves the validity of a will in court. If there is no one contesting the will, this should not take long. If there are complications, probate can take years. For those of you familiar with the works of Charles Dickens, recall "Bleak House" and the never-ending probate case of Jarndyce vs. Jarndyce where the will was so long that the attorney bill was more than what was left to the heirs. Probate has come to mean not just proving the validity of the will but the entire administrative sequence involving the passing of an owner's title to property to his heirs. The deceased's property is inventoried and creditors are identified and paid after the payment is made to the estate's attorney, executor and tax entities. This can include Medicaid claims and other expenses that may leave nothing to the family if you don't plan your estate. It involves probate taxes in the transfer of assets after death and accounting problems where reports are made to the Court and to the heirs.

The term "probate" also identifies the court, which has jurisdiction over the estate probate and administration. Probate court also has jurisdiction over the guardianship of minors and mentally incompetent adults. All wills go through probate. The average length of the probate process is twelve to eighteen months. This is a long time to wait to transfer assets. In contrast however, trusts can grant the property immediately. Any estate transactions during the probate period must be approved by the probate court. In Kentucky some early transfers of assets can be made to the widow, the immediate family and to pay for certain expenses such as funeral expenses. Other than the specific transfers little or no property can be used or transferred. This can create havoc for beneficiaries. Since a living trust replaces a will and doesn't need validation from the probate court, time, expense and hassle can be saved. It can also avoid probate fights among the heirs.

The purpose behind living trusts is to establish the easy transfer of property, to avoid creditors and problems such as Medicare claims, and probate costs. The trust is a matter of explicit instructions as to who gets what property before or after the owner dies. Like a will, the trust should cover all the expected and unexpected events that might occur. The details tell the designated trustee how to use the money and property in the trust. A living trust is a substitute for a will and a document that a growing number of people are turning to in their estate planning. Many people think of a trust as a will that transfers the

property before you die but that allows you to still control and use the property as if it were your own. In fact the Trustee even has the title to the property however he or she is required to transfer the property upon a certain event. In order to understand Trusts better you may want to review the Glossary of the terms explaining what a trustee is and other items.

GLOSSARY: TRUST TERMS YOU SHOULD KNOW

Before proceeding further, it might be helpful to define a few terms for you. These terms will occur often during this text and in the actual living trust process, so it's important to familiarize yourself with their definitions. If you already know these terms you may skip this section.

A/B TRUST: Common term for a "marital life estate trust”, generally used by couples whose estates are valued at more than $600,000.

ACCUMULATION TRUST: A trust that does not pay out all of its income until certain circumstances occur.

ADMINISTRATION: Court-supervised distribution of the probate estate of the deceased. The person who manages this distribution is called the EXECUTOR if there is a will or an ADMINISTRATOR if there is not.

BENEFICIARY: The person or organization legally entitled to receive gifts made under the provisions of a legal document such as a will or trust.

CODICIL: An amendment to a will. It is a separate legal document, properly witnessed and executed.

CORPUS: Property owned by the trust, commonly referred to as "corpus of the trust".

DEATH TAXES: Amounts levied on the property of the deceased called estate taxes (federal) and inheritance (state) taxes.

DURABLE POWER OF ATTORNEY: A general power of attorney that will continue to be valid after its maker becomes incapacitated or incompetent.

DURABLE HEALTH CARE POWER OF ATTORNEY: A special power of attorney in which the maker gives another person authority to make health care decisions when the maker is unable to do so, due to injury or sickness. See Living will.

ESTATE: In general, all of the property you own when you die.

ESTATE PLANNING: The legal maneuvering by which one dies with the smallest taxable and probate estate possible, with the ability of passing on your property to your beneficiaries with the least amount of hassle and expense.

INTESTATE: To die without a will or other valid estate transfer device. Estate will go through probate and be passed to heirs who are specified in the applicable state's laws.

IRREVOCABLE TRUST: A trust that cannot be changed, once established, except by court action in a proceeding referred to as REFORMATION.

JOINT TENANCY: A form of property ownership by two or more people where the death of one owner causes the transfer of that individual's share to go directly to the remaining owner(s). A will has no power to change the joint tenant's right of survivorship. This is another common tool used to avoid probate, although there may be gift tax consequences.

LIVING TRUST: Trust established while the maker is alive and which becomes immediately effective. It remains under the control of the maker until death. It allows property to pass to beneficiaries free of probate.

LIVING WILL: A document that provides instructions to physicians, health care providers, family and courts as to what life-prolonging procedures are desired if a person should become terminally ill or be in a persistent vegetative state and unable to communicate. Any person that will benefit from the death of the person cannot be given

the right to decide if life prolonging treatment should be withdrawn and a person is allowed to die. An attending physicians is not given this authority and cant be made a (surrogate) person that will decide if medical treatment should not be given and a person is allowed to die. The living will must be made under at least the same conditions for witnesses that any other will is.

PERSONAL PROPERTY: All property other than land, buildings attached to the land, and certain oil, gas and mineral interests.

PER STIRPES: A legal term meaning that if a person dies, the inheritance will pass to heirs in equal shares. It means "by right of representation".

POUR OVER WILL: A will that transfers the decedent's assets that are subject to the will to a trust that was already in effect prior to the decedent's death.

POWER OF ATTORNEY: A legal document whereby, a person authorize someone else to act for them.

PROBATE: Court proceeding in which the authenticity of a will is established, an executor or administrator is appointed, debts and taxes are paid, heirs are identified, and property in the probated estate is distributed according to the dictates of the will.

QUALIFIED TERMINABLE INTEREST PROPERTY TRUST: Also referred to as a "Q-Tip" trust, it allows a surviving spouse to postpone, until his or her own death, payment of estate taxes that were assessed upon the death of the first spouse. The surviving spouse is still entitled to all of the income from the property.

REVOCABLE TRUST: A trust that can be changed by the trust maker at any time. Living trusts are revocable trusts.

SETTLOR: Another name for a maker of the trust, also called "trustor", "grantor" or "creator".

SELF PROVED WILL: A Will that has been properly signed by the Witnesses and the Testator so that it may be filed in Court without having a hearing and producing the witnesses to show that it was properly signed by the Testator and the Witnesses. From

the Kentucky statute “A self-proved will may be admitted to probate without the testimony of any subscribing witness, but otherwise treated no differently from a will not self-proved. The execution of an acknowledgment of a will by a testator, and of the affidavits of witnesses, made before an officer authorized to administer oaths under the laws of this state and evidenced by the officer's certificate... shall be considered to be a valid execution and attestation of a written will even though the will was not signed and attested separately from the execution of the acknowledgment by the testator and the affidavits of the witnesses.

TENANCY IN COMMON: A form of joint ownership of property. Each owner is able to sell or give a way his or her share of property, as well as pass it along separately at death. There is no right of survivorship.

TESTACY: Dying with a valid will in place. All property controlled by the will passes through probate.

TESTAMENTARY TRUST: A trust created by a valid will.

TRUST: A legal arrangement under which one person or institution controls property given by another person for the benefit of a third party.

TRUSTEE: The person who, or institution which, manages the trust and its property under specific instruction.

WILL: A legal document that is used to pass property to heirs following a person's death. A will only becomes effective at the death of its maker.

TRANSFERS

The purpose of the living trust, as mentioned, is to be able to transfer property to a designated beneficiary(ies) without the usual hassles associated with offering a will for formal probate. A living trust however cannot transfer property unless it holds title to that property. Therefore, the first step in making the trust effective is to transfer ownership, or title, of a property to the trust's name. It's safer to transfer the title to the trust's name, rather than to the name of the trustee, since it is more likely the trust name will continue even if you change trustees. For the purposes of transferring title into a trust's name, there are two classifications of property: those that have an ownership document and those that do not have formal ownership documents.

Personal Property without ownership documents usually will include the following:

household possessions and furnishings;
clothing and furs
jewelry
tools and most equipment
antiques
art work
electronic and computer equipment
cash
precious metals
bearer bonds

These items can be transferred to a trust simply by listing them on a trust schedule. That is a pretty simple process. But other items especially items that involve titles like cars and deeds to real estate or property held by others do require transfers. Property that has ownership documents requires a re-registration of ownership into the trust's name. Once the trust document has been established, signed and notarized, this process should begin. The document of the title must clearly show that the trust is the legal owner of the property or the trustee will not be able to legally transfer any of that property.

Types of property owned by the trust which normally require this re-registration of ownership includes the following:

real estate, including burial or cemetery plots.
bank accounts
stocks and stock accounts
money market accounts
mutual funds
most bonds, including U.S. Government Securities
safety deposit boxes
corporations, partnerships and limited partnerships
cars, boats, motor homes and airplanes

If you set up a trust but fail to re-register ownership of a specific property, it will remain outside the trust succession, unfortunately after you die and it will go to the heirs by your will or by the rules of intestate succession in probate court. If you do not have a will, property passes through intestacy and your state's succession law. Failing to have a trust or a will means that person other than those intended by you may get your property, and your beneficiary will be unable to avoid probate, taxes, court and attorney expenses — which was the original purpose of your living trust. Re-register any property that has a title if you use a trust. You prepare a new title document for each piece of property, transferring ownership into your trust's name. With real estate, for example, you must prepare and sign a deed listing the trust as the new owner. Then have the deed notarized and properly recorded. For bank accounts, ask your bank for the proper form. You can usually accomplish this in one trip.

TRUSTEES

When you establish a living trust, you must name a trustee. (Remember the Executor in a Will, a Trustee is very similar except, here please note that **there are no creditors to be paid by the Trustee and no accounting to the Court**) In fact, you should name both an initial trustee and a successor trustee in the event the initial trustee becomes incapacitated, cannot serve for any reason or refuses to serve. The trustee is the

individual or institution which actually manages the trust assets that you transfer in, according to the specific instructions you've given. The appointment is important, as this person or entity will have the responsibility of honoring your wishes your after death. The initial trustee is, most often, the Grantor. You, as Grantor, create the trust but name yourself as the first trustee. That's why it's called a living trust. If it is revocable, you can change assets in the trust as circumstances dictate. While you're alive, the trust can conform to your specific wishes. However, please remember, most states require that your trust be irrevocable if you wish to protect it from creditors.

It is important to understand this: a living trust does not take the control of your property from you during your lifetime. You handle it while you're alive. It's merely tucked away in a convenient legal vehicle that takes over immediately after you die and passes the property along to the people you designate without publicity and without the potential lengthy delay and costs of probate. If you've set up a marital living trust, usually both spouses are co-trustees. When one spouse dies, the other spouse continues as the initial trustee. It is possible to name someone else other than you and/or your spouse to be the initial trustee. It is uncommon however, and could unnecessarily complicate your trust arrangements as you must keep separate records of the trust. It is strongly suggested you should work with your attorney to select a capable trustee who you can continue to work with.

Another alternative way that you can transfer wealth after death without probate, is called joint ownership with the right of survivorship. A common form of this method with married couples, is buying the property as a married couple and owning it in joint tenancy with the right of survivorship. Property held in this manner also normally passes outside of probate process. However, if you hold property in this manner you can still have creditors attach it because you still own it. In order to save property from creditors you must get it out of your name and transfer it so that you no longer hold the legal title to it. Transferring title with a trust allows you to still use and possess it. Remember to save property from taxes or Creditors you have to 1) use it up or spend it, 2) give it away or 3) change it into property that creditors are unable to attach. (exempt or homestead property).

Because something could happen to the initial trustee, it's vital to name a successor trustee. This is the individual who will be distributing your assets according to your wishes after you die, or if you become unable to manage the trust due to injury or illness. For property not held in the living trust, creation of a durable power of attorney and a health care durable power of attorney can designate someone else to carry on with the non-trust assets. A durable power of attorney allows others to make decisions for you if you become unable to make them due to mental incapacity, physical illness or if you are away from home. If a trust is a marital one, the successor trustee does not take over until after the second spouse dies. The successor trustee can also die or become incapacitated, so it's imperative that you also name an alternative trustee, too, to take over as successor in that circumstance.

What does the successor trustee or executor do? If your instructions are explicit as to how you want property transferred at your death, then the job is somewhat easier. However there are still things the successor trustee must do; for example the successor of trustee must:

Obtain copies of the death certificate of the initial trustee

Present death certificate, copy of the living trust and proof of successor trustee's identity to the various financial institutions or organizations that have the property/assets

Prepare documents of title transfer from the trust to the beneficiary(ies) as appropriate.

Supervise distribution of trust assets where no title is involved.

If necessary, the successor trustee may manage a child's trust if the beneficiary is a child who has not reached the age at which the initial trustee designated the property to be transferred. The successor manages the property for that individual until he or she reaches the specific age outlined in the original living trust. This may be the only task the successor trustee is actually paid to do. If required, the successor trustee might also file federal and/or state death tax returns.

Again, it is necessary to emphasize that it is important to name a successor trustee, preferably one whom you feel will diligently carry out your wishes. It may even be

someone who is also a beneficiary of the trust assets. If there is any question about whom you should name, consult with an attorney for suggestions.

OTHER TYPES OF TRUSTS AND OTHER DEVICES TO TRANSFER WEALTH

IRA's

Unlike traditional plans, the Roth IRA also provides a way to pass a large amount of money, without probate, at your death. With a traditional IRA, you must start making withdrawals after you reach age 70 1/2. The amount you must withdraw each year depends on your age and the age of the beneficiary of the account -- that is, the person you've named to inherit it at your death. The idea is that you will use up your retirement account by the time you die.

But a Roth IRA has no mandatory withdrawals. That means you can let the account keep accumulating income, tax-free, until your death, when it will pass to the person you've named. The only constraints on the amount of money you can pile up are the contribution limits (currently, $2,000 per person per year) and your investment choices.

Passing this money to your heirs is easy, and it doesn't cost a dime. All you do is name someone, on the form the account custodian gives you, to inherit whatever is in the account at your death. If you name more than one beneficiary, they'll split the money equally unless you specify otherwise. You don't need to mention the IRA in your will or living trust; the beneficiary form takes care of everything.

After your death, the beneficiary will need only a certified copy of the death certificate to claim the funds, quickly and without probate.

Pay-on-death designations

Designating a pay-on-death beneficiary is a simple way to avoid probate for bank accounts, government bonds, individual retirement accounts and, in many states, stocks and other securities. In a few states, you can even transfer your car through such an arrangement. All you need to do is name someone to inherit the property at your death. You retain complete control of your property when you are alive, and you can change the beneficiary if you choose. When you die, the property is transferred to the person you named, free of probate.

Joint tenancy

Joint tenancy is a form of shared ownership where the surviving owner(s) automatically inherits the share of the owner who dies. Joint tenancy is often a good

choice for couples who purchase property together and want the survivor to inherit. (Some states also have a very similar type of ownership, called "tenancy by the entirety," just for married couples.) Adding another owner to property you already own, however, can create problems. The new co-owner can sell or borrow against his or her share. Also, there are negative tax consequences of giving appreciated property to a joint tenant shortly before death.

Partnerships and Corporations

By investing in a partnership or corporation it is possible to pass property down from one generation to another without directly losing control of assets. A partnership may designed to pass to a survivor or to a spouse tax or Medicaid penalties.

Insurance

If you buy life insurance, you can designate a specific beneficiary in your policy. The proceeds of the policy won't go through probate unless you name your own estate as the beneficiary.

Gifts

Anything you give away during your life doesn't have to go through probate. Making nontaxable gifts (up to $10,000 per recipient per year, or to a tax-exempt entity) can also reduce eventual federal estate taxes. So if you can afford it, a gift-giving program can save on both probate costs and estate taxes

OTHER TRUSTS

By now, you understand the meaning and main purpose of a living trust. There are, however, many types of trusts, wills and other devices that should be mentioned that assist in estate planning goals. Living trusts are only truly functional when the creator of the trust passes away. It is an attempt to avoid the expenses and fees that are a cost of probate. It also avoids the loss of time that will occur as a result of working through the probate process. Other types of wills, trusts and estate transfer methods can help you to avoid taxes, probate creditors and Medicaid recapture. These include giving gifts, life estates, joint property residential trusts, payments for services and several trust options.

MARITAL ESTATE LIFE TRUST:

Commonly referred to as the A-B Trust, this trust is set up for couples whose combined estate is normally in excess of $600,000. $600,000 is the amount of your estate

which is exempt from federal estate taxes; however, this amount is increased annually.. The marital life estate trust lets BOTH spouses take full advantage of the $600,000 estate tax exemption. When a spouse dies, property is left for the use of the surviving spouse during the balance of his or her lifetime. However, the survivor never becomes the legal owner of the property. If legal ownership is never bestowed, then the property is not included in the survivor's estate and thus avoids being counted for tax purposes. This type of trust is complex and has important ramifications for the surviving spouse which should be understood before putting this type of trust into effect.

Q-TIP TRUST:

Short for Qualified Terminal Interest Property, it is a type of marital life estate trust that is intended to postpone payment of estate taxes when the first spouse dies. It only postpones them until the death of the second spouse and the taxes could be higher then since the amounts would be calculated on the then-current estate, but it saves the survivor a substantial amount of money while alive.

GENERATION-SKIPPING TRUST:

You may have heard of this type of trust where the bulk of assets are left to the grandchildren, but the income derived from them is utilized by the trustor's own children. In essence, the estate "skips" the children, going directly to the grandchildren, but the use of the income is still there for the direct heirs; the use of the property is not. Current laws impose a tax on all generation-skipping transfers in excess of $1,000,000. If an estate is worth more than that, the children may want to get this excess property directly since they will have no access other than to income from the property that was transferred to the grandchildren. It all depends on the size and type of estate.

These are examples of other trusts. This isn't meant to say you should attempt to set up every conceivable type of trust. The key is what your estate and heirs "picture" looks like—this will govern the estate planning devices you will utilize.

TAKING INVENTORY

To value your estate from both a net worth and living trust planning standpoint, you must inventory your assets and calculate your liabilities first.

Assets: This is the first calculation. You should list each item and describe it, indicating whether you own the property outright or the percentage of your ownership if not. Then list the actual value of the portion you own.

Begin with your liquid assets:

cash

savings

checking accounts

money market accounts

CDs

precious metals

Next, list other personal property:

stocks

mutual funds

bonds

other securities

automobiles

jewelry

furs

art works

antiques

tools

collectibles

life insurance

Then, list your real estate holdings including your own home(s), condominiums, mobile homes, land, funeral or cemetery plots, etc. Finally, list any business personal property including partnership interests, copyrights, patents, trademarks, stock options, etc. Add these up and you will have the total amount of your assets.

Then, list your liabilities by name and the amount you owe, including:

personal loans (credit cards, bank)

mortgage loan(s)

taxes due, current or past

life insurance loans

other personal debts

Add all of these numbers up to arrive at your total liabilities. Subtract your liabilities from your assets to arrive at your net worth.

This allows you to place a value on your estate. You can see how close your estate is to $600,000. You can inventory property that has to be itemized for the living trust anyway. You can separate property by titled ownership and non-titled property.

SUMMARY

Knowing the extent and type of assets through which you are in valuing your estate is an excellent start to your estate-planning program. The use of a living trust is a clear example of using estate planning to help you (and your heirs) save money and to avoid the unnecessary and time consuming probate process.

THE QUICK CHECKLIST TO PROBATING A WILL

Here is a check list of the things that you may need to do if you need to be the executor of the estate.

First

Obtain copies of the death certificate of the initial trustee

Present death certificate and a copy of the will to the Court to probate the will normally an attorney will be appointed to probate the will and he will be paid a percentage of the estate

Gather the assets of the estate

Gather the debts

Attempt to locate the heirs and give them notice.

Provide an accounting and records to the Court showing what was done with the funds.

Prepare the estate taxes.

Supervise distribution of trust assets where no title is involved.

Protect the assets of the estate until they can be transferred.

FAQ SECTION

1 ***How do I apply for Medicaid to pay for my nursing home care***? In order to apply for Medicaid Nursing home benefits you must first have the person in a Medicaid nursing home bed. In order to apply, Social Security will consider any assets that the person has available and it will include the resources of any spouse as well. Income is counted as all resources that can be used to pay for Medicaid nursing or health care services.

2 ***Mom transferred her home to me just before she needed to go to the nursing home. Will her application be denied for these benefits?*** Yes, Medicaid can be denied. It will be denied if you waited to long to transfer the property. If the transfer was too close to the time that she (the disabled person) went into the nursing home facility, or if you transferred the property while she was facing an in-competency proceeding you will have problems. A person is not required to sell their home if they get Medicaid benefits but if they die then their property may be taken by the government to pay the benefits back. Even putting the property into a trust will not protect it from this Government action. However, transfers between spouses is acceptable and you can transfer from husband to wife and keep the home from being later sold to pay for benefits. The state files a claim with the estate for the costs of the medical services and

the court will order the sale of the family home if it is valued at over $50,500 dollars. If she transfers to you property you will have to wait up to 36 months to qualify for Medicaid.

3 ***How do I apply for Medicaid benefits?*** You need to apply and a case worker is assigned. If you fail to provide the information to them or if you do not qualify it will be denied; however, you may appeal or reapply and even up to 3 months of retroactive benefits may be available. The application procedure should take about 30 days and you have the right to appeal any decision to a fair hearing

4 ***Are the rules for all the states the same? Can I transfer Mom from one state to another?*** No. Each state has it's own rules. There is normally no residency requirement but you have to live within that state to qualify for benefits. Each state may have different rules for qualifying and different benefits.

5 ***They claim we have too much money for Medicaid benefits. How can I qualify?*** You can qualify by spending the money on her current bed and health care costs or necessity expenses.

6 ***Which is better a will or a trust?*** Each form has its own benefits and tax advantages. Because every person is different each plan is different; however, generally the sooner you transfer property out of your name the better. This will reduce the risk that creditors and Medicaid will try to claim it. For these reasons I prefer trusts over wills normally. Partnerships and other methods can also be used to transfer wealth from you to your heirs without losing control of the asset or the use of the asset. Trusts allow you to transfer the assets long before your death so the transfer is earlier and therefore normally better. The Kentucky rule is that to avoid Medicaid claims against the assets transfers must be 3 years before you claim your Medicaid benefits. Each state Medicaid program has its own rule but most states have this 3 year rule. What is exactly right for you is based on your particular facts.

How do I get copies of the Death Certificate? If you are settleing an estate you will need some certified copies of the death certificate. For example, to collect insurance proceeds and other death benefits, you will be required to give a copy of the death certificate to the insurance company or other agency. Fortunately, it's easy to obtain these documents. Often the the mortuary you deal with will obtain them for you and add the cost to its bill. Otherwise, there are a couple of ways to write away for them yourself. If you need copies of the death certificate immediately after the death, you can order them

by writing to the vital statistics office or county health department in the county where the decedent died. In Kentucky you will get them from Frankfort and the Division of Vital Statistics. If you are in another state call the office first to find out where to send your request and how much money to enclose. To find out where to write in your state, and how much the copies cost go to the website of the National Center for Health Statistics at: http://www.cdc.gov/nchswww/howto/w2w/w2welcom.htm

What is a durable power of attorney substitute for a living will? A durable power of attorney for healthcare gives another person authority to make medical decisions for you if you are unable to make them for yourself. A healthcare directive, states what type of treatment you want to receive. It is best to have both documents so they work together. Your healthcare directive may contain a clause appointing a representative to be certain your wishes are carried out as you've directed. You should create two separate documents, a directive explaining the treatment you wish to receive and a durable power of attorney appointing someone to oversee your directive.

What is a living will? A living will, or Healthcare Directive, sets out your wishes about what medical treatment should be withheld or provided if you become unable to communicate. The directive creates a contract with the attending doctor or hospital. Once the doctor receives a properly signed and witnessed directive, he or she is under a duty either to honor its instructions or to make sure you are transferred to the care of another doctor who will. A living will or healthcare directives can be used to insure that you receive all the medical treatment that is available -- and a healthcare directive is the proper place to say so.

Can my attorney-in-fact make medical decisions on my behalf? No. A durable power of attorney normally only allows a person to make financial decisions for you it does not give him the legal authority to make medical decisions for you. You can, however, prepare a durable power of attorney for healthcare or a healthcare directive which lets you choose someone to make medical decisions on your behalf if you can't. A Healthcare Directive tells your doctors your preferences about certain kinds of medical treatment and life-sustaining procedures if you can't communicate your wishes. If your living will is properly prepared, your doctors are legally bound to respect your wishes or to transfer you to a doctor who will. Kentucky has a standard form for their living wills which is in the manual.

When does a durable power of attorney take effect? A durable power of attorney can be drafted so that it goes into effect as soon as you sign it or upon the happening of some contingent event.

What does an attorney-in-fact do**?** Commonly, people give an attorney-in-fact broad power over their finances. But an attorney-in-fact can be given as much or as little power as you need to. Common duties include the ability to, use assets to pay your expenses, buy, sell, or use assets, collect funds, deposit moneys, invest, handle transactions, appear in court, handle legal matters for you, operate your business, and generally make decisions for you and manage.

Whatever powers you give the attorney-in-fact, the attorney-in-fact is required to act in your best interests, keep accurate records, keep your property separate from his or hers and avoid conflicts of interest.

How do I create a power of attorney for finances that is good interstate? Interstate transactions normally require a notary seal. If you are involved with property in several states you will need to have your power of attorney notarized. Most banks will have a notary available to assist their customers at no charge. Most law officers also will make notary services available for their clients.

What is a durable power of attorney? A durable power of attorney will allow a person to handle affairs for you if you become incapacitated. A spouse is not able to handle many duties and the court may appoint a guardian over your property if you fail to appoint someone to do this for you. Even if you have a living trust the trustee can only manage the property in the trust and a spouse can only control her share of any joint property. A power of attorney ends at the death of the grantor or upon revocation.

HOW TO GET YOUR MAXIMUM SOCIAL SECURITY BENEFITS

There will come a time that you will need to apply for Social Security and Medicare Benefits. There will also be a time when you will need a will or when you need to use a trust power of attorney or living will. When retirement comes along you will only have what you have earned, and your retirement benefits. You need to get your maximum social security benefits and you need to pass your home and property down to your children and your spouse without giving it away back to Social Security for the benefits you earned. There are several different ways to apply for benefits from Social Security Administration but only a couple will give you the maximum benefits. We paid for Medicaid Medicare and Social Security all of our working lives while the government took 33% of our salaries to pay for it. When you retire the government doesn't plan to pay back as much as you paid in. In order for you to qualify for Medicaid nursing home care you will have to spend all that you own first. After that Medicaid will take your home and any assets in your estate to pay itself back. If you do pass your property to your children they may only get a part of it if you don't know how to avoid taxes and probate costs that may take it away from them.

Applying for and receiving Medicaid benefits

You are eligible for Medicaid if and only if you qualify under income and resource guidelines. Almost all retired individuals eventually use Medicaid. Essentially you are claiming that you are too poor to pay for medical care and Medicaid requires that you spend what you own before Medicaid is required to pay anything. If you have assets that you are allowed to keep, while you obtain benefits, then the bills Medicaid pays will become claims against any property you have left when you die. Applying for and getting Medicaid is simple. To qualify for Nursing home benefits the person only needs to be in a nursing home bed. Benefits can even be paid retroactively for a couple of months. However it is important to apply as soon as possible because it is rarely paid retroactively for more than 3 months. Medicaid will pay for care but you must not own anything in order to qualify. Medicaid benefits for nursing home beds often pay $5,000

or $6,000 per month. All that you own, however, may be gone if you spend only a year or two in a nursing home. To qualify for Medicaid you are required to spend down your assets but you are allowed to keep certain assets such as your home, household and personal effects, and a car valued at up to $4,500 dollars. Each state has different spend down requirements. For instance, Indiana and Ohio can require a person to sell their home before they are allowed Medicaid benefits.

Medicaid is a claim against your estate, so if you leave property by will to your heirs Medicaid will take any property you leave behind.   The idea is to transfer property over 3 years before you apply for these benefits out of your name.   Gifts effect eligibility for Medicaid and each individual state has it's own rules that can change at any time but currently the rule in Kentucky is that transfers must be at least 3 years old or they are assets that are used to determine Medicaid benefits. All your other money and assets must be spent on medical care before you can use Medicaid to pay for benefits. Irrevocable trusts, transfers to spouses and Annuities can be used to avoid this but they have to be done properly and timing is essential. Gifts to others of property may involve special gift taxes and income tax problems. Almost everyone has or will have large medical expenses in their final years. If you have a need for a Medicaid or if you will have very large medical expenses you need to plan so that your assets are given to your spouse and children or other heirs instead of being used to pay medical bills Medicaid and other creditors.

Knowing how to use Trusts Wills and other methods will allow you to transfer wealth without the expense of paying too much in taxes and legal fees to your heirs. Each method gets property our of your name so that the government and creditors don't get it. Wills involve transferring property after your death.   Trusts allow you to still control property and use it but the transfer of property is while you are still alive.   Trusts normally allow you to still use or control the property. Life Estates, using property as security for loans and corporations or partnerships can also allow you to tranfer property. Each method has it's good and weak points but planning poorly will leave your family nothing. Planning for Medicaid requires that you get assets out of your name at least three years before you make any claims and all too often people wait too late and lose it all to Medicaid.

Medicare

Medicare is essentially insurance that pays 100% of the first 21 days of care. Part A pays for hospital care Part B pays for medical insurance and prescription drug costs. It requires a co-payment of $97 per diem after 21 days of care and it pays nothing after 100 days per spell of illness. Medicare nursing home coverage normally requires a three day hospital stay before a person may be placed into a nursing home for Medicare purposes. Medicaid only applies after Medicare and personal assets have been exhausted. The legal codes sections that apply are KRS 205.510 and USC section 1396(a) and 1395. Complaints about the quality of care given in any facility may be made to Secretary of the Cabinet for Health and Human Services; Administrative Hearings Branch 275 Main Street Frankfort Ky 40601. The Hotline Number is 1-800-372-2991. Also complaints and help may be gotten from Long Term Ombudsman for the Cabinet for Families and Children 275 East Main Street 5th Floor, Frankfort Ky 40601. Dept for Health and Human Services 1-877-696-6775

Other agencies that may be contacted to obtain information and resources include these:

Brenda Rice, State Long Term Care Ombudsman, Division of Family/Children Services, 275 East Main Street, Sixth Floor, Frankfort, KY 40601 (502) 564-6930 or 1-800-372-2991.

Division of Aging Services, 275 East Main Street, Sixth Floor, Frankfort, KY 40601 (502) 564-6930 or (502) 564-7372.

National Long Term Care Ombudsman Resource Center, National Citizens Coalition for Nursing Home Reform, Suite 202, 1424 16th Street NW, Washington, D.C. 20036, (202) 332-2275, www.NCCNHR,org

Division of Licensing and Regulation, 275 E. Main Street 4E-A, Frankfort KY 40601, (502) 564-6546.

Eldercare Locator Service 1-800-677-1116.

Assisted Living Facilities Association of America, 9401 Lee Highway, Suite 402, Fairfax, VA 22301, (703) 691-8100.

American Association of Retired Persons, 601 E. Street, NW, Washington, DC 20049, (202)434-2277 or 1-800-424-3410.

American Association of Homes and Services for the Aging, 901 E. Street NW #500, Washington, DC 20004-2037, (301)490-0677 or 1-800-508-9442.

American Health Care Association, 1201 L Street NW, Washington, DC 20005-4024 (202)842-4444.

American Society on Aging, 833 Market Street Suite 512, San Francisco, CA 94103, (415) 882-2910.

Social Security: SSI, Disability, and Retirement

There are three types of Social Security Benefits: SSI, Disability. and Retirement

Social Security Retirement Benefits

Social Security Retirement benefits pay generally more than Disability or SSI. Social Security Retirement benefits are based on your earnings for the years before you retire. The formula is based on ……… The amount each person gets on social security is based on what is paid into your social security retirement account. The number of years that you pay into this retirement and the amount you pay into your account determines the amount you are paid. For years the federal government has been borrowing from this fund to pay for government programs. There is a resulting fear

among baby boomers and younger workers that when the baby boomers retire the government will not be able to repay them when they retire. Because of this many persons who earn above average incomes have invested in other retirements programs such as IRA's. Most persons receiving Social Security earn about $1,200 per month but this figure varies greatly since it is based entirely on how early you retire, how much you made while you worked, and how long you have paid into the plan.

Benefit counseling agencies exist in almost every county and they provide one on one counseling free of charge by specialists. They are monitored by attorneys who specialize in the law relating to benefits. The paperwork is so burdensome and complicated that you should never attempt to process this yourself and these agencies will assist you at no charge. These agencies can help you to obtain your maximum benfits however if you are being denied disability benefits or your maximum benefits you should seek an attorney. Other agencies that may be contacted to obtain information and resources include these Websites: www.kycares.org, Social Security http://www.ssa.gov Health Care Financing http://www.hcfa.gov and Medicare http://www.medicare.gov Social Security is at 1-800-772-1213 to ask for SSA publications or to speak to a SSA representative that can help you to find an agency in your area. If you are blind or deaf the TDD number is 1-800-325-0778. You must have 40 credits or 10 years of work to obtain benefits. Social security was never intended to solely fund your retirement. Instead it was intended to supplement your investments savings and pension plans. Because pension plans have become so expensive companies often have any pension plans that lack any substantial value. You can expect a retirement benefit from SSA that is about 42% of your average lifetime earnings. You can get a free estimate of your amount by calling 1-800-772-1213 or you may ask for Form 7004. Delaying your retirement increases your benefits. Direct Deposit may be changed or made by calling 1-800-772-1213

Retiring before age 65 reduces your benefits by 5/9ths of one percent for every month you retire before age 65 up to a maximum of 20 % less. Be certain to call the above number so that you can get a computation of your expected benefits before you retire. If you work and retire your Social Security Benefits are no longer reduced. This change occurred in January 1, 2000. Before this date a retirees benefits were penalized 50 cents

for every dollar that he or she worked, if they worked and received social security. You may now earn up to $10,080 per year and not have a reduction.

Social Security Disability Benefits

Social Security Disability is paid to persons who become disabled before they can collect retirement benefits. Benefits are payable at any age as long as you are prevented from doing "substantial" work. In 2000, substantial work was defined as earning approximately $700 dollars of income per month. Whereas SSI is based on financial need, normal Social Security Disability is based on your work history. This amount is normally less than what your retirement benefits would have been but more than what SSI would be. Again benefits are paid based on income and how long you have paid into social security however disability benefits allow you to collect early from your fund and social security also allows your spouse and children benefits if you die early or become disabled before you normally retire. Family may also make claims. If a person is caring for a disabled child they may also be allowed to claim benefits. Do not be discouraged if you are turned down initially for disability benefits. It would appear that Social Security has a policy of turning down everyone when you first apply for benefits and unless you fight for the benefits through appeals you will rarely be approved for disability benefits. The program is poorly funded and if persons quit fighting for benefits it is only another claim they don't have to pay. If you claim Social Security Disability benefits expect to fight for it and to document that you don't get benefits from any other source. It is very important that you keep a complete file of all papers you receive. Also, you should keep a copy of all letters or forms you mail to the Social Security office. It is also a good idea to write down all of your phone calls, dates in a calendar. If you receive Workers Compensation benefits then you will have your Social Security Benefits reduced by the amount of the award for Workers Compensation. If you receive Workers Compensation it will also be reduced by the amount of the Social Security Disability award however you will want to claim both for the maximum award that you can get.

The process of applying for benefits involves application, rejection, hearing denial, Appeals Council and Federal Court. You initial application is almost always denied for

disability. A request for reconsideration must be made within 60 days after you are notified of the denial. At this point many persons fail to apply for reconsideration and Social Security wins and does not have to pay. Your request for reconsideration is also normally denied. After being denied reconsideration you will be given a hearing. The hearing is before the Social Security administrative law judge who is hired by the Social Security system itself. Unless your claim is very good and cannot be denied it will again be denied at this level and you will have to appeal to the Appeals Council which will review the written opinion of the Administrative Law Judge. The appeal to the Appeals Council must be made within 60 days. At this point your claim will be seriously considered and if they deny your claim you may then appeal to Federal District Court. The Federal District Court judge will be arguable the first unbiased judge that will hear your case and that might award you what is proper. The other levels are almost like applying to your insurance agency and asking if your insurance claim should be paid. The same general appeals process is used for SSI Disability and Retirement benefits.

Social Security SSI is supplemental income.

Persons that lack any other form of support and that are below a poverty level may qualify for SSI. These benefits are the lowest level of benefits current SSI is $512 for an individual and $769 for a couple. SSI benefits are so low that existing is all that this affords the individual. The amount is however, adjusted annually for inflation. However, if you are unable to work or support yourself and you do not qualify for any other program or if the other programs do not pay enough, SSI will supplement your income to bring it up to this level. SSI is not based on income but SSI will guarantee you an income of at least $512 per month. You may not have any assets over $2,000 dollars and collect SSI however your home, car, and burial plots are not counted towards this $2,000 dollar amount. The first $65 dollars earned by working each month does not count towards your $512 per month. To be disabled and collect SSI you must be physically or mentally disabled. At the age of 65 it is converted to retirement benefits. You must have a condition that will make you unable to work for a year or more to get SSI but you do not actually have to wait one year to get SSI. For example, if medical personnel in evaluation process determine that your expected disability will last more

than 1 year you can start receiving benefits. You should file your claim as soon as possible. You may file for benefits by calling 1-800-772-1213

FOOD STAMP PROGRAMS

You may qualify for food stamps, if a family of four has less than $4,176 annual income; family of two has less than $1,783 annual income; under age 60 and over age 18 you must be registered for work and seeking employment unless you are disabled. The Food Stamp Program is through the Kentucky Cabinet for Children and Families.   There is also a commodity food program the number for the food bank in Kentucky is EFAP 502-564-4387 and CSFP is also at 502-595-3031. These are two different programs. Also, Assistance with Heating and Energy bills is through 1-800-456-3452 for (HEAP) this only requires income of 110% of poverty or about 1531 dollars per month for a family of four.

APPENDIX

THE FOLLOWING PAGES INCLUDE THE FORMS FOR PROBATING AN ESTATE.

DISCLAIMER: THIS MANUAL ONLY PROVIDES GENERAL INFORMATION ABOUT STATE WILLS TRUSTS AND SOCIAL SECURITY LAWS. NOTHING IN THIS MANUAL SHOULD BE CONSTRUED AS LEGAL ADVICE. IF YOU HAVE QUESTIONS ABOUT YOUR OWN LEGAL MATTERS OR THE LAW, CONTACT US ABOUT YOUR PROBLEM WE ASSUME NO LIABILITY FOR ANY ACTIONS WHICH OCCUR AS A RESULT OF INFORMATION DERIVED FROM THIS MANUAL WITHOUT YOU CONSULTING US AS YOUR ATTORNEY AND IF YOU DO YOUR OWN LEGAL WORK.

Living Trust Basic Form

This form creates a revocable living trust. A living trust is a testamentary device, used instead of a will. Popularized by the infamous "How to Avoid Probate" books, Living Trusts are a type of estate planning which have become quite popular for many reasons. Although touted as a substitute for traditional wills, a living trust also requires a pour over will. A pour over will bequeaths any assets which have not been conveyed to the living trust, into the trust estate. Virtually all living trusts are "revocable" which means that the terms can be changed during the lifetime of the settlor. Irrevocable trusts create extensive tax consequences and are not suitable for regular estate planning. The trusts provided ____________ is revocable.

REVOCABLE TRUST

___________, referred to herein as Settlor, and ______________, referred to herein as Trustee, (the singular term "Trustee" shall refer to multiple Trustees if multiple Trustees are appointed) in consideration of the covenants and undertakings herein agree:

ARTICLE I
CONVEYANCE OF PROPERTY TO THE TRUSTEE
Settlor herewith assigns and conveys to the Trustee, the property described in Exhibit "1" hereto. All of said property, together with any income, accessions and additions herein, shall be held by the Trustee in trust for the purposes set forth in this revocable living trust.

ARTICLE II
REVOCATION
Settlor hereby reserves the right to revoke this trust at any time, by written instrument. Revocation shall be effective upon mailing or delivery to the Trustee of a notice of revocation. Trustee may resign upon 30 days prior written notice to the Settlor. For purposes of this agreement, notices shall be delivered as follows:

TO SETTLOR
[Write in your (the Settlor's) name and address below]

____

____

____

TO TRUSTEE
[Write in the Trustee's name and address below]

____

____

____

ARTICLE III
SUCCESSORS TO THE TRUSTEE
ADDITIONAL TRUSTEES

The Settlor during his lifetime may from time to time add additional Trustees by notice to the then existing Trustees. In the event there are multiple Trustees, the majority shall in any matter in which the Trustees disagree control. In the event that the Trustees are evenly divided in the actions to be taken, the Trustee with the longest tenure of service shall cast an additional vote to determine the matter.

In the event that any Trustee resigns or is unwilling or incapable of acting, during the Settlor's lifetime, the Settlor shall name additional or replacement Trustees. After the Settlor's death, ________________ shall name the replacements for any Trustees who resign or are unwilling or incapable of acting. If _________is unwilling or incapable of acting, ______________________ shall name the same. In the event that _____________ shall be unwilling or incapable of acting, the Court having jurisdiction over states and trusts, located in County, State of _____________ shall name the successor Trustees.

ARTICLE IV
WITHDRAWALS BY SETTLOR
The Settlor may from time to time withdraw any portion of the corpus of the trust (whether capital or interest) by written notice to the Trustee. The Trustee shall be acquitted of all further responsibility for any assets so delivered upon receipt by the Settlor.

ARTICLE V
POWERS OF THE TRUSTEE
The Trustee shall have the power to do all acts, institute all proceedings and exercise all rights, powers and privileges that an absolute owner of the trust property would have, subject always to the discharge of Trustee's fiduciary responsibilities.

I further direct that the Trustee shall act without bond. Further, this Trust shall be administered without the necessity for an administration thereof to be through the court system. No entity dealing with the Trustee shall be required to investigate or to confirm the Trustee's authority to enter into any transaction or to administer the application of the proceeds of any transaction.

ARTICLE VI
COMPENSATION OF TRUSTEE
If the Trustee is an individual, then the Trustee shall serve without compensation, but with reimbursement for reasonable and ordinary expenses. Nevertheless, the Trustee if an attorney shall be entitled to compensation for legal services rendered to the trust, or if an accountant, for accounting services rendered to the trust.

If the Trustee is a corporation or banking entity, it shall be entitled to customary, reasonable and ordinary charges and expenses incurred in rendering services to the estate.

ARTICLE VI
DISPOSITION OF TRUST PROCEEDS
After paying the necessary expenses incurred in the management and investment of the trust estate, including compensation as provided for herein, the Trustee shall accumulate the same during the lifetime of the Settlor. After Settlor's death the Trustee shall distribute the net income of the Trust in the following manner:

Please see exhibit 2
Should any beneficiary named above die, the Trustee shall distribute the net income to the lineal descendants of the beneficiary. If any beneficiary dies and is not survived by lineal descendants, the distributions from the Trust shall be adjusted to pro-rata increase all other shares.

ARTICLES VII
INVASION OF PRINCIPAL
After Settlor's death, the Trustee may apply so much of the principal of the trust for the use of the beneficiaries at such time or times as in Trustee's discretion Trustee may deem advisable for their health, education, support or maintenance. Any amounts so applied to the use of any beneficiary shall be charged against, or deducted from, the principal of any share then or thereafter set apart for said beneficiary.

ARTICLE VIII
NON-ASSIGNABILITY OF THE TRUST PROCEEDS
The interest of the beneficiaries of this trust shall not be assignable, and beneficiaries shall not have the right to pledge, assign, convey, or otherwise transfer, lien or encumber any portion of the income or principal of the trust. All payments provided for by the beneficiaries herein shall be made directly to them or their guardians as is provided herein.

ARTICLE VIII
DISTRIBUTIONS TO MINOR OR INCOMPETENT BENEFICIARIES
The Trustee in his discretion may make payments of income or principal to any minor or incompetent beneficiary by paying the same to the minor or incompetent's guardian, or to the person having control over the minor or incompetent, or by direct expenditure for the benefit of the minor or incompetent. However, the Trustee may also pay an allowance in such amount as he may see fit from time to time to the minor or incompetent. Further, in the discretion of the Trustee the distributions for a minor or incompetent beneficiary may be accumulated and shall thereupon be paid to the minor or incompetent upon their disability being removed. Any payment under this Section shall operate as a full discharge of the Trustee as to such payment.

ARTICLE VIII
ACCOUNTINGS
The Trustee shall, after the death of the Settlor provide a semiannual accounting to all competent, adult beneficiaries detailing the transactions, if any, of the trust. The same shall not be required to be audited, although the Trustee may, in his sole discretion, may cause an audit to be performed from time to time.

ARTICLE IX
LIQUIDATION OF TRUST
If at any time the total of the principal and income of the trust is less than $500,000.00, the Trustee, may in his absolute discretion, close out the trust by paying the proportionate shares of each beneficiary to them. The Trustee shall at that time deliver a final accounting to each beneficiary. Upon payment, the Trustee shall be discharged from all further duties.

SECTION X
PERPETUITIES SAVINGS CLAUSE
Notwithstanding anything to the contrary herein contained, the trust created by this agreement shall cease and terminate as is provided in Sections IX, 21 years after the death of the last survivor of trustors and all issue of trustors living at the date of this agreement.

SECTION XI
DISTRIBUTION OF DIVISION IN KIND
On any distribution from the trust, whether it be an ordinary distribution or one of principal, or a final distribution, the Trustee may apportion and allocate the assets of the trust estate in cash and partly in kind, in Trustee's discretion. The valuation, whether based on an appraisal, or not, made by the Trustee shall be binding on the beneficiaries.

SECTION XII
LITIGATION OR COMPROMISE OF CLAIMS
The Trustee may compromise, or abandon, at Trustee's option any claim or claim against the trust, or subject the same to arbitration. Or, the Trustee, in his absolute discretion, may litigate any claim in favor of or against the estate.

SECTION XIII
NOTICE OF EVENTS
Until the Trustee receives notice of any death, birth, marriage, or other event on which the right to receive distributions is based, the Trustee shall incur no liability for any disbursements or distributions made in good faith. This clause shall not prevent the Trustee from seeking restitution of any payments made in error in his discretion.

SECTION XIV
DEFINITIONS - GOVERNING LAW
The words "child", "children", "descendants" and "issue" shall include children legally adopted and the lawful descendants of such adoptees. This trust shall be governed by the laws of _________________ [Put State here.]

SECTION XV
SEVERABILITY
If any provision herein is found by a court of competent jurisdiction to be invalid, the remainder shall govern.
Dated: ____________________________________
____

{Put the Notary Public's name here]
STATE OF ___________________
COUNTY OF _________________
[Notary Public's name here], being duly sworn states that they executed this instrument for the purposes stated herein.
____

Notary Public
My Commission Expires: ____________________

KNOWN ALL MEN BY THESE PRESENTS: That I, ____________________________, of the City/Town of

_________________________, County of ________________________ and State of ______________________,

being of sound and disposing mind and memory, do make, publish and declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor/Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character and wheresoever situated, shall be divided into ____________________ equal parts, and I give, devise and bequeath on such part to each of the following ________________________ persons, to be his/her absolutely and forever:

The share of any person above named who shall not survive me shall be paid to such person's issue in equal shares, per stirpes; if such person has died leaving no issue, the part designated above as being for such person shall be divided among the other beneficiaries named above, in equal shares, per stirpes.

THIRD: I hereby appoint__________________________ as Executor/Executrix of this my LAST WILL AND TESTAMENT and I direct that such person shall serve without bond.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _______________________________, this

_________________ day of _______________________, 20___.

(sign here) ____ L.S.

Signed, sealed, published and declared to be his/her LAST WILL AND TESTAMENT by the within named Testator/Testatrix in the presence of us, who in his/her presence and at his/her request, and in the presence of each other, have hereunto subscribed our names at witnesses:

City State

(1)__________________________________ of ____

(2) __________________________________ of ____

(3) __________________________________ of ____

STATE OF ____________________) City

COUNTY OF __________________) or Town_________________________________

Personally appeared (1) ____

(2)____ and (3) ____

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledged that he/she had signed said Will and declared the same to be his/her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator was known to the witnesses to be 18 years

of age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

(1)____

(2)____

(3)____

Subscribed and sworn to before me this ___________ day of ____________________________, 20____.

(*(Notary Seal)*

____

Notary Public

Self proving will clause from the Kentucky Statutes

I, ..., the testator, sign my name to this instrument this .... day of ...., 19....., and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

....
(Testator)
We, ..., ..., the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator and in the presence of the other subscribing witness, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

....
(Witness)
....
(Witness)
THE STATE OF ....
COUNTY OF ....
Subscribed, sworn to and acknowledged before me by ...., the testator and subscribed and sworn to before me by ...., and ....,

witnesses, this .... day of ....
(Signed)..
(Signed)..
(OFFICIAL CAPACITY OF OFFICER)
(THE STATE OF ....
COUNTY OF ....

Before me, the undersigned authority, on this day personally appeared .... and .... known to me to be the testator and the
witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. .... the testator,
declared to me and to the witnesses in my presence that the instrument is his last will and that he had willingly signed or directed another to sign for him, and that he executed it as
his free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence and hearing of the testator, that he signed the will as witness

in the presence of the testator and of the other subscribing witness, and that to the best of his knowledge the testator was eighteen (18) years of age or over, of sound mind and under no constraint or undue influence.

....
(Testator)

....
(Witness)

....
(Witness)

....
(Witness)

Subscribed, sworn and acknowledged before me by ...., the testator, subscribed and sworn before me by .... and

...., witnesses, this .... day of ...., A. D., ...

....
(OFFICIAL CAPACITY OF OFFICER)

<u>Living Will From the Kentucky Statutes</u>

<u>with attached comments</u>

"Living Will Directive My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:
.... Designate .... as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If .... refuses or is not able to act for me, I designate .... as my health care surrogate(s). Any prior designation is revoked.
If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.
.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.
.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.
.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.
.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that
withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.
.... Authorize the giving of all or any part of my body upon death for any purpose specified in KRS 311.185.
.... DO NOT authorize the giving of all or any part of my body upon death.
In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal. If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.
Signed this .... day of ...., 19...
Signature and address of the grantor.
In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.
Signature and address of witness.
Signature and address of witness.
OR
STATE OF KENTUCKY)
.... County)
Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.
Done this .... day of ...., 19...
Signature of Notary Public or other officer.
Date commission expires:.............

“Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney." (2) An advance directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of
the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to or serve as a notary public or other person authorized to administer oaths in regard to any advance directive made under this section:

(a) A blood relative of the grantor;
(b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;
(c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;
(d) An attending physician of the grantor; or
(e) Any person directly financially responsible for the grantor's health care.
(3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.
(4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious order.

OTHER FORMS TO HELP YOU TO PROBATE A WILL

Insurance Coverages

Policy Number	Kind of Coverage	Amount	Premium	Expires	Agent and Insurance Company

Real Estate Property

Property Address	Appraised Value	Deed and Mortgages

Inventory of Personal Property Bank Accounts Etc.

Description and Location of the Property Cars Boats Insurance Etc	Value

Claims and Debts to be Paid or Paid

Receipts and Disbursements

Date	To or From Whom and For What	Check #	Amount

Planning your Will

Name	
Address include County	
Phone	Date of Birth Social Security No
Occupation	Employer
Business or Type of Employment length of employment	
Marital Status	Prior Marriages Spouses
Fathers and Mothers Name	Fathers Place and Date of Birth
Education	Mothers Maiden Name Place of Birth
Your Branch of Service	Service Serial Number
Date Entered Service Place	Seperation from Service Place
Grade Rank Rating	Conflicts Served in
Additional Information	
Any Medical Conditions You may want to donate organs etc.	
Property What you own and Who gets What	
Funeral Instructions Church Funeral Home grave Site Pall bearers	
Location of Deed and Will Where you keep it or will keep it What attorney to contact:	

List the persons and organizations you need to Notify		
Names	Addresses	Phones