Estate Document Drafting Questionnaire

Your Names.	
Date.	

Completing this Questionnaire.

The following Drafting Questionnaire includes questions and information needed to draft your "core" estate planning documents (Will, Revocable Trust, Power of Attorney, Health Care Proxy, HIPAA Authorization, and Release, and if you have young children, an Emergency Child Medical Form).

Steps in the Process.

- When we receive your completed Drafting Questionnaire, we will prepare an initial draft of each of the documents we discussed and which you authorized us to prepare.
- We will then provide you with drafts of the documents and a memorandum of considerations.
- We recommend you schedule a web meeting to review the drafts. That will make your review of the documents easier and more efficient. We can discuss the documents, answer any questions you may have, and address any additional information that may be needed.
- Your documents will then be finalized and signed.

Limitations on the Drafting Questionnaire.

- The more complete and accurate the information you provide us before we begin drafting your documents, the more efficient the drafting and subsequent review process will be.
- The descriptions in the Questionnaire below are succinct and do not address many considerations and other options that you might prefer. As you complete the questionnaire, flag any item that concerns you, and we can discuss different approaches or how documents can be tailored to your specific wishes. Customization will increase the time and cost involved.
- Short 10-minute video clips discussing many of these topics, considerations, and options appear on www.laweasy.com.
- Let us know how we can assist.

Here are some tips on completing this Questionnaire.

- Please give each person's full legal name. If they have a nickname or other name they use, provide that parenthetically.
- If you name the same individual in multiple positions, you do not need to repeat their contact information (i.e., their address, phone number, email, relationship to you, etc.).
- If you have included the contact information for an individual you named in the Estate Planning Questionnaire, you do not need to repeat the information here.
- Indicate whether each person you list (beneficiaries, fiduciaries, powerholders, etc.) is a U.S. Citizen. If any are not, it could have significant tax and reporting consequences. We are not international tax counsel; if you have any non-citizens named, specialized tax advice from your CPA or other counsel will be necessary. If you list anyone **not** a U.S. citizen, indicate their citizenship next to their name, and be sure to discuss this with us.

Please return the revised, completed document to us via email as either a Word Document if you complete this electronically (which is preferable) or as a PDF.

If you have any questions or concerns before we draft your documents, please indicate them in the corresponding section and contact us**.** If we can help in any way, please call or email us.

Additional Documents to Complete. In addition to this Estate Document Drafting Questionnaire, we recommend you complete the Estate Planning Information Questionnaire, which provides us with additional information important to preparing documents.

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General Information.

How does your name appear on legal documents? While many people use a nickname, etc., how your name should be listed on legal documents may be different. Please indicate your full legal name, including any middle initials, prefixes, suffixes, etc., that should be listed in your documents. (i.e., John A. Smith, Jr.) Parenthetically list any nicknames that you have commonly used.

Last Will and Testament.

Description. Your Will states your wishes for the disposition of your assets upon death. It also appoints fiduciaries, such as your executor (administers your estate) and guardians for any minor children. If you request that we prepare a Revocable Trust (used to reduce probate involvement, to help manage assets as you age, or if you have a health challenge), your Will should generally be called a "pour-over" Will. That type of Will distributes or "pours" assets you own at death into the Revocable Trust.

Positions in Will.

Executor and Trustees of Trusts.

When you pass away, the person you name as "personal administrator" or "executor" administers your estate. This may include probating your Will in the state and county where you lived, collecting (marshaling) assets, paying debts, filing tax returns, and distributing those assets according to your Will, beneficiary designations, and other legal documents.

Please provide us with the names of the initial executor and successors—name as many successors as you can comfortably identify. If you wish to have individuals serve jointly, include both names in the box (i.e., either both in the box as your initial executors or in the box for successors.). Typically, most people use the same list of people for executors and trustees of trusts they create under their Will. We have provided boxes to list trustees, if different, in the section below on Revocable Trusts. If you will use different people for executors and trustees, indicate your reasoning or discuss it with us.

Position	Name, Relationship, Citizenship	Phone, Email	Address
Initial Executor(s)			
First Successor Executor(s)			
Second Successor Executors(s)			
Third Successor Executor(s)			

<u>Clayton QTIP Executor</u>.

If you are married, your Will might appoint a special executor to make a tax decision called a "Clayton QTIP" executor. This person might be given the power to determine whether a QTIP marital deduction election will be elected for a trust for your spouse established under your Will (or Revocable Trust if one is used.) This may provide flexibility to determine how much, if any, of the assets will pass to a "Credit Shelter Trust" (i.e., a trust that will use the first spouse to die's estate tax exemption on their death and will be outside the estate of the surviving spouse but will not receive a step-up in basis upon the death of the surviving spouse) at the time of the first death. This mechanism gives you hindsight on which tax approach may be more advantageous. Note that it also affects who may benefit from your assets after your death, as the Credit Shelter Trust can include beneficiaries other than your spouse, whereas the marital trust cannot. In blended families, this may not be what you wish.

Name an initial individual to serve and successors. You can indicate in the "Name" section if you wish to have individuals serve jointly as your initial executors or successors. This individual should not be someone who will also be a beneficiary of your estate.

Position	Name, Relationship, Citizenship	Phone, Email	Address
Initial Clayton QTIP Executor(s)			

First Successor Clayton QTIP Executor(s)			
Second Successor Clayton QTIP Executors(s)			

Guardian for Children.

Name people as guardians for your children and provide us with their contact information. You should list individual names, not couples. If the couple divorces or one dies, listing two names could be problematic. If you only want a named person to serve if they remain married, indicate the conditions you wish to (e.g., Jane Smith should only serve if she remains married to John Smith) below or in an attached letter.

Position	Name, Relationship, Citizenship	Phone, Email	Address
Initial Guardian(s)			
First Successor Guardian(s)			
Second Successor Guardian(s)			
Third Successor Guardian(s)			

Tangible Personal Property.

This is furniture, jewelry, art, cars, etc. Who do you wish to inherit these assets? Do you want any or all sold? Consider that having tangible property held in a trust can be difficult. Do you have any collections or particularly valuable (economically or sentimentally) assets to address?

Item	Recipient Name	Comments or Considerations

If you have additional items you would like addressed, please indicate them on the extra page at the end.

If you have any specific items you would like left to family members, friends, or other individuals, you might prepare a "letter of instruction," which can be a non-binding letter in which you can include several thoughts and wishes. That letter can be incorporated into your Will and made binding, but that presents complications you might prefer to avoid.

Real Property.
Any real property (e.g., your principal residence, a family home, vacation home, etc.) may pass as directed in your Will. Note that if the deed for the property is joint, tenants by the entirety, etc., that document, not your Will, may indicate how that particular property will pass. If you have any specific wishes for real property, please indicate them and, in all events, provide a copy of the deed for each property.

For example, real property considered your primary residence could pass to named persons, such as your surviving spouse or children, on your death. That bequest could be in trust or outright.

Property Address and Description (i.e., Personal	Beneficiary to receive, whether in trust or not.	Comments or Considerations

Home, Vacation Home, etc.)		

Revocable Trust.

Description. If you use a Revocable Trust, it will control the disposition of assets that have been transferred to it upon your death. Your Revocable Trust may also receive assets poured into it from your estate (i.e., your pour-over Will). Your Revocable Trust may create trusts for the benefit of your surviving spouse and/or your descendants or other beneficiaries, as applicable to your situation. If you fund the Revocable Trust now, the assets in the Revocable Trust can be used to assist you as you age or if you have or develop a health issue during your lifetime. For example, if you reach a point where you can no longer manage your affairs, the individual you name as a successor trustee can step in and deploy the assets held within the trust to assist you. Additional protection may be provided by naming a trust protector who can provide a check and balance on the trustee.

Positions in Your Revocable Trust.

Trustee. The trustee will administer the trust, invest assets held within the trust, and determine when distributions will be made from the trust to its beneficiaries. Note that during your lifetime, as this is a Revocable Trust, you can be your own trustee. We assume you will serve as the initial trustee unless you indicate otherwise. Name several successors. If you wish to have individuals serve jointly, include both names in the box.

Position	Name, Relationship, Citizenship	Phone, Email	Address
Initial Trustee(s)			
First Successor Trustee(s)			

Second Successor Trustee(s)			
Third Successor Trustee(s)			

Trust Protector.

The trust protector is a position you may include in your Revocable Trust. The trust protector can be given the right to remove and replace any trustee, the power to move the trust's situs and governing law to another state, etc. You should review the powers listed in your draft trust and discuss which powers to retain or modify. Name an initial trust protector and successors. These should not be persons named as trustees.

Position	Name, Relationship, Citizenship	Phone, Email	Address
Initial Trust Protector(s)			
First Successor Trust Protector(s)			
Second Successor Trust Protector(s)			
Third Successor Trust Protector(s)			

Special Situations.

Indicate if any of your beneficiaries have lifestyle choices, religious preferences, health challenges, special needs, etc., and whether any is currently receiving governmental benefits or if that is anticipated. Any circumstances that might need to be addressed in your documents should be indicated. If they are, we will need to discuss how this may affect your documents. You can add any specific notes or questions to us below.

<u>Final Takers (Contingent Remainder Persons)</u>.

Who should receive your assets if all your other named beneficiaries predecease you? You can name specific family members, charities, other individuals, etc. as you wish. A common approach when there is no one specific you care to indicate is to name "heirs at law" (i.e., your extended family as defined under state law.)

Name	Relationship	Amount, Percent, Considerations

<u>Health Care Medical Documents</u>.

Your medical documents may include a Health Care Proxy, Living Will, HIPAA Authorization and Release, and a Child Emergency Medical Form if you have minor children. If you have a terminal illness, a Physician Order for Life-Sustaining Treatment ("POLST") document may be important to create with your physician (but please provide us with a copy so we can confirm it is consistent with the documents we prepare).

Health Care Proxy.

Description. Your Health Care Proxy names the individual you want to make healthcare decisions for you if you are unable to do so. It also specifies the decisions they can make. All the decisions below should be discussed with your medical provider and, if applicable, religious adviser.

Agent. The agent you name may make medical decisions on your behalf if you are unable to do so. Name an agent and successors. Note that some states do not allow for co-agents to be named under a Health Care Proxy, so we recommend you not name co-agents.

Position	Name, Relationship	Phone, Email	Address
Initial Agent			
First Successor Agent			
Second Successor Agent			
Third Successor Agent			

Organ Donations. Do you wish to be an organ donor? Are there any specific restrictions you would like included regarding any donation you make (e.g., solely to save another person's life, for medical study, only in accordance with religious preferences, etc.)? If we are representing you as a couple, each of you can choose whether you wish to be a donor and have different restrictions.

Name	Organ Donor Yes/No	Specific Restrictions Desired

Mental Health and Psychiatric Issues.

Do you wish for the agent you name above to make decisions on your behalf for mental health issues as well as for healthcare issues? Let us know if you have any concerns, and we can discuss them.

Name	Permit Agent Yes/No	Additional Comments

HIPAA Authorization and Release.

Description. This document names an agent and successors who should be provided access to your confidential medical information. This is required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In contrast to your Health Care Proxy document, which empowers an agent to make decisions, the HIPAA Authorization and Release only grants access to information. Unless you advise otherwise, the agent named in your Health Care Proxy above will also be named in this document.

Living Will.

Description. Your Living Will states your general wishes for how your healthcare decisions should be handled if you are unable to make them yourself. It may not be legally binding, but it provides guidance for your healthcare agent to use when making decisions. All the decisions discussed below are very personal, and you may have special requests or concerns to incorporate. List any additional points you would like to address.

Heroic Measures.

Do you wish to permit cessation of so-called "heroic measures" if you have an incurable or irreversible, severe mental or severe physical condition and there is no reasonable expectation of recovering from such a severe, permanent condition and regaining any meaningful quality of life? While most people choose to provide that there be "no heroic measures," these terms can be vague, may contradict religious or philosophical views, etc. So please clarify any modifications or special provisions you might want.

Name	Permit Refusing or Cessation of Heroic Measures	Additional Comments

Nutrition and Hydration. Do you wish to permit the withdrawal of nutrition and hydration (e.g., a feeding tube) as indicated above for heroic measures? Some people opt above to have no heroic measures but view nutrition and hydration differently. If you wish for a specific provision for nutrition and hydration (for example, based on religious beliefs, discussed below), indicate that. If you have any specific comments or questions, you can include them here.

Name	Permit Refusal and/or Removal of Nutrition and Hydration	Additional Comments

Pregnancy. If you are pregnant and there is an issue in which your life, and/or the life of your fetus, is in danger, would you prefer that the medical professionals give preference to your life or the life of your fetus if a choice needs to be made? Should no choice be made? Do your religious beliefs affect this decision?

Religious Restrictions.

Do you want your health care decisions based on your religious beliefs? If such restrictions are included, it may affect the treatments that healthcare providers are willing to provide or curtail. These decisions can be personal, and even individuals of the same faith may have different views based on their interpretation of their religious scripture and the beliefs of their religious adviser (i.e., priest, rabbi, imam, etc.). Conforming the document to your religious beliefs may require additional tailoring, which may add time and cost to the preparation of the document. Depending on your affiliation, we may have sample language we can suggest.

Name	Religion	Describe Religious Considerations

Funeral and Burial. Do you want to specify decisions as to funeral and burial? Even if you do not wish for religious restrictions to apply to your healthcare decisions, you can include a request for a religious burial in the document. If you have any specific requests (e.g., cremation), please provide us with details to incorporate into the document. If you have purchased a burial plot, please provide us with information, and we can incorporate it into the document. Describe specifically what your wishes are. If you do not have any preferences, we can include general language stating your surviving family is to make decisions for your burial.

Name	Funeral and Burial Wishes (if blank, we assume no specific wishes)

Emergency Child Medical Form.

Description. If you have a minor child, this document may facilitate medical care and decision-making if traveling. It does not address decision-making post-death as that is for a guardian under your Will. We designed This document to address the gap in child medical decision-making if you are absent but alive. While it has no legal significance, it is, we believe, a practical document that may help. It provides a checklist you can complete with information on the children, such as their allergies, specific medical needs, and other personal information, like favorite toys or things that can be done to comfort them, so, in an emergency situation, there is information on hand to help. This document will be prepared with blanks you can fill out with information about your children.

Decision Maker for Children.

Indicate who you want to serve as your minor children's emergency medical decision-maker.

Name	Relationship to Child	Phone, Email	Address

Financial Power of Attorney.

Description. Your Power of Attorney names individuals (your "agents") and grants them the authority to make financial decisions, take certain legal actions, file tax returns, perhaps make gifts, etc., on your behalf. The powers (rights) you can give an agent can be narrow or broad. The broader the powers, the more flexibility the agent will have to assist you should that be necessary. But the broader the powers, the greater the risk that an agent might abuse the powers granted. The agent you name is given the immediate power to carry out the tasks above rather than waiting for a triggering event, such as your incapacity (called a "springing power"). While it may be uncomfortable to give immediate rights to your agent, the triggering events can raise practical issues (e.g., will the agent be able to get two physicians to write letters confirming your incapacity)?

Agent.

You give this individual the power to make your financial, legal, tax, and certain other decisions. Note that while you can name co-agents under a Power of Attorney, doing so will require the agents to work in tandem on certain actions and increase the likelihood of delayed decision-making. That may provide an important check and balance, but it may also increase administrative burdens (what if one agent is on vacation?).

Position	Name(s) (indicate if Joint), Relationship, Citizenship	Phone, Email	Address
Initial Agent			
First Successor Agent			

Second Successor Agent			
Third Successor Agent			

<u>Gifts</u>. This can be a significant power. It can be broad to facilitate tax planning or Medicaid planning (which we cannot advise you on) or narrow (i.e., any gifts can only be made up to a maximum of the annual gift exclusion, which is inflation-adjusted but is currently $18,000). The broader the power, the more flexible it is for future planning and the more potential exposure for abuse. If you wish for a broad gift power, we will need to discuss further your goals, and that would include additional time and cost to tailor the document to your wishes. Unless you indicate otherwise, we will assume you wish only a power to make annual gifts to immediate family. Include any specific wishes you have below.

<u>Other Documents and Steps</u>.

There may be other documents and/or steps that you should address that are integral to achieving your objectives. If you undertook more comprehensive planning, additional documents and steps might be identified that are important or even essential to completing an estate plan. These might include, for example, a shareholder's agreement, a buy-sell agreement, a life insurance trust, a limited liability company for a rental property, a trust or entity to avoid ancillary probate, and much more.

Additional Comments, Questions, Etc.

In the boxes below, list any additional information, requests, questions, etc..