

**MARRIED CLIENTS  
Document Decision Checklist**

**For couples, please each fill out separately**

**For all names, please include the person's middle initial and any other name  
by which they may be known.**

**For all addresses, please include both street address and mailing address, if different.**

**Your full name (and any other name by which you may be known):**

**Address: (Residence)**

**Secondary address: (Seasonal residence)**

**County:**

**County:**

**Phone:**

**Phone:**

**Date of Birth:**

**Social Security Number:**

**Health Care Proxy:**

1. Name, address and phone numbers (home, work and cell) of person appointed as health care agent (person who can access your medical records, speak with your healthcare providers and make health care decisions for you when you are unable):

2. Alternate health care agent:  
Name, address and phone numbers (home and work and cell) of alternate appointed as health care agent:

**Durable Power of Attorney (financial decisions):**

3. Name of person who may act for you (financially) in the case you become incapacitated:  
(include city/town and state of residence).
  
4. Alternate Attorney-in-fact.

**Living Will (optional):**

5. In the case where there is no **reasonable expectation of your recovery** and you cannot speak for yourself, this document expresses your wishes as to whether you want to be kept alive by artificial means at all costs **or** that you be allowed to die a dignified death and not be kept alive by artificial measures:
  
6. Direction to allow organ donation or no such direction: **yes or no**

**Will: (The document that governs the Probate Court process)**

7. Executor/trix (person who administers any probate estate):  
(include town/city and state of residence)
  
8. Successor Executor(s)/trix(trices):  
(include town/city and state of residence)
  
9. Guardians for minor children:  
(include town/city and state of residence)
  
10. Successor guardians:  
(include town/city and state of residence)

11. Are there any conditions affecting a named guardian that would cause you to want another to be named as guardian in his/her place (such as divorce, move to another state)?
  
12. We recommend that specific gifts of personal property be contained in a separate memorandum outside the Will. Reason: the I.R.S. will not have a copy of the private memo and each time you wish to add to the list or change a bequest, it is simply a matter of changing the memo as opposed to executing a new Will. Typically the Will directs that household-type furnishings, jewelry, clothing and collections go to the spouse with the remainder of assets directed to the revocable trust.

### **Real Estate**

If possible, please provide a copy of the deeds to all real estate, including timeshares, that show either the book and page where the deeds are recorded or the certificate of title for Land Court properties.

Usually the residence will be allocated ½ to husband's revocable trust and ½ to wife's revocable trust in order to preserve the \$250,000.00 capital gain exclusion on the sale of a principal residence that each husband and wife may use.

**Revocable Trust:** (For estate tax planning, a separate trust is created by husband and a separate trust is created by wife. Where no estate tax planning is needed a joint trust for spouses can be used) Description: Estate tax planning trusts are needed when the couple's assets exceed one million dollars in value. In addition, assets, which are titled in the revocable trust, avoid probate and are available to the family immediately upon the death of the Settlor (the person who creates the trust). Revocable Trusts can be amended, changed or revoked.

13. Name(s) of Trustee(s) (usually husband and wife are initial Trustees):  
(include town/city and state of residence)
  
14. Successor Trustee to the Settlor – needed during the time a surviving spouse is living and a beneficiary of the deceased spouse's Trust: (include town/city and state of residence)  
This Trustee will act as a Co-Trustee with the surviving spouse over the sub-trusts held to benefit the surviving spouse.

15. Administrative Trustee upon the death of the Settlor and his or her spouse – needed to file estate tax return and divide trust property into separate shares for or distribute assets to the beneficiaries.
16. Trustees for shares held for child(ren):
17. Trustees for shares held for your grandchild(ren):

### **Decision-Special Power of Appointment**

18. After the death of the first spouse, the surviving spouse may be given the power to change the ultimate shares that the beneficiaries receive (called a special power of appointment). This power of appointment gives flexibility to the surviving spouse to make limited changes to how the deceased spouse's trust will be distributed after both spouses have died. The special power allows the spouse to change which beneficiaries will receive a trust benefit and how the beneficiaries will receive assets from the trust (outright or in a continuing trust). (For example, if a beneficiary was being sued, the surviving spouse could change the distribution of that beneficiary's share from an outright distribution (subject to the lawsuit) to a distribution held in trust for that beneficiary's benefit (not subject to the lawsuit) or re-allocate assets among beneficiaries). Should the surviving spouse be given a special power of appointment?
19. What is the class of potential beneficiaries that the surviving spouse may choose from (e.g. your issue, the spouses of your issue, your siblings and spouse's siblings, etc.)?
20. Would you want each beneficiary (e.g. child) to have a special power of appointment to change how his or her trust share is distributed at the beneficiary's death?
21. If the surviving spouse does not exercise his/her special power of appointment, what is the default provision for the trust?

