

PLANNING YOUR LEGACY

Arkansas Baptist Foundation

DATE: _____

Christian Estate Planning is the accumulation, conservation, and distribution of the resources that God entrusts to you for the benefit of yourself, your family, and those individuals and charities that God wants you to support. The most important aspect of Christian Estate Planning is understanding ownership. Who owns your assets? Christians should know that God is the owner of everything. The psalmist said, *The earth is the Lord's, and everything in it, the world, and all who live in it* (Psalm 24:1).

Your estate plan will be your last act of responsibility for your family, charities, and society. You will want your estate plan to accomplish God's highest intentions so that you can hear him say, "*Well done, thou good and faithful servant!*"

An act of stewardship is to have an estate plan completed – each adult needs one! If you are married, both you and your spouse need your own Last Will and Testament ("Will"). Other documents may be needed as well to provide for incapacity, tax issues, investment management, a Christian legacy, etc. While much of the following would be applicable in any state, we will write the explanations for Arkansas residents.

Let's begin with basic information about you. Please feel free to use the back side of sheets or additional sheets to provide additional needed information on any of the items.

GENERAL INFORMATION:

	<u>ABOUT ME</u>	<u>MY SPOUSE IF MARRIED</u>
Full Legal Name	_____	_____
Nickname	_____	_____
Address	_____	
City, ST ZIP	_____	_____
Home Phone:	_____	County: _____
Work Phone:	_____	_____
Cell Phone:	_____	_____
Email:	_____	_____
Occupation:	_____	_____
Date of Birth:	_____	_____
Social Security #:	_____	_____
U.S. Citizen?	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

MARRIAGE AND FAMILY INFORMATION:

ABOUT ME

MY SPOUSE if married

Marital Status: Single Widowed Married
 Separated Divorced

Previous Marriage? YES NO YES NO

Do you have a pre-nuptial agreement? YES NO

Father's Full Name: _____

Mother's Full Name: _____

Please place an "*" by each parent that is deceased.

Child #1

Child #2

Child #3

Name of Child: _____

City & State: _____

Birthday: _____

Marital Status: _____

of Grandchildren: _____

Comments: _____

(Disabled, from Previous Marriage, etc.)

LAST WILL AND TESTAMENT

Each adult needs a Will. Without a Will, at your death anything that you own in your name which does not pass by law (e.g., Joint Tenancy with Rights of Survivorship) or contract (e.g., beneficiary statement, Payable On Death or POD, Transfer on Death or TOD) will go through probate court. The process is called intestacy (dying without a Will). The state's laws will distribute your property and assign your children's guardians if needed based upon its provisions rather than your wishes and desires. Without a Will, instead of your wife receiving all of your property, a large inheritance could go to your children which could be disastrous for them. A Credit Shelter Trust (explained below) cannot be established if there is a taxable estate that needs to save significant estate tax. In intestacy, the probate judge awards custody of your children to his/her choice, not yours. The judge appoints the court's choice of an administrator and a bond will be purchased commensurate with the size of the estate (the bond is normally waived in a Will). The winners in intestacy are often the attorneys who have to go through extra steps (e.g., locating and notifying all potential heirs). In other words, many issues can be solved by signing a Will!

Assets that you own at death in your name only (which do not pass by some other means of law or contract) will go through probate court under a Will (either one you signed or the intestacy Will as explained above). Your executor will normally use an attorney to guide him/her/through the probate process of submitting the Will, being authorized as the executor, managing the assets, paying

debts, and making the final distributions. The court provides public supervision of your estate administration, a legal platform to contest your Will, and a prescribed way to settle final debts. A notice will be filed that you died and then your creditors will have 3 months from that point to submit their claims. In addition, anyone who might wish to sue your estate would have 6 months from the notice to file a lawsuit. After those periods, the executor can know that these potential liabilities are no longer legal responsibilities of your estate.

The majority of Americans do not have a Will. Even when attorneys have been surveyed, approximately half of them do not have a Will. We are grateful that you are concerned to have your affairs in order. As a Christian steward, you can manage your estate by establishing an estate plan through a Will or Trust.

REVOCABLE LIVING TRUST:

A Revocable Trust (“RT”) is established during your lifetime as a Will substitute. The RT has several advantages over a Will. Primarily, if the trust is funded correctly, your estate would avoid the probate process. Secondly, it is a private document and is not filed like a Will that is probated in court. All primary and contingent beneficiaries may have rights to see the trust when it becomes irrevocable (usually at your death), but no one else has that right. Also, the RT can provide an easy process to handle your incapacity because you have already named who would succeed you a trustee.

The RT has several disadvantages as well. If you are paying an attorney to prepare your documents, the RT (along with a “pour-over Will”) will cost more than a regular Will. Secondly, the RT will require you to take additional steps to fund the trust, namely the transfer of all appropriate assets to the name of the RT. Normally, you would transfer everything that you own except your retirement accounts, annuities, and life insurance policies, but these assets can transfer at death by beneficiary statement (and thus already avoid probate).

You will need to decide if you would prefer to have a Will or a Revocable Trust. If you choose a Revocable Trust, you will also have a special Will called a “Pour-over Will” which would protect any assets that needed to go through the probate court system by naming the Revocable Trust as the beneficiary. Please check one of the following for your preference:

Will

Revocable Trust

Would like to discuss this further

Inside the Will or RT, there are several important issues that you will handle.

Executor – who will handle the “business” of managing your estate through probate court (if required)? This may be your spouse or a child, a bank trust department, or the Arkansas Baptist Foundation. If probate is required, the executor will be responsible to file the Will with the court, manage and secure assets, keep accurate accountings, file appropriate tax returns, file insurance claims, pay debts and liabilities, make final distributions, etc. This is usually a job that requires approximately a year. The Executor could be more than one person or entity. Some couples name their spouse as the first Executor and then their children jointly as the alternate Executor. Co-Executors can work effectively, but each Executor will have to sign at various times. It might be very inconvenient to have a child in a far away state be an Executor or a Co-Executor. Some states (not Arkansas) even require an in-state Executor.

[Some of you may be thinking that you would like for the Foundation to be your Executor. Let's take a moment to be sure that we explain when the Foundation might be involved. The Arkansas Baptist Foundation exists to help others support ministries

We describe our free estate planning services in three levels: (1) We will help any Arkansas Baptist with estate planning assistance including explaining the basics about trusts, estate administration, and charitable

techniques. (2) For those who wish to leave Baptist ministries a portion of their estates, we pay an attorney to provide drafts of documents that accomplish their purposes. We are happy to explain the documents and answer questions. When the donors understand, then they must go to their own attorney for final review and execution. (3) For ordained ministers serving in Arkansas Baptist churches, we pay an attorney to prepare drafts of documents for them and to represent them in completing their estate planning if desired.

If a person or couple is planning to leave a majority (50% or more) of their estate to Baptist causes at their death, then the Foundation may be willing to serve as the Executor, Trustee, and Power of Attorney Agent. A number of people will leave the Foundation as a beneficiary of their estate plan to establish an endowment for their church or other ministry. Some couples will leave their estates to a charitable remainder trust which will leave, at their deaths, a regular income to their children with the remainder left to support charitable ministries that they love.

If you are interested in talking with the Foundation about potentially managing your estate, please check the appropriate box below. We are delighted to talk with you further about our possible involvement in your estate plan, but for many of you, this will not be needed.]

Who would you wish to be your Executor? Add other names if Co-Executors are desired.

I (we) would like to talk with the Foundation about the possibility of serving as my (our) Executor.

EXECUTOR: _____ **Relation:** _____

ALTERNATE: _____ **Relation:** _____

CONTINGENT ALTERNATE: _____ **Relation:** _____

(You can add this additional back-up level if desired.)

IF YOU ARE NOT USING A REVOCABLE TRUST, PLEASE SKIP THIS SECTION:

If you would like a Revocable Trust, then you will have to decide whom the Trustees will be. We would suggest that the Trustees of your trust be the same people in the same order (in most cases) as your Executors above as well as your Financial Power of Attorney agent (see below). Typically, if you are a couple, you may wish to be your own Co-Trustees and the survivor will be the remaining active trustee. Then you will need to name successor trustees (probably with at least one back-up to that successor). Remember that they will handle your estate (at least the assets in the trust) just like an Executor (except without the probate court process if everything is owned by the Trust at your deaths).

Who would you wish to be your Trustee? Add other names if Co-Trustees are desired.

TRUSTEE(S): _____

Please check if there are Co-Trustees and the survivor would be the remaining active Trustee.

SUCCESSOR TRUSTEE(S): _____

ALTERNATE SUCCESSOR: _____

IF YOU DO NOT HAVE MINOR CHILDREN, PLEASE SKIP THIS SECTION:

GUARDIANS

If you have minor children or a situation where you need to name a Guardian, your Will is the place to do that. It would be best if you would discuss this issue with the potential Guardians. Many couples will name one of their parents as Guardian. Because of the problems with aging, we would suggest that you also name a back-up Guardian in case your parents are unwilling or unable to take on this responsibility. You may wish to name a couple rather than an individual, but remember that divorce or death could determine which one might become Guardian.

Who would you wish to be Guardian of your children under 18 in Arkansas?

GUARDIAN: _____ **Relation:** _____

ALTERNATE: _____ **Relation:** _____

TRUSTEES FOR MINORS:

Let's name the Trustees that you would establish for the financial assets that you leave to support your minor children. Some people might name the same Trustees as Guardians – in other words, they trust their children and their money to that person. Other people wish to have a different Trustee to handle the money because of their experience in investments, accounting, and tax matters.

Who would you want to be Trustee of a trust that would be left for your minor children?

Please check if your trustees would be the same people as the Guardians above.

TRUSTEE: _____ **Relation:** _____

ALTERNATE: _____ **Relation:** _____

Unless you specify differently, we will assume that you wish for the Trustee to have full discretion to use the funds that you leave for your children. This would be the same way that parents would use the money, but it could potentially be used in an unequal way. One child might have different medical or educational needs than the others. You might want to discuss this with your attorney if you would prefer to have equal shares set up instead.

Also, at some point the shares for the children will need to be paid out. If there is a special needs child, then be sure to discuss this with your attorney because special language will need to be added. Some parents would pay out the trust to the children when they reach a certain age (e.g., the earlier of when they complete a four-year college degree or reach the age of 23). If there is enough money, you might want to stagger the payments (e.g., part at 25, part at 30, and the remainder at 35). There is a cost to operating such a trust, and so there would need to be enough money to justify maintaining the trust for a long period of time (unless you have family members who would run it without charge so that the only cost might be the tax returns). Please indicate how and when you would like such a minor's trust to be paid out to your children (use the back if needed):

BENEFICIARIES:

It is often said that there are three possible beneficiaries: people, charities, and the I.R.S. Most people plan to eliminate or reduce the portion paid to the I.R.S. As Christians, we should pay the government every thing we owe it, but not one penny more. Good planning can help reduce or eliminate taxes.

We will assume that you would like to leave everything for the benefit of your spouse. If there are immediate gifts to be made at your death (if your spouse survives you), please make a note of that below. Otherwise, we will assume that all the BEQUESTS made below will be made only after the second death (if you are married).

Based upon the total amount of your assets (there is a net worth statement at the end of this form), we will know whether or not to suggest tax planning for you. In other words, if you both have significant assets, then your part (or a portion of it) may need to be placed into a Credit Shelter Trust. This is a very flexible trust designed NOT to qualify for the marital deduction. Your spouse could have all the income and even invade the principal if needed for his/her reasonable care, maintenance, and support. If you have more than enough to fund a Credit Shelter Trust with the estate tax-free exemption amount in the year of your death, then you may also wish to establish a Qualified Terminal Interest Property Trust (“QTIP”) so that your surviving spouse can benefit from the excess, but your estate plan would determine the ultimate beneficiaries. A QTIP is often used to ensure that assets will pass down to children of the first marriage in case the surviving spouse remarries.

Please check here if you wish to discuss the possibility of a Credit Shelter Trust and/or QTIP Trust.

PERSONAL PROPERTY

All items of personal property (jewelry, furniture, vehicles, etc., but not cash or real estate or financial assets) can be distributed in a simple manner through a personal property memorandum. A sample is attached at the end of this worksheet. Your Will and/or RT can reference the fact that you wish to distribute personal property by memorandum. In other words, you can take a sheet of paper and write out the distributions of these items, as long as you date and sign the memo. That becomes a legal document attached to your other documents. As with all documents, you want to make sure that the document is safe and that there are copies as needed so that the original would not be destroyed by someone who did not like your plan of distribution (without other copies available!).

When completing a personal property memo, please remember that you need to be specific enough in your descriptions so that there is no doubt as to which item you intend to distribute. Also, be sure that your Executor knows the address and contact information for each beneficiary. This form does not need to be notarized or witnessed, but you do have to sign and date it. If you wish to add or change an item, simply update a new one and sign/date it. Your Executor is to be abide by the latest dated and signed memorandum concerning the distribution of personal property.

PECUNIARY BEQUESTS

First of all, there may be individuals to whom you would like to leave a set amount (called a pecuniary bequest). If you have set dollar amounts in mind to leave to individuals, let’s list them here.

Remember, however, that everyone listed in your Will or Trust will have the right to knowledge about all of your estate documents and accounting at your death.

Example: \$1,000 to John S. Doe (nephew) of Lonoke, Arkansas

\$ _____ to _____ of _____
 \$ _____ to _____ of _____
 \$ _____ to _____ of _____

CHARITABLE BEQUESTS

You can leave a Christian legacy by naming ministries as a beneficiary in your Will or Trust. At the Foundation, we believe that every Christian should consider leaving a Christian legacy behind. There are situations where we believe that God would not want such gifts (e.g., estate is small and there are several children or family needs that are great), but most of us could leave God’s work a tithe or more of our estate. Our children wouldn’t miss it and God’s work would be blessed as a result.

First, let’s identify the charities that you would like to remember at your death. List the charity, location, and any designation that you would like. We’ll determine the amount or percentage later.

	NAME	ADDRESS	CITY, STATE
A			
B			
C			
D			
E			

There are several ways to make these charitable gifts. You can specify an amount or a percentage of your estate. You can treat your charities like a child, i.e., with 3 children each receiving a ¼ and your charities receiving ¼. You can leave your charities as a remainder interest in a trust that pays an income to your children for their lifetimes or a term of years. You can leave your charitable gift to a Donor-advised Fund and allow your children to advise the custodian of the charities that they wish to support each year. You can leave your gifts outright where they can be spent immediately or in an endowment where your charities receive an income each year perpetually. If evangelical Christian causes are involved, the Foundation could manage that endowment for you.

In other words, there are many ways to make charitable gifts. If you know how you would like to make your gifts, please indicate or check the applicable boxes indicating that you wish to talk more about this area.

Please check all of the following that apply. Then list the gifts by the charities that you listed above.

- I need to talk more about this area.
- I would like to leave my children or non-charitable beneficiaries an income and the remainder to the charities. (We will gather more detail from you later.)
- I would like to leave a tithe of my estate to the charities listed.
- I would like to treat the following charities as if they were a child (i.e., if you have 2 children, your estate would be divided 3 ways with charities sharing 1/3 of your estate).

Charity	Amount or Percentage	Endowment?	Or Outright?	DESIGNATION if any
A				
B				
C				
D				
E				

REMAINDER BENEFICIARIES:

Now that you have made any pecuniary and charitable bequests, you are ready to give away everything else (the remainder of your estate). Normally, you will do this by percentages. As above, you may have already determined a percentage of your estate for charitable organizations. If you chose to give away a tith or your estate, you need to specify who will receive the remaining 90%. List the remainder beneficiaries:

NAME	PERCENTAGE	COMMENTS
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

POWER OF ATTORNEY

A power of attorney is an excellent document to consider as well. This document authorizes someone to act in your behalf during your lifetime. A “durable” power of attorney is the most common form because most people need this power to endure their incapacity. In fact, many people add “springing” language so that their power of attorney is not even valid unless they choose to certify it (grant powers immediately to your agent) or if you are incapacitated (as defined in the document – usually when two doctors sign off that you are unable to manage your affairs). Without such a document, a loved one may be forced to secure a guardianship through a court proceeding in the event of your incapacity. It is very important, however, that you have trustworthy people or entities to serve in this capacity.

The agent could be a person or an entity (such as a bank trust department or our Foundation potentially). You can also appoint co-agents, but remember that both would have to sign for every decision which may be very inconvenient. You might also need to name back-up agents in case your primary agent is not available or unwilling to serve.

This power to act on your behalf can be immediate, or the power can be “SPRINGING” into existence only if you are declared (usually by two physicians) incompetent or unable to manage your affairs.

If you need a power of attorney for a special situation (such as missionary service overseas, military serve, or control over a bank account), please talk with your attorney about this.

This agent(s) can handle both financial and health care matters, or can be appointed only for either financial or health care. In other words, you may prefer different agents for financial matters and health care decisions. We will assume that the agents named below are for FINANCIAL and

MEDICAL decisions. If you want different agents for health decisions, please indicate that below under Living Wills.

If I were incapacitated, I would like the following individual, individuals, or entities to serve as my power of attorney.

AGENT(S): _____

BACK-UP AGENT: _____

ALTERNATE BACK-UP AGENT: _____

Do you want this authority to be (please check one): IMMEDIATE or SPRINGING?
(If this is different for you and your spouse, please indicate clearly.)

LIVING WILL

While a Living Will is not a financial/legal document governing the disposition of your estate assets, it is often established in conjunction with estate planning. A Living Will is a medical directive where you can tell your doctor and hospital what you wish to happen in the event that you are declared terminally ill or permanently unconscious. Your “contract” with your doctor can be as general or specific as you desire. At the end of this document, we will attach a simple Living Will which you can use. We suggest that you sign a Living Will with two witnesses (other than your family and power of attorney agents). Make copies of your Living Will for each of your main doctors and hospitals. Also, you might want to give copies to your power of attorney agents.

If you prefer for someone other than the AGENT listed above to be your health care decision-maker, please indicate that here:

HEALTH CARE AGENT(S): _____

BACK-UP AGENT: _____

ALTERNATE BACK-UP AGENT: _____

I (we) hereby state that the information I (we) have provided is true and correct to the best of my (our) knowledge:

Signatures: _____

Your Signature

Your Spouse's Signature

Date: _____

Document Request --(Internal Office Use Only)

Will Codicil Ind. RT JRT Amend DPOA Sprg LW PPM Deed

NET WORTH STATEMENT

**Account Title or Ownership (& beneficiaries) can be abbreviated as follows: H = Husband, W = Wife, JTWROS = Jointly owned With Rights of Survivorship, JTC = Joint Tenancy in Common, RT= Revocable Trust, etc.*

WHAT I (WE) OWN

<u>Financial Account or Asset</u>	<u>Account Title*</u>	<u>Approx. Amount</u>	<u>Retirement?</u>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>

Real Estate Owned:

<u>Description</u>	<u>Ownership Title*</u>	<u>Acres</u>	<u>Approx. Value</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Life Insurance Policies

<u>Description</u>	<u>Ownership*</u>	<u>Beneficiary</u>	<u>Face Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Other Assets Owned (Business Interests, Mineral interests, etc.)

<u>Description</u>	<u>Ownership*</u>	<u>Approx. Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1. TOTAL OF ALL ABOVE ASSETS OWNED: \$ _____

WHAT I (WE) OWE

<u>Description of Indebtedness</u>	<u>Ownership*</u>	<u>Approx. Debt Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. TOTAL OF ALL ABOVE DEBTS OWED: \$ _____

NET WORTH (#1 less #2) \$ _____

DECLARATION OF LIVING WILL

If I should have an incurable or irreversible condition that will cause my death within a relatively short time or if I should become permanently unconscious, and I am no longer able to make decisions regarding my medical treatment, I direct my attending physician, pursuant to the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, to withhold or withdraw treatment that only prolongs the process of dying and is not necessary to my comfort or to alleviate pain.

However, I expressly DO wish to receive hydration and nutrition under such circumstances.

I expressly DO NOT wish to receive hydration and nutrition under such circumstances.

(Please check the appropriate box to indicate your desire as to provision of food and water in such a situation.)

I hereby direct my attending physician to follow the instructions of _____, whom I appoint as my Health Care Proxy to make decisions concerning my health care and specifically to decide whether life-sustaining treatment should be withheld or withdrawn. If the above-named individual is unable or unwilling to serve or continue to serve as such Health Care Proxy, then I hereby appoint the next individual (who is willing and able) from the list below to serve as such Health Care Proxy:

1. _____ 2. _____

RELEASE OF MEDICAL INFORMATION UNDER 45 CFR 164.502(g): The Health Care Proxy named in this document is hereby designated as my "Personal Representative" as defined by 45 CFR 164.502(g), commonly known as the HEALTH INSURANCE PORTABILITY and ACCOUNTABILITY ACT of 1996 (HIPAA). This individual is to have the same access to my health care and treatment information as I would have if I were able to act for myself. My Health Care Proxy and Personal Representative named herein is also authorized to take any and all legal steps necessary to ensure his or her access to information and such action shall include resorting legal process, if necessary, to enforce my rights under the law and shall attempt to recover attorneys fees, as authorized by Arkansas law, in enforcing my rights.

Signed this _____ day of _____, 200__.

Signature _____

PRINT NAME: _____

Address _____

The declarant voluntarily signed this writing in my presence.

Witness _____

Witness _____

Address _____

Address _____