



ABRAHAM MAZLOUMI
& ASSOCIATES

ATTORNEYS AT LAW

ESTATE PLANNING QUESTIONS

This questionnaire is designed to address different scenarios (and includes hypothetical examples), which may or may not apply to you. Therefore, please skip those questions or ignore those examples that don't apply to you.

1. Who should be the primary beneficiaries of your Will when you die?

- For example, 100% of your assets/money to your spouse? Remaining balance to your children?
- Or, only *some* of your assets/money to your spouse, and *the balance* to others?
- Or, 100% (or less) to a friend or to a charity?

2. Who should get your assets/money in the event that none of your designated beneficiaries survive you (assume for a moment that “the plane goes down with all on board”)?

- Other relatives? Friends? A charity?

3. Do you want to make specific bequests? In other words, do you want to leave certain specific assets/items to certain individuals?

- For example: your ring to this beneficiary, your watch to that beneficiary, etc.

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175 East Shore Road, Great Neck, NY 11023

Tel (516) 466-PLAN (7526) Fax (516) 283-0250 www.mazloumi.com

4. Who will be the **primary executor(s)** of your Will?

- The executor is in charge of probating your Will (*submitting it to court for approval*), paying your taxes/expenses (if any) and distributing your assets to the various beneficiaries.
 - Who should be the **back-up(s)** to your primary executor (a/k/a successor executor)?
 - Note: you can appoint co-executors (in case you want 2+ persons to act together).
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5. **Revocable Family Trust**

- Do you wish to have a Revocable Family Trust, for purposes of (among other things) **(i) providing significant added flexibility** to your executor to **take advantage of estate tax exemptions** available at your death, **(ii) helping avoiding/minimizing probate**, **(iii) planning for your incapacity** and/or **(iv) imposing conditions (a/k/a “strings”) on the distribution** of your assets after your death?
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- Typically, initially **you would be the sole trustee & sole beneficiary** of your Revocable Family Trust, while you are alive.
 - Who should be the beneficiaries of your Revocable Family Trust *after your death*?
 - For example, 100% of your assets for the benefit of your spouse during his/her life?
 - And upon your spouse’s death, the remaining balance to/for the benefit of your children?
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➤ Who should be the **successor trustee** of your Revocable Family Trust (upon your incapacity or death)?

- The trustee's duties include the management of trust assets and making distributions to your beneficiaries.
 - For example, your spouse alone? Or, your spouse together with another person?
 - Note: you can appoint co-trustees (in case you want 2+ persons to act together).
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➤ Do you want to place **age restrictions** on the distributions from the Revocable Family Trust? Meaning, do you want your beneficiaries (for example, your children) to wait until they attained a certain age (a/k/a "*until they are mature enough*") before they are entitled to the trust assets?

- For example, 50% at age 21, and the balance at age 30.
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➤ Alternatively, would you like the assets to remain in trust for as long as your beneficiaries live (aka "**Lifetime Trust**")?

- A Lifetime Trust may provide additional **creditor protection** against future creditors of your beneficiaries (including a future ex-spouse), depending on how the trust is structured.
 - Compromise? For example, your children would get 50% of their share by the time they turn 30, and *the balance* would remain in trust for their lifetimes.
 - Remaining balance to grandchildren?
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- Who should be the **trustee(s)** of your **children's** trusts?
 - This question assumes that you and your spouse have died, and the children's ages are below the age that would entitle them to distributions.
 - Should the child be his/her own trustee (or a co-trustee with another individual)?
 - Should the child *not* be his/her own trustee?

- Would you like to place **additional restrictions or conditions on your assets or on the beneficiaries**, which must be met before your beneficiaries would be entitled to distributions?

6. Business/Partnership Interests

- What should happen with your business after your death?
 - Should it be sold?
 - Should your family member(s) continue your business?

- What should happen with your business/partnership interests (such as LLCs, partnerships, corporations) after your death?
 - Should your business interests be sold to the other business partners?
 - Should your family member(s) "take over" your business interests?

7. Irrevocable Life Insurance Trust (if you have, or wish to purchase, a life insurance policy and you want to remove the life insurance proceeds from the estate tax and/or you want the life insurance proceeds to be distributed only based on certain conditions)

- Who should be the **beneficiaries** of your irrevocable life insurance trust (that is, of the proceeds of your life insurance policies)?
 - For example, 100% (or less?) to your spouse during his/her life, and the balance to your children (subject to age restrictions)?

- Who should be the **trustee** of your irrevocable life insurance trust?
 - Since this is an irrevocable life insurance trust, you should not be the trustee.
 - For example, your spouse alone? Or, your spouse together with another person?
 - Note: you can appoint co-trustees (in case you want 2+ persons to act together).

- Who should be the **back-up(s)** to your trustee (a/k/a successor trustees)?

8. Do you wish to remove -during your lifetime- assets from your taxable (or expected to be taxable) estate?

- For example, do you wish to transfer (a/k/a gift) certain assets to an *irrevocable* trust, such as for the benefit of your children, during your lifetime?

9. Who should be the agent(s) of your Power of Attorney?

- During your **incapacity**, your agent would oversee your banking, finances, and many if not all other “administrative matters,” etc. Essentially, your agent would oversee all decisions (*other than healthcare decisions*) concerning you that you would make if you had capacity.
- For example, your spouse as the **primary** agent?
- Or, your spouse together with another person?
- Note: you can appoint primary “co-agents” (in case you want 2+ persons to act together).

- Who should be the successor agents (a/k/a back-up)?
- Note: you can appoint co-agents (in case you want 2+ persons to act together).

- Please provide addresses, phone numbers and email addresses of all agents.

10. Who should be the agent(s) of your Health Care Proxy?

- Your agent would be in charge of making medical decisions if you are incapacitated.

- Who should be the successor agents (a/k/a back-up)?
- Note: Unlike for the POA, you can have only one agent acting at a time (meaning, no joint-agents).

- Please provide addresses, phone numbers and email addresses of all agents.

11. What are your wishes concerning “end-of-life” situations, to be expressed in your Living Will?

- You can leave those decisions up to your agent of your health care proxy (though I recommend that you make your wishes known).

12. Who should be the guardian of your minor children, if G’d forbid both of you die while you have minor children?

- This person should have (i) “values” similar to yours, and (ii) the financial and mental wherewithal to take care of your children.

13. Should your and your spouse’s estate documents be ‘mirror images’ of each other, or will your estate documents have different provisions?

- For example, will both of you name the same individuals as your executors, trustees, agents of your POA and/or beneficiaries?
