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## **ESTATE PLANNING INFORMATION SHEET**

### **What is Estate Planning?**

Estate planning is more than signing a will and a power of attorney. It involves planning for the future of your family when you die or are incapacitated. It is thinking ahead about who will receive your property, who will carry out your wishes and how future problems can be minimized. You will receive an "Estate Planning/Will Questionnaire" to help you think about these issues and make necessary decisions. Your attorney will guide you through these decisions and prepare documents to accomplish your goals.

This Estate Planning Information Sheet is intended to give you other important information in related areas. For example, most parents of minor children will need to make changes to their SGLI or any other life insurance beneficiary designations so that the insurance proceeds are properly paid out to the testamentary trust created in the will for the benefit of the children. This should be done at the earliest opportunity.

### **SGLI and Other Life Insurance Proceeds**

SGLI and other life insurance proceeds disbursements are made independent of your will. A minor (unmarried child under the age of eighteen) cannot receive a direct payment of life insurance proceeds. If a minor is named as a beneficiary then a court must appoint a guardian or conservator to receive and maintain the proceeds on the minor's behalf. For minors in the custody of a surviving spouse OR a former spouse that parent is not automatically the child's guardian or conservator. Depending on the state where the guardianship or conservatorship is created, the guardian or conservator may be required to post a bond with the court and/or be restricted in the use of funds for the minor's benefit. That is why your attorney will create a "testamentary trust" in your will for efficient management of any property or insurance proceeds that will be given to your minor children.

For many service members your SGLI insurance is your largest single asset but it will never get into your trust unless you make a proper beneficiary designation. If you do this then your trustee will be able to maintain control of the assets and use them for your children's benefit until they reach the age that you select, usually past age 18, the age of majority. In order for your SGLI or other insurance proceeds to fund the trust created in your will for your children you **must** insert the following language in place of names of any minor children on the SGLI or other life insurance beneficiary designation forms:

**"To my trustee of the trust for the benefit of my children created in my Last Will."**

Note: Discuss this with your attorney. We will give you a SGLI beneficiary designation form properly completed to accomplish your goals.

Note: If you have minor stepchildren or children born of a prior relationship special drafting in your will and in your insurance designation may be needed. If this applies to you or if you have any questions about the proper beneficiary designations, ask your legal assistance attorney.

Note: Former spouses remain SGLI and life insurance beneficiaries after the dissolution unless the beneficiary designations are changed

## **Other Important Benefits for Your Survivors:**

### **Death Gratuity**

The Death Gratuity is a \$100,000.00 tax-exempt payment made by the Department of Defense to the survivors of a Service member who dies on active duty, active duty for training, inactive duty for training or within 120 days after release from active duty if the death is due to a Service related disability. The purpose of this payment is to assist the survivors in meeting immediate living expenses. The death gratuity is intended to be delivered by your casualty assistance officer as soon as possible.

By law only certain people are eligible to receive death gratuity payments and an order of precedence has been established as follows:

- Surviving spouse
- Children (in equal shares without regard to age or marital status if there is no surviving spouse)
- Parents, people acting as parents, brothers or sisters (if designated by the Service member)

In other words, if you are married the death gratuity will go to your spouse. If you have no spouse then it will go to your children in equal shares but a court appointed guardianship or conservatorship will be required if your children are minors and this may delay receipt of the death gratuity.

Be sure to keep your Page 2 (NAVPERS 1070/602) up to date with the name of your spouse and children. You may also designate a beneficiary if you do not have a spouse or children or if none of them survive you.

### **Survivor Benefit Plan (SBP)**

Only available to spouses of retired military members or members with over 20 years active duty and to the survivors of persons who die on active duty. For retirees an election to participate in SBP must have been made by the retiree upon retirement or during an "open season" prior to death. Depending on the type of election made some children and or former spouses may have coverage under SBP.

### **Dependency and Indemnity Compensation (DIC)**

DIC is a monthly benefit paid by the Department of Veterans Affairs to eligible survivors of military service members who died while on active duty or after active duty if the death was due to service connected illness or injury. Eligible survivors include the surviving spouse and surviving child(ren) who are unmarried and under age 18, or between the ages of 18 and 23 and attending school.

### **Dependent's Educational Assistance**

This is another VA benefit payable to persons who qualify for DIC who are attending post high school educational programs.

### **Social Security**

A Special One-time Death Benefit payment of \$255 will be made after the service member's death. This benefit is paid only to the widow(er) or minor children. Certain surviving spouses and all dependent children receive a monthly Social Security benefit.

### **Other Retirement Benefits**

Under Washington law retirement benefits earned by either spouse during marriage are community property. This includes the military pension expected by either spouse. Some civilian retirement programs, such as federal civil service, offer a pension and some offer "401k" type plans that the retiree can "roll-over" into an Individual Retirement Account (IRA). A beneficiary can be designated for the funds remaining in such plans after the death of the retiree. Such benefits are sometimes called "non-probate assets" because they are controlled by the beneficiary designation and not by your will. It is very important that beneficiary designations of all kinds be carefully reviewed and updated whenever there is a change in your wishes. Washington law provides that the designation of a spouse as beneficiary on certain items [such as life insurance, employee benefits, annuities] is automatically revoked on dissolution of marriage. Note that this does NOT apply to any such designation made for any employee benefit

subject to federal law. Therefore the best idea is to review your beneficiary designations on all such items in the event of death of either party or on dissolution of marriage.

### **Storage of Your Will**

The original signed will should be kept in a safe but accessible place. A bank safety deposit box may not be an appropriate location because it is not readily accessible unless someone has access to the safety deposit box BY SIGNATURE at the bank. Signature access **may** allow a person to access the safety deposit box after your death. Check the laws of your state where your safety deposit box is maintained. Some states will prohibit entry to a safety deposit box after a death. In Washington a “Special Administrator” can be appointed by a probate court and be authorized to retrieve only your will from your safety deposit box. Likewise, a drawer among other personal papers is a poor choice because there is a good chance of the will becoming lost or destroyed. Inexpensive fire resistant boxes are sold in many stores. An airtight container placed in your freezer is very safe. This will provide protection from fire or other destruction and will be readily accessible when needed, provided your family knows to look there. Arrangements should be made for the will to be immediately available to the decedent’s survivors. You might also desire to give the original will to your Executor and retain a copy for yourself. Do not leave your will with your household goods during a move. Any previous will, along with any copies should be destroyed immediately.

You should also prepare a letter noting the location of your will and other original testamentary documents such as joint savings account passbooks and insurance policies. The letter should also contain numbers for bank accounts, insurance policies, credit cards and other financial details including stock or mutual fund accounts, and any funeral instructions. This letter or “list of last instructions” should be given to your executor and the executor’s successor. Because this letter functions as a plan for handling your estate matters, it should be as complete as possible.

### **Length of Validity of Your Will**

Your will is valid until legally revoked or changed, and becomes “final” or effective upon your death. In the event of a dissolution of marriage, state law may automatically revoke provisions for your former spouse unless the will expressly provides otherwise. This revocation is dependent on state law and should not be relied on. A marital separation normally will not revoke the gift provisions of your will. Periodic review of your will, as well as beneficiary designations that transfer property, is important to make sure the provisions and designations conform with changing laws as well as your intentions.

### **Personal Property Memorandum:**

Your will may contain language permitting you to make a personal property memorandum. This provision allows you to leave personal property items to beneficiaries of your choosing without changing your will. You may destroy, change or revise your memorandum as often as you like. It need not take the format as a list but may be a narrative. If you change your memorandum, we recommend you draft a new one and destroy the old one. You may choose not to make a memo, in which case your property passes pursuant to your will, as if no personal property memo was in your will. Your will may have “state to spouse first” provisions, in which case your memo will only take effect if your spouse predeceases you. If you are going to use a personal property memo, there are some guidelines to follow:

1. The signature and date must be handwritten.
2. The entire document should be clearly written in your handwriting in ink or typed.
3. Be specific as to what you give and who is to receive each item.
4. Use full names and describes the property in detail.
5. It is a good practice to mention in your personal property memo the paragraph number from your will, which permits you to create such a document.

6. If you are married, items you give away may be community property, provided your spouse consents. A personal property memo has no power to stand on its own. It is permitted only if your will refers to the personal property memo.

7. There are some things you cannot give away in your memo. They are: money, cash, land, houses, accounts receivable, tools used in trade or business, stocks, bonds, etc. You may only give away tangible personal property. Paper clip or staple the memo to your will. If you have any questions about what may be contained in your memo or if it is done correctly do not hesitate to contact a legal assistance attorney.

### **Revocation of Your Will**

Your will may be revoked at any time prior to your death. A lawyer may also revise your will for you at any time by executing a new document that modifies the terms of your will. You should not make any “pen and ink” changes directly on your will as those pen marks may invalidate the entire will. A lawyer should always be consulted when making changes to or revoking your will to ensure that modifications are properly made and conform to legal requirements.

### **Review and Update of Your Will**

You should review your will for needed changes at least every three years or as circumstances change. Modifications may be necessary when:

1. The members of your family change as a result of a birth, adoption, marriage, dissolution, or death;
2. Substantial changes occur in the amount or kind of property owned. This is especially important if the value of your estate (or your combined estates if you are married) exceeds the current federal death tax exclusion amount of \$1,000,000.00. Having an estate (or a combined estate) in excess of this amount could result in substantial tax liability at your death (or the death of the second spouse) if appropriate estate/tax planning is not performed;
3. Tax laws change;
4. Your residence changes from one state to another;
5. The designated executor, guardian or trustee can no longer serve;
6. You decide, for any reason, to change the distribution of your property and possessions.

If you have any questions that have not been answered at this point in the estate planning process, please contact this office to make an appointment to see one of the legal assistance attorneys.

I acknowledge that the **LEGAL ASSISTANCE OFFICE, NAVAL LEGAL SERVICE OFFICE NORTHWEST** has provided me with the Estate Planning Information sheet.

By signing below, I acknowledge that I have received the Estate Planning Information sheet:

\_\_\_\_\_  
(Client signature)

\_\_\_\_\_  
(Date)

Client Name: \_\_\_\_\_

\_\_\_\_\_  
(Client signature)

\_\_\_\_\_  
(Date)

Client Name: \_\_\_\_\_