

FREQUENTLY ASKED QUESTIONS ABOUT WILLS AND ANNUITIES

1. What is a Will?

A Will is a legal document prepared to direct the disposition of your personal property (the “estate”) and designate a guardian to care for any minor children after your death. An “executor” is appointed by the Will to carry out your instructions.

A Will is only effective upon “execution,” that is when it is signed by you (the “testator”) and witnessed by two disinterested parties. A valid Will controls the disposition of your estate unless it is revoked, for example, by destruction or a competing instrument.

2. What Happens if I Die Without A Will?

The State dictates what will happen to your money and property if you die without leaving a Will. Under the state’s “interstate succession” laws, your property will be divided up between a few close relatives (parents, children and grandparents) according to a set formula, and completely exclude, more distant relatives, unmarried partners, friends and charities. In the event that that no close family relatives are living, your property will “escheat” to the state, meaning the state will acquire your property despite your intentions. Interstate succession laws also do not address the issue of guardianship of your minor children if both parents die or if the surviving parent is unavailable. The courts and social service agencies are left to appoint a guardian.

3. Can all of my property be disposed of by a Will?

No. A Will does not dispose of any property which may succeed to another by contract or by operation of law such as:

- ? certain jointly-owned property including a house or bank account;
- ? life insurance proceeds, which will automatically transfer to the policy’s named beneficiary; or
- ? a pension in which there is a named beneficiary.

4. Once I’ve made a will can I change it?

Yes. A Will may be modified at any time by executing an additional legal document called a “codicil”; but a Will should always be modified in the event for instance, that you:

- ? change your marital status;
- ? adopt or have additional children;
- ? the executor or named guardian for your minor children is no longer able to serve;
- ? any bequeathed property changes significantly; or
- ? any of your beneficiaries die.

5. I am not a U.S. Citizen. Can I still make a valid will?

Yes. Every person 18 years of age or older, who is of sound mind and memory may dispose of real and personal property by Will.

6. Do I need a lawyer or can I get a “fill in the blanks Will kit”?

It depends upon the complexity of your estate. While a simple Will may be prepared with the assistance of a good software program, a complex estate may raise difficult questions including tax issues which may not be answerable by “self help” resources and will require the services of a licensed attorney.

7. What is the difference between an annuity and life insurance?

An annuity has often been described as the opposite of life insurance due to the fact that an annuity pays income during your lifetime, whereas life insurance usually pays after your death. With an annuity, the insurance company bears the financial burden if the annuitant lives longer than expected.