

# **IMPORTANT INSTRUCTIONS PLEASE READ**

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TYPE RESPONSES & ANSWERS DIRECTLY INTO THE FORM.**

## **PLEASE FOLLOW THESE STEPS:**

- (1) DOWNLOAD AND SAVE THE FORM TO YOUR COMPUTER.**
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- (4) COMPLETE THE FORM AND RE-SAVE THE FILE.**
- (5) UPLOAD THE COMPLETED FORM INTO MYCASE.**



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**R. DEAN DAVENPORT**  
ATTORNEY AT LAW

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**ESTATE PLANNING NOTICE AND ACKNOWLEDGMENT**  
**JOINT REPRESENTATION OF MARRIED COUPLE**

In recent years, the legal professional has become increasingly concerned about the joint representation of married clients as a married person may have different concerns about estate planning objectives as well as different community or separate property interests than those of their spouse. As the attorney for both of you, I will attempt to balance all these factors; however, depending on your situation, the estate planning process could favor one of you to the detriment of the other, and as I represent both of you, this means that I cannot be an advocate for either of you against the other.

In assisting a married couple with their estate planning objectives, it is necessary to obtain confidential information from each spouse. However, as I represent both spouses, I am not allowed to keep information obtained from one spouse confidential from the other spouse.

We also may make recommendations concerning your community and separate property interests. A conflict may exist in the determination of what is community property and what is separate property and that determination may be more beneficial for one spouse than the other spouse. If you partition community property or give property to your spouse as part of your estate plan, then the possibility of a future divorce also should be recognized. Please also be advised that certain estate planning strategies may affect the income, property, and support provisions upon divorce or after the death of one or both of you. You are each, of course, welcome to have your own counsel for any or all of these estate planning matters.

If you wish for my office to proceed with estate planning assistance for both of you, please read the following and acknowledge your mutual consent and agreement by signing below.

**We both have read the above and we understand that conflicts of interest may exist between us, as a married couple, in the estate planning matters in which R. DEAN DAVENPORT, the attorney, is representing us.**

**We also understand that if either one of us wishes to have separate legal counsel or desires that the attorney not be involved in some aspect of the estate planning on behalf of either one of us, then we shall notify the attorney in writing. We consent to have the attorney represent both of us in our estate planning matters until either one of us otherwise notifies the attorney in writing.**

**We both understand that, since the attorney represents both of us, all confidential communications with the attorney must remain open to both of us, and the attorney cannot keep any information confidential from either of us.**

NAME: \_\_\_\_\_ Date: \_\_\_\_\_  
**SPOUSE #1 — SIGNATURE — /s/ PRINTED NAME**

NAME: \_\_\_\_\_ Date: \_\_\_\_\_  
**SPOUSE #2 — SIGNATURE — /s/ PRINTED NAME**

ESTATE PLANNING WORKSHEET—MARRIED COUPLE



[STRICTLY CONFIDENTIAL]

Spouse#1's Legal Name: \_\_\_\_\_

Other Names used by Spouse#1: \_\_\_\_\_

Homestead Residential Street Address: \_\_\_\_\_

Residential City: \_\_\_\_\_ TX County: \_\_\_\_\_ State: TEXAS ZIP: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_

Spouse#1's Phone #: \_\_\_\_\_ Spouse#1's Date of Birth: \_\_\_\_\_

Spouse#1's E-mail: \_\_\_\_\_

Is Spouse#1 a U.S. citizen?  Yes  No. If no, what nationality: \_\_\_\_\_

Spouse#2's Legal Name: \_\_\_\_\_

Other Names used by Spouse#2: \_\_\_\_\_

Spouse#2's Phone #: \_\_\_\_\_ Spouse#2's Date of Birth: \_\_\_\_\_

Spouse#2's E-Mail: \_\_\_\_\_

Is Spouse#2 a U.S. citizen?  Yes  No. If no, what nationality: \_\_\_\_\_

Any Previous Marriages?

Spouse#1:  Yes  No. If yes, **LAST NAME**(s) of previous spouse(s): \_\_\_\_\_

SP1's Marriage(s) Ended with:  Death  Divorce, Year Divorce(s) Finalized: \_\_\_\_\_

Spouse#2:  Yes  No. If yes, **LAST NAME**(s) of previous spouse(s): \_\_\_\_\_

SP2's Marriage(s) Ended with:  Death  Divorce, Year Divorce(s) Finalized: \_\_\_\_\_

LIST THE CHILDREN OF YOUR **CURRENT** MARRIAGE  
[if applicable]

DATE OF BIRTH  
[if applicable]

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

**ESTATE PLANNING WORKSHEET—MARRIED COUPLE**

| CHILDREN FROM <u>PREVIOUS</u> RELATIONSHIPS<br>[if applicable] | SP#1's<br>Child          | SP#2's<br>Child          | DATE OF BIRTH<br>[if applicable] |
|--|--------------------------|--------------------------|----------------------------------|
| _____  | <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"/> | _____                            |

Total Number of Grandchildren (if applicable): \_\_\_\_\_

- |  | <u>YES</u>               | <u>NO</u>                |
|--|--------------------------|--------------------------|
| • Does <u>Spouse#1</u> have any deceased children?<br>If yes, Name(s): _____<br>If yes, survived by any issue (e.g., grandchildren)? | <input type="checkbox"/> | <input type="checkbox"/> |
| • Does <u>Spouse#2</u> have any deceased children?<br>If yes, Name(s): _____<br>If yes, survived by any issue (e.g., grandchildren)? | <input type="checkbox"/> | <input type="checkbox"/> |
| • Any adopted children?<br>If yes, Name(s): _____  | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do any of your children or beneficiaries have a learning disability, special educational, medical or physical needs?               | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do you have any family members (other than your children) who depend on you for all or part of their financial support?            | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do any of your beneficiaries have any known problems with spouses, drugs, alcohol, or with managing money?                         | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do you wish to specifically disinherit any of your children, grandchildren, or any other family members?                           | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do you have any existing pre-marital agreements (or any other type of existing marital property agreements)?                       | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do either of you expect to inherit substantial assets (\$100,000+)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do either of you have existing Wills (Last Will and Testament)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do either of you have any existing Trusts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| • Do either of you have “Living Wills” (Directive to Physicians)?  | <input type="checkbox"/> | <input type="checkbox"/> |

**ESTATE PLANNING WORKSHEET—MARRIED COUPLE**

“SP1” = Spouse#1      “SP2” = Spouse#2      YES      NO

- Should the surviving spouse have the power to control the entire estate when the other spouse dies (first death)?
- Do you want any assets to pass directly to your children BEFORE the death of the surviving spouse (second death)?
- Do you want any assets passing to your beneficiaries to be held in trust until a specific age (e.g., 18 years, 21 years, 25 years)?              
    If yes, the assets should be held in trust until the person is \_\_\_\_\_ years of age.

The name(s) of the **alternate** person(s) [**other than your spouse**] who should be appointed as the FINANCIAL decision-maker after the death of both spouses.  
[NOTE: The Alternate Executor/Trustee must be **AT LEAST 18 YEARS OF AGE.** ]

SP1: \_\_\_\_\_  
SP2: \_\_\_\_\_

The names(s) of the **alternate** person(s) [**other than your spouse**] who should be appointed as the MEDICAL decision-maker, if you are unable to do so yourself.

SP1: \_\_\_\_\_  
SP2: \_\_\_\_\_

The name(s) of the person(s) who should **take care of any** MINOR CHILDREN (children still under 18 years of age), if both spouses are deceased [if applicable].

SP1: \_\_\_\_\_  
SP2: \_\_\_\_\_

**BENEFICIARIES:** Name(s) and percentage distribution for the person(s) who should inherit the financial assets (the estate) after the death of both spouses.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State any SPECIFIC CONCERNS you may have regarding the final distribution of the financial assets (the estate) to the above-named beneficiaries.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If additional space is needed for any of the above, please use the optional “Supplemental Information” page to complete the response(s).**

## BURIAL WISHES

**SPOUSE#1**: At my death, I wish to be:  buried  cremated

**SPOUSE#1**: If cremated, I would like my ashes interred as follows:

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**SPOUSE#1**: If buried, I would like my remains interred as follows:

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**SPOUSE#1**: I already have made pre-arrangements at/with:

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**SPOUSE#2**: At my death, I wish to be:  buried  cremated

**SPOUSE#2**: If cremated, I would like my ashes interred as follows:

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**SPOUSE#2**: If buried, I would like my remains interred as follows:

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**SPOUSE#2**: I already have made pre-arrangements at/with:

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# 2025 UPDATE

## ESTATE AND INHERITANCE TAX EXEMPTION AMOUNT

Page 5 and Page 6 are now OPTIONAL for most people due to the increase in the Federal Estate Tax Exemption amount.

In September 2015, the State of Texas abolished inheritance and estate taxes at the state level; however, Texas residents are still subject to U.S. Federal estate tax laws.

The current (2025) Federal Estate Tax Exemption amount is \$13.99 million (USD) per individual, which means that an individual person may leave up to \$13.99 million (USD) to the heirs (beneficiaries) of their estate without having to pay any federal estate taxes. The U.S. Federal Estate Tax Exemption amount is cumulative, so the Federal Estate Tax Exemption amount for 2025 is \$27.98 million (USD) for a married couple.

## ESTIMATED\* VALUE OF ESTATE

**This page is OPTIONAL. Not required if total value of estate assets is BELOW the FEDERAL ESTATE TAX EXEMPTION amount.**

| <u>TYPE OF ASSET:</u>   | <u>SPOUSE#1's<br/>SEPARATE PROP.</u> | <u>SPOUSE#2's<br/>SEPARATE PROP.</u> | <u>COMMUNITY<br/>PROPERTY</u> |
|---|--------------------------------------|--------------------------------------|-------------------------------|
| • REAL ESTATE:<br>(fair market value, <u>less</u> loans)  | \$ _____                             | \$ _____                             | \$ _____                      |
| • SECURITIES:<br>(stocks, bonds, mutual funds)  | \$ _____                             | \$ _____                             | \$ _____                      |
| • CASH TYPE ASSETS:<br>(cash, annuities, notes due you)   | \$ _____                             | \$ _____                             | \$ _____                      |
| • BUSINESS INTERESTS:<br>(sole proprietorship, partnerships,<br>closely held corporation, etc.) | \$ _____                             | \$ _____                             | \$ _____                      |
| • RETIREMENT PLANS:<br>(IRA, 401k, etc. †)  | \$ _____                             | \$ _____                             | \$ _____                      |
| • VEHICLES:<br>(autos, R.V., boat)  | \$ _____                             | \$ _____                             | \$ _____                      |
| • PERSONAL PROPERTY:<br>(jewelry, furniture, antiques)  | \$ _____                             | \$ _____                             | \$ _____                      |
| <b>TOTAL:</b>   | \$ _____                             | \$ _____                             | \$ _____                      |

\* If the exact amount is not known, please use your best estimate.

† Please do NOT list benefits that terminate at death (e.g., pension, social security).

The value of Life Insurance policies should be listed separately (see next page).



## LIFE INSURANCE POLICIES

This page is **OPTIONAL**. Not required if total value of estate assets is **BELOW** the **FEDERAL ESTATE TAX EXEMPTION** amount.

[ Do NOT Include Accidental Death Insurance Policies. ]

INSURED: “SP1” = Spouse#1; “SP2” = Spouse#2; “S” = Survivor

OWNER: “SP1” = Spouse#1; “SP2” = Spouse#2; “C” = Community Property

BENEFICIARY: “SP1”= Spouse#1; “SP2”= Spouse#2; “C”=Child; “O”=Other

CASH VALUE: Please use best estimate (term policies have no cash value).

FACE VALUE: The face value is the amount payable at death.

| INSURED<br>(SP1 SP2 S) | OWNER<br>(SP1 SP2 C) | BENEFICIARY<br>(SP1 SP2 C O) | CASH VALUE<br>(\$ ESTIMATE) | FACE VALUE<br>(\$ PAID ON DEATH) |
|------------------------|----------------------|------------------------------|-----------------------------|----------------------------------|
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |
| _____                  | _____                | _____                        | \$ _____                    | \$ _____                         |



# WHAT IS A REVOCABLE “LIVING” PROBATE AVOIDANCE TRUST?

There are two situations in which establishing a Revocable “Living” Trust (aka, a “probate avoidance” trust) is a recommended estate planning strategy:

**(1) CHILDREN UNDER 18 YEARS OF AGE:** When there are minor children under 18 years of age, a trust is necessary as a minor child is not allowed to receive any distributions (assets) from the estate of the deceased parent(s) until the child reaches eighteen years of age unless the estate assets are put into a trust in which the minor child is named as a beneficiary.

**2) REAL PROPERTY OWNERSHIP:** When a married couple owns residential-homestead real property and the surviving spouse (surviving co-owner) needs to sell the jointly-owned marital (community) property after the death of the other spouse (deceased co-owner), it usually is not possible to do so without first going through a Court-supervised probate process. In other words, someone would need to be formally appointed by the Probate Court as the Administrator of the Estate of the deceased spouse (co-owner) in order to have the authority to sell or transfer the decedent’s one-half share of the property. However, it is possible to avoid the probate process by establishing a revocable trust (commonly known as a “probate avoidance” trust) and transferring the title of any residential homestead real property into the revocable “living” trust while the owner(s) is/are still living. In this situation, the property may be sold and/or managed without the necessity of going through the court probate process. Thus, transferring ownership of real property into a revocable living trust helps to avoid the time and expense of obtaining authority from the Probate Court to sell and/or manage real property after the death of the owner(s).

Thus, setting up a probate avoidance trust usually is the best option for the following persons: (1) anyone (married or single) who owns real property, or (2) anyone (married or single) who has a child under 18 years of age.

**Is a Revocable “Living” Probate Avoidance Trust Needed?**

**YES**

**NO**



**R. DEAN DAVENPORT**  
ATTORNEY AT LAW



## **CLIENT PRIVACY POLICY**

Protecting the privacy of the information provided by our clients and maintaining the confidentiality of this information is of the utmost importance to us. The privacy policy below applies to the Social Security data that we collect from you and constitutes our notice to you about why we collect certain personal information, how we use it and with whom we share it, and how we protect this information.

### **How and why we collect your personal information:**

- We may ask that you provide us with your Social Security number at the time we initially undertake your legal representation.
- We may need your Social Security number to obtain legal records (including medical records and wage information). We do not use this information for any other internal or secondary purpose.
- When you provide us with this personal information, we treat it very carefully.
- We collect personal information about you (e.g., email, Social Security number or other unique identifiers) only if you specifically and knowingly provide it to us.

### **How this personal information is protected:**

- We will take reasonable precautions to maintain the security, confidentiality and integrity of the information we collect.
- Information in your file is confidential and is only accessible to members of our staff.

### **How and when we use your personal information:**

- We do not sell the information we collect.
- The personal information you provide to us will be used only in connection with the legal issues for which you have retained us to represent you, or for the other purposes described in this privacy policy, and/or at the time the information is collected.

### **How and with whom we share your personal information:**

- We may disclose your Social Security number to health care providers, employers, and the Internal Revenue Service in order to obtain evidence or information relevant to your representation.
- We may also disclose your Social Security number to an adverse party if requested to do so in the course of the discovery process and only where such information is relevant to our representation of your best interests.

### **How we dispose of this information:**

- At the conclusion of your case, your file and personal information will be stored in a secured area for a period of at least five (5) years. After a period of five years has passed, if it is appropriate, we will destroy your file, including information about your Social Security number.