



WILLS

Matter

THE 'TOP – NINE' CLAUSES YOUR WILL SHOULD CONTAIN (PART 1 OF 3)

If you have already made your Will, then you can enjoy the peace of mind that comes with it. Nonetheless, we recommend that you review your Will periodically to ensure that it still reflects your wishes, especially after major life events such as the birth of a child, reaching old age, or the death of a beneficiary or an executor.

In this and the following two editions of *Wills Matter*, we discuss certain clauses that you should ensure your Will contains the next time you review it. These clauses can assist with interpreting your Will and give your executor/trustee enough flexibility to efficiently and effectively administer your estate. (Of course, not every clause will apply to everyone. If it fits your circumstances, however, then your Will should address it).

1) Appointment of an Alternate Executor/Trustee

In addition to appointing a primary executor, it is important to choose an alternate, or even two. This is so because your primary executor/trustee may predecease you, or may be unable or unwilling to act as your trustee.

2) Survival Clauses

This clause is used where there is a possibility that both you and your beneficiary may die as a result of a common accident. Typically, this clause states that in order for a beneficiary to take an interest from your Will, he or she must survive you for a certain number of days.

3) Passing Assets to Minors

Perhaps your executor is to hold assets in trust until a minor beneficiary reaches a certain age. If you intend that the executor can use and apply the income and capital to the minor's maintenance and benefit in the meantime, then you must give the executor this power expressly. Otherwise, the executor's powers are limited to those set out in the *Trustee Act*, which may be more limited and less flexible than you wish. Further, if no provision is made in your Will for the holding of a minor's interest in trust, funds which would have been held in trust must be paid to the Public Guardian & Trustee, to be held until the beneficiary reaches the age of majority.*

...to be continued in the next two editions of *Wills Matter*

Contact *Fulton & Company's Wills & Estates Team*

if you have any questions regarding wills or estate matters.

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