



WILLS

Matter

THE 'TOP – NINE' CLAUSES YOUR WILL SHOULD CONTAIN (PART 2 OF 3)

In this edition of Wills Matter we continue our discussion about the Top Nine clauses that you should ensure are present in your Will. (We refer to both executors and trustees as "executor").

4) Power to Distribute to Guardians of Minor Beneficiaries

This clause is highly recommended when gifts are being made to minors. It enables the executor to distribute all or part of the property bequeathed to the minor immediately to the minor's parent or guardian, rather than holding it until the minor reaches the age of majority.

5) Total Failure of All Gifts

Your Will should contain a provision addressing the question "what happens if all the gifts in your Will 'fail' because all the beneficiaries have predeceased you?". Sometimes this is solved by naming a charity as the final beneficiary, if all other gifts fail.

6) Power to Transfer Assets in the Form They Are In at Your Death

Unless your Will provides otherwise, your executor will be bound to sell all estate assets as soon as practicable after your death. If you wish personal effects to pass to a specific person or persons, a provision should be included directing the executor accordingly. Further, a general power to distribute any asset "in specie" should be included, to give the executor the flexibility to transfer an asset, such as a car, to a beneficiary and to establish a value for the purpose of that transfer, rather than selling the asset and distributing cash. It is generally best to provide to your executor some discretion in the manner in which your assets are converted into money.

7) Power to Deal With Real Estate

Because real estate values fluctuate, it may be beneficial for your executor to delay selling real estate until the market improves, or to make certain improvements to increase the resale value. An executor has no power to spend money to repair or improve estate assets unless the Will provides that power or the executor obtains the approval of the court.*

...to be concluded in the next edition of Wills Matter

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

if you have any questions regarding wills or estate matters.

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