



# NOTES FOR PREPARING A WILL OR TESTAMENTARY TRUST

## PLANNING FOR GENERATIONAL WEALTH

The preparation of a valid Will or Testamentary Trust requires answers to pertinent questions. This document provides guidance on important areas which require consideration prior to a meeting with an attorney.

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### **Notes for preparing a valid Will under the laws of Jamaica:**

1. A Will must conform to the Wills Act 1840 and as Amended 1979 or any other Amendments from time to time;
2. It is recommended that the Will be typed. If the current letter-size is insufficient space for making the Will, the information may be transferred to a legal size format;
3. It must be signed by the testator in front of 2 Witnesses: the witnesses must not be named as a beneficiary in the Will;
4. The preparation of a valid Will is the first step in Estate Planning; a Will represents the Testator's intentions and plans for the distribution of the estate to family, church and other institutions which are considered as important;
5. If at the time of death there's no Valid Will in place, the testator's assets will be distributed in accordance with Jamaica's law for intestacy – Intestates' Estates and Property Charges Act 1937 and as Amended from time to time – [www.moj.gov.jm](http://www.moj.gov.jm)
6. A Will should be written and prepared by everyone who is over the age of 18.
7. It should be updated periodically at major points or decisions during the Testator's life;
8. Major Points or decisions during a Testator's life to consider when making a Will:
  - a. A valid Will should be prepared when one attains legal age: according to Jamaica's laws the age is 18;
  - b. First employed;
  - c. Become a parent of a child;
  - d. Get married;
  - e. Face the question of guardianship of children in the event of a double tragedy;
  - f. Have a substantial change in financial status;
  - g. As a Member of a church, the testator should decide to include in their Will a gift to the church from his/her estate. This should be considered after the needs of family members are considered;
9. Engage the services of an attorney to assist with the preparation of the Will [and Testamentary Trust] since this is a legal document.

**The following is a list of items you should take to your attorney when you are preparing a Will:**

- a.** Legal name: as stated on your birth certificate or Deed Poll; and any aliases or other names used during one's lifetime;
- b.** Date and place of birth as per birth certificate;
- c.** Current address
- d.** National Insurance #: National Insurance Scheme (NIS): .....
- e.** TRN (Tax Registration Number): .....
- f.** Spouse's full name, where applicable
- g.** Date and place of marriage, where applicable;
- h.** Previous or deceased spouse's name, where applicable;
- i.** Deceased parents' names, where applicable;
- j.** Name and address of current and former employers and countries worked;
- k.** Details of any employment pension benefit plans; group insurance benefits – Group Life and AD&D, company stocks and bonds;
- l.** Details of personal life insurance policies: names of insurance companies and policy numbers;
- m.** Real estate owned – address, Volume and Folio Number;
- n.** Legal name and address of church, or institution that is to benefit from your estate;
- o.** Names, ages and addresses of immediate of relatives and an indication if any are legally incompetent. Show opposite to each name the extent to which each person is to share in the estate by naming specific assets or indicating percentages;
- p.** Names and addresses of others who are to be beneficiaries and what they are to receive.
- q.** Location of copies of income tax returns, along with the names and addresses of the persons who prepared the returns
- r.** Other assets: bank accounts (savings and checking accounts); investment accounts; loans due to you – list names and the amount due from each person; stocks; bonds; automobiles;
- s.** Amount of debts – list names and addresses of institutions or persons who are owed;
- t.** List names and addresses of financial institutions who issued your credit card and debit card accounts;

- u. Names and addresses of executor(s) – also trustee(s), if a Testamentary Trust is to be established;
- v. Name and address of an alternate executor in the event the person selected cannot serve.
- w. Name and addresses of persons to be named as guardians of minor children;

**Letter of Instruction:**

A letter of instruction is a suggested companion to a Valid Will. A Will [or Testamentary Trust] properly prepared carries out its intent when it spells out your desires about the disposition of your holdings, both real and personal property.

However, preparation of a letter of instruction provides survivors with additional helpful and essential information. The following are some suggestions of the information to be included in your Letter of Instruction:

- ⊙ Names and addresses of spouse and children and parents;
- ⊙ Persons to notify at death;
- ⊙ Location of personal papers;
- ⊙ Location, telephone contact numbers and bank account numbers, savings and loan accounts, and safe deposit boxes;
- ⊙ Inventory of things in safe deposit box and location of the key;
- ⊙ List of mortgages and outstanding bank loans and those to be paid automatically at death by creditor life insurance;
- ⊙ Name of church and the minister;
- ⊙ Name, address and contact numbers/email of attorney;
- ⊙ Name, address and contact numbers/email of executor and alternate executor;
- ⊙ Name of tax consultant;
- ⊙ Fraternal organization, associations , clubs;
- ⊙ National Insurance number;
- ⊙ Tax Registration Number (TRN);
- ⊙ Name of funeral director and instructions for any special dispositions of the body: burial or cremation;
- ⊙ Funeral arrangements – funeral or memorial service’ elements to be included in the service, place of burial;
- ⊙ Amounts and types of life insurance and general insurance, names of companies/providers and insurance agents;
- ⊙ Investments, location of the securities, and name of stockbroker;
- ⊙ Location of the key documents related to one’s house such as certificate of title and deed;
- ⊙ Location of other real estate owned (including any Timeshare) and the related documents and where they are located;

A copy of the letter of instructions should be dated, signed and attached to one valid Will. Send another to the executor, and a third copy should be kept for the survivors. The Trust Services or committee members should encourage the review of this letter at regular intervals.

It is not realistic to assume that a spouse, son or daughter, or other relatives know about these matters.