

## Estate Plan of Thomas Client Updated: 1/1/2000

Date of Review: April 17, 2008

	Document Provision	Satisfactory	Needs Attention	N/A
1	<p><b>Witness and Notary Requirements</b></p> <p>Does the will appear to have been signed, witnessed and notarized properly under Arizona law?</p>			
2	<p><b>Logical Arrangement</b></p> <p>Is the will arranged in a logical, chronological sequence? Any written document is easier to understand when arranged with the reader in mind. A Table of Contents makes any complex legal document easier to use.</p>			
3	<p><b>Nomination of Personal Representative</b></p> <p>Does the will clearly identify a Personal Representative, along with at least one back-up in case the designated Personal Representative is unable or unwilling to act?</p>			
4	<p><b>Powers of Personal Representative</b></p> <p>Does the will reference Arizona law regarding the powers of Personal Representative?</p>			
5	<p><b>Names of Family Members</b></p> <p>Does the will clearly identify the beneficiaries? A provision identifying primary beneficiaries, dates of birth, and relationship to the testator will assist the personal representative.</p>			

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6	<p><b>Distribution Alternatives</b></p> <p>Does the will permit alternative distribution methods when unforeseen circumstances exist? For example, the Personal Representative may prefer to make distributions subject to the Uniform Transfer to Minors Act or to the beneficiary's guardian or conservator, or by direct payment of a beneficiary's expenses.</p>			
7	<p><b>Asset Ownership Characterizations</b></p> <p>Does the will clearly articulate the treatment of property as community, separate, or jointly-held based upon various default rules? These provisions avoid potential ambiguities when funding marital and non-marital shares when decedent has surviving spouse.</p>			
8	<p><b>Waiver of Bond</b></p> <p>Does the will waive the bond requirement?</p>			
9	<p><b>Compensation of Personal Representative</b></p> <p>Does the will include a provision to determine whether the Personal Representative is entitled to compensation and reimbursement of expenses?</p>			
10	<p><b>Payment of Taxes</b></p> <p>Does the will include detailed provisions regarding the payment of taxes? If taxes are paid from residue, are residuary beneficiaries treated fairly? The will should also permit the Personal Representative to exercise any available elections under income, estate, or gift tax law.</p>			

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11	<p><b>Discretionary Payment of Claims and Expenses</b></p> <p>Does the will give discretionary authority to the Personal Representative to pay claims and expenses? The Personal Representative should be authorized, not directed, to pay these items.</p>			
12	<p><b>Contest Provision</b></p> <p>Does the will adequately protect the estate from frivolous lawsuits with a valid <i>in terrorem</i> clause?</p>			
13	<p><b>Disposition of Tangible Personal Property</b></p> <p>Does the will include detailed dispositive provisions for tangible personal property? One of the greatest sources of family fall-out after the death of a parent is perceived inequities in the distribution of tangible personal property.</p>			
14	<p><b>Provision for Tangible Personal Property Memorandum</b></p> <p>Does the will include a provision for use of a tangible personal property memorandum? Use of a memorandum enables one to, over time, update a list of enumerated items of tangible personal property earmarked for particular beneficiaries.</p>			
15	<p><b>Nominations of Guardians for Minor Children Upon Incapacity or Death</b></p> <p>Does the will include a provision to pre-nominate guardians for minor children upon incapacity and death?</p>			

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16	<p><b>Restrictions on Payments from Retirement Plans</b></p> <p>Does the will include provisions to restrict payment of estate taxes, expenses, and debts from tax-deferred retirement accounts? Preservation of these assets is important. Provisions within the trust can ensure that taxes and liabilities be paid from sources other than tax-deferred retirement accounts.</p>			
17	<p><b>Provision to Offset Encumbrances on Gifts of Tangible Personal Property</b></p> <p>Does the will include a provision that confirms a beneficiary of personal property that is subject to a loan will inherit both the property and debt? Otherwise, it may be unfair to the other beneficiaries if they are also responsible for paying off the loan.</p>			
18	<p><b>Detailed Instructions for Allocation Between Marital and Non-Marital Shares</b></p> <p>Does the will include detailed instructions on the method and manner assets should be allocated between Marital and Non-Marital shares? This is vitally important to support the tax planning integrity of the will.</p>			
19	<p><b>Marital Share Funding Method</b></p> <p>Does the will provide an adequate funding method between Marital and Non-Marital shares at the first spouse's death? In today's ever changing estate tax environment, trust provisions must be included which adapt to tax law changes. The drafting attorney must carefully select a funding/allocation formula that comports with the clients' wishes and also works well with the types of assets subject to allocation.</p>			

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20	<p><b>Remarriage Protection for Trust Assets Held by Surviving Spouse</b></p> <p>Does the will include provisions to alter distributions to a surviving spouse in the event of remarriage after the death of the first spouse? These types of provisions protect ultimate inheritances for children of the first marriage.</p>			
21	<p><b>Inclusion of Powers of Appointment</b></p> <p>Does the will include either limited or general powers of appointment for continuing trusts after the death of the trustor? Inclusion of powers of appointment enables a lifetime beneficiary greater flexibility, if desired, to alter distribution patterns after death.</p>			
22	<p><b>Common Pot Trust Options for Beneficiaries</b></p> <p>Does the will include a common trust provision when one or more of the primary beneficiaries has not yet graduated from college? Under these provisions, beneficiary distributions are made out of a collective pot, versus the separate shares of the beneficiaries.</p>			
23	<p><b>Special Needs Trust Options</b></p> <p>Does the will include a Special Needs Trust option for inheritance given to a disabled heir? A Special Needs Trust is intended to prevent a beneficiary's inheritance from making the child ineligible for government assistance such as SSDI payments.</p> <p><i>Optional: Trust provisions can be added to create Special Needs Trust for any beneficiary who becomes disabled after the trust is executed but before trust assets are distributed.</i></p>			

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24	<p><b>Inheritance Protection Provisions</b></p> <p>Does the will set up continuing trusts for the beneficiaries, which are tailored to the needs of each beneficiary? The term of each trust can last for the beneficiary's lifetime, or shorter if desired. The Inheritance Protection Trust can be designed to afford greater asset protection (from lawsuits and divorce), to protect the beneficiary "from himself," and to provide incentive for particular achievements or conduct.</p> <p><i>Optional: The trust agreement may include dynasty provisions that provide asset protection and estate tax savings for multiple generations.</i></p>			
25	<p><b>Remote Contingent Distribution</b></p> <p>Does the will include detailed remote contingent beneficiary distribution provisions? Provisions may be customized to ensure desired distribution of assets in the event there are no named beneficiaries surviving, or if there are no lineal descendants.</p> <p><i>Optional: Custom drafting can be included to alter the default rules of the intestacy statutes, which often fail to comport with the client's true desires.</i></p>			
26	<p><b>Protection for IRA Distributions</b></p> <p>By its nature, a will cannot include provisions to maximize the tax-deferred growth of a person's retirement accounts after the person is deceased. Tax-deferred compounding over the lifetime of a beneficiary can result in significant increased value to the beneficiary over time ("Stretch IRA"). In addition, these provisions can provide a higher level of asset protection for the retirement account beneficiary.</p>			

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27	<p><b>QTIP Marital Trust Provisions</b></p> <p>Does the will include valid QTIP Marital Trust provisions in a blended family situation? This permits the deceased spouse to provide for the surviving spouse during his or her lifetime, but ensure that trust principal reverts back to the deceased spouse's children from a prior marriage. Most clients prefer to ensure that monies not spent by the surviving spouse are distributed according to the deceased spouse's desires at the second death.</p>			
28	<p><b>Unambiguous Identification of Beneficiaries Upon Death</b></p> <p>Does the will carefully identify the distribution of assets upon death? Often it is not clear what would happen in the event a primary beneficiary predeceases or disclaims assets. Estate and trust laws require particular wording that must be used to follow precedent. Avoid using old-fashioned, ambiguous language such as "share and share alike."</p>			
29	<p><b>Credit Shelter Trust Provisions</b></p> <p>Does the will include valid Credit Shelter Trust provisions when the estate tax is a concern? Proper use of the unlimited marital deduction against estate tax may double the amount that can be left estate tax free to children.</p>			
30	<p><b>Personal Representative's Authority to Delegate</b></p> <p>Does the will permit the Personal Representative to delegate authority to various agents? PRs are often unable to carry out by themselves all of the necessary tasks associated with the administration and ultimate distribution of the estate.</p>			

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31	<p><b>Expressions of Intent to Guide Trustees on Making Distributions</b></p> <p>Does the will include any guidelines regarding how to distribute assets from a continuing trust to beneficiaries? Trustees need as much direction as possible to interpret standards of distribution. Trust provisions should be added and customized to ensure the intent of the trustor is carried out.</p> <p><i>Optional: Custom trust provisions may also be added to assist guardians on the parenting of minor children.</i></p>			
32	<p><b>Expanded Closely Held Business Operations Authority</b></p> <p>Does the estate plan include expanded Personal Representative powers and instructions if decedent owns a closely-held business? The Personal Representative should be authorized to serve as an officer, director, manager, or in any other capacity or any proprietorship, partnership, joint venture, corporation or other enterprise in which the estate has an interest.</p>			
33	<p><b>Special S-Corp Stock Provisions</b></p> <p>Does the will include special QSST provisions to enable the estate to hold S-Corp stock after death? The Personal Representative should be given discretion to elect to hold any S-Corp stock as a separate “electing small business trust” or as a separate “qualified subchapter S trust.”</p>			

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34	<p><b>Coordination with Buy-Sell Agreement</b></p> <p>Does the will include provisions to coordinate Personal Representative authority with a separate buy-sell agreement of a closely-held business? Specific provisions are needed to ensure that the Personal Representative is bound by and follows the terms of any buy-sell agreement entered into by the decedent.</p>			
35	<p><b>Professional Practice Provisions</b></p> <p>Does the will include provisions to enable the Personal Representative to appropriately address state laws that regulate “professional practices?” These provisions are appropriate when a decedent owns a medical, dental, legal, veterinary, accounting, architectural, engineering or other professional practice.</p>			
36	<p><b>Comprehensive Definitions</b></p> <p>Does the will include comprehensive definitions of important legal terms? All such terms should be defined to avoid confusion and provide greater clarity.</p>			
37	<p><b>Financial Power of Attorney</b></p> <p>Does the estate plan include a valid, up-to-date financial power of attorney? This document should enable the agent to transfer assets into a revocable living trust during the principal’s incapacity. It also gives the agent broad authority over retirement accounts and life insurance policies. In addition, the agent can be granted other important powers, such as the power to pursue legal action on the principal’s behalf, receive Social Security benefits, and transact other personal business for the principal.</p>			

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38	<p><b>Determination of Incapacity</b></p> <p>Does the financial power of attorney include a detailed provision that establishes a prearranged system for determining incapacity of the principal, free of court intervention - and in a way that comports with the principal's wishes?</p>			
39	<p><b>Medical Power of Attorney</b></p> <p>Does the estate plan include a valid, up-to-date medical power of attorney? This document is used to ensure the principal's health care wishes can be carried out by medical personnel in the event the principal becomes incapacitated.</p>			
40	<p><b>HIPAA Authorization</b></p> <p>Does the estate plan include a separate document to name a "Personal Representative" for purposes of receiving protected health information, as set forth under the HIPAA regulations (45 CFR Ch. 164)? These regulations provide that only the Personal Representative named in a Health Care Power of Attorney has the same rights to protected health information as the patient.</p>			
41	<p><b>Customized Living Will</b></p> <p>Does the estate plan include a living will declaration that provides meaningful guidelines for end-of-life care? The living will should outline clear decision-making steps the health care agent should take when the principal has been diagnosed with a permanent vegetative state, terminal illness or incurable condition. These guidelines should be customized and not vague.</p>			

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42	<p><b>Gifting During Incapacity</b></p> <p>Does the financial power of attorney permit gifts while the principal is incapacitated? Inclusion of a gifting power is generally preferred; however it should be drafted carefully to deal with potential conflicts of interest.</p>			
43	<p><b>Probate Avoidance</b></p> <p>Probate is a system of court proceedings to process the Will and ultimately distribute certain assets owned by the decedent at the time of death. There are multiple reasons to avoid probate: attorney fees, filing fees, appraisal costs, time delays, lack of privacy.</p> <p>The revocable living trust has emerged as the centerpiece of the client-centered estate plan - primarily based on its flexibility, efficiency, and unique ability to coordinate the decedent's distribution plan and other wishes.</p>			

**Additional Notes:**

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**Disclaimer:**

This estate plan review was prepared as a courtesy to \_\_\_\_\_. Your acceptance of this worksheet does not create an attorney-client relationship. For a comprehensive review of your estate plan, please consult a qualified estate planning attorney.