



CREATING A WILL AND THE PROBATE PROCESS IN BELIZE



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WHY YOU NEED A WILL

During life you manage your assets. At death assets that have no named beneficiary or are not owned jointly still need management. A Will appoints a person to continue management ("Executor") and directs distribution of the assets to persons or organizations named in the document.

The primary reasons for making a Will are: (1) to leave your property to those about whom you care in the manner and proportions you choose; (2) to choose the person(s) you want to handle your estate; (3) so that the estate will not have to incur the cost of a person chosen by the Court to administer the estate; and (4) to have any estate taxes which may be due on your estate allocated among your beneficiaries according to your wishes, rather than by statutory rules.



2 HOW DO YOU KNOW IF THE WILL IS VALID?

The Belize Wills Act Chapter 203 states that in order for the Will to be valid:

- The will should be in writing.
- The will is made by a person 18 years of age or older.
- The will must be signed by the Testator. The Testator is the person who has made the will.
- The will must be signed by two witnesses.

Please note that the correct positioning of the signature in the Will is crucial. Incorrect positioning of signatures can cause confusion in the Court down the road.

3 DOES CITIZENSHIP AFFECT WILLS AND PROBATE IN BELIZE?

Belize's inheritance laws affect everyone who owns property in Belize. Foreign citizens are not treated differently than citizens of Belize. If a foreigner dies owning property in Belize, then the jurisdiction for administration of his/her estate is Belize.



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THE PROBATE PROCESS IN BELIZE

The Administration of Estates Act, Chapter 197 of the Laws of Belize regulates the administration of estates, whether the deceased dies intestate, or with a Will (described below). The Supreme Court of Belize (Probate Side) has jurisdiction over matters of inheritance.

The probate process in Belize is the process of administering the estate of a deceased person. This means the settling of all claims made against the estate and then distributing the property of the deceased. Examples of claims that can be made are debts owed by the deceased to creditors (i.e. banks/credit unions), payment(s) owed to an institution or individual by the deceased over the estate and distributing the assets (i.e. land).

In Belize, when a person passes on, they are known to have died either Testate or Intestate. Testate means that they died leaving a Will. Intestate means that they died without leaving a Will. Therefore, there are two separate types of procedures to follow, although they are similar.



Once the notice has passed and no claim is brought forward, the Administrator/Administratrix can proceed to administer the estate. The application of the rules that deal with distribution of the assets of the estate in the case of intestacy is determined by a case-by-case basis.

The guiding law is as follows:

54.-(1) The residuary estate of an intestate shall be distributed in the manner mentioned in this section, namely,

(a) if the intestate leaves a wife or husband, with or without issue, the surviving wife or husband shall take the personal chattels absolutely, and the residuary estate of the intestate, other than the personal chattels, shall stand charged with the payment of a net sum of six hundred dollars free of costs to the surviving wife or husband;

(b) if the intestate leaves no issue, the surviving wife or husband shall, in addition to the interests taken under paragraph (a) of this subsection, take one-half of the residuary estate absolutely;



(c) if the intestate leaves issue, the surviving wife or husband shall, in addition to the interests taken under paragraph (a) of this subsection, take one-third only of the residuary estate absolutely, and the issue shall take the remaining two-thirds of the residuary estate absolutely;

(d) if the intestate leaves issue, but no wife or husband, the issue of the intestate shall take the whole residuary estate of the intestate absolutely;

(e) if the intestate leaves no issue but both parents, then, subject to the interests of a surviving wife or husband, the father and mother of the intestate shall take the residuary estate of the intestate absolutely in equal shares;

(f) if the intestate leaves no issue, but one parent only then, subject to the interests of a surviving wife or husband, the surviving father or mother shall take the residuary estate of the intestate absolutely;



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APPLYING FOR A GRANT OF PROBATE

In order for our office to apply for a Grant of Probate we require the following:

- Application for Grant of Probate (prepared by our office)
- Affidavits in support of the application (prepared by our office)
- Certified copy of death/burial certificate of the deceased
- Original will marked by the signatures of the executor and the persons before whom it was sworn
- Name of two local sureties (bond)
- Name of two local persons who may attest to the value of the estate
- List of assets of the deceased



In order for our office to apply for a Letters of Administration we require the following:

- Application for Letters of Administration (to be prepared by our office)
- Certified copy of marriage certificate (if Administrator is the spouse of the deceased)
- Certified copy of death certificate
- Affidavits in support of Application (prepared by our office)
- Name of two local sureties (bond)
- Name of two local persons who may attest to the value of the estate
- Lists of assets of the deceased



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DO I REALLY NEED A LAWYER TO CREATE A WILL?

It may be tempting to download a template Will from the internet or write something yourself. These options are all available, but you might create a Will that is not ideal for your personal circumstances. You might miss an essential element of a comprehensive estate plan or any number of opportunities to maximize the efficient distribution of your assets to your chosen beneficiaries. You might not follow Belize law correctly and create a document that a Court will not recognize when the time comes.

Securing the professional guidance of an attorney can resolve potential issues and ensure your Will adheres to the law stated in the Belize Wills Act.

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REVOCATION OF A WILL IN BELIZE

A will may be revoked:

- by the execution of a later will
- by divorce
- by an informal declaration
- by subsequent marriage



There is no estate tax or estate duty in Belize. There is stamp duty on the transfer of title to real property — and to personal Property in the form of shares in a local company— to beneficiaries who are not citizens of Belize. (Belizeans are exempt.) Stamp duty is 8% of the market value of the property.

Note that the beneficiaries would not pay the 8% stamp duty if they are selling the property, because the Executor or Administrator can transfer the title directly to the purchaser. In this case, the Purchaser would pay the stamp duty.

If a trust is involved at the time of the taking title to property, and the beneficiaries intend to keep the property rather than sell, stamp duty can be avoided. This is dependent on the process, so we encourage you to seek legal advice for more information regarding this matter.

This document, based on Belize law, is produced by Wrobel & Co., Attorneys at Law. It is intended to inform, not advise. No one should try to interpret or apply any law without an attorney's help. Belize tax laws are subject to change, so you should review your estate plan periodically.





CALL OR EMAIL OUR OFFICE TODAY
TO SCHEDULE A COMPLIMENTARY
CONSULTATION.

