

Estate Planning Pitfall

You Don't Have A Residuary Clause In Your Will

You may spell out specific bequests in your will, such as giving your grandchild your prized collectibles or dividing up jewelry among nieces, nephews and other family members. But what about the rest of the “stuff” that’s left over? It can be covered by a standard “residuary clause” in your will.

As the name implies, a residuary clause is a provision in a will that passes the residue of an estate to designated beneficiaries. Consider it a safety net that catches all your possessions that aren’t covered by specific gifts. For example, you might bequeath the residue of your estate to your spouse or, if your spouse predeceases you, to be divided evenly among your children.

Generally, the bulk of an estate is distributed according to the residuary clause included in the deceased’s will.

Most important, a residuary clause ensures that all the assets that aren’t otherwise addressed in your estate — including those assets that are known and unknown — will pass according to your wishes. If you don’t have a residuary clause and list only specific gifts, you run the risk that you may forget or inadvertently omit a valuable asset or the designated recipient of a gift may predecease you. In either event, the unnamed items will pass under intestacy laws of the applicable jurisdiction.

Finally, if you fail to include a residuary clause in your will, complications may arise if beneficiaries haven’t been properly designated on insurance policies or listed for retirement accounts. Note that if you have a residuary clause that distributes all remaining assets to a trust, you’ll need to be sure that the trust has the necessary provisions.

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1875 Century Park East, Suite 2000

Los Angeles, CA 90067

(P) 310 553-8844 | (F) 310 553-5165

www.weinstocklaw.com