



**IF INTERESTED IN THE FOLLOWING TOPIC OF:**

**BURIAL PROTOCOLS AND PROCESS ( SHARIAH).**

**CHECK-LIST FOR A FAMILY AFTER THE DEATH OF A LOVED ONE** –

**✓“IDENTITY / TAX / FINANCIAL / WEALTH MANAGEMENT/TRUSTS CONSIDERATIONS.”**

# **□ Shariah Process of Kabrastan and Burial**

**Qabrastan Committee Secretary.**

**✓ Shk. Huzaifa Jamali.**

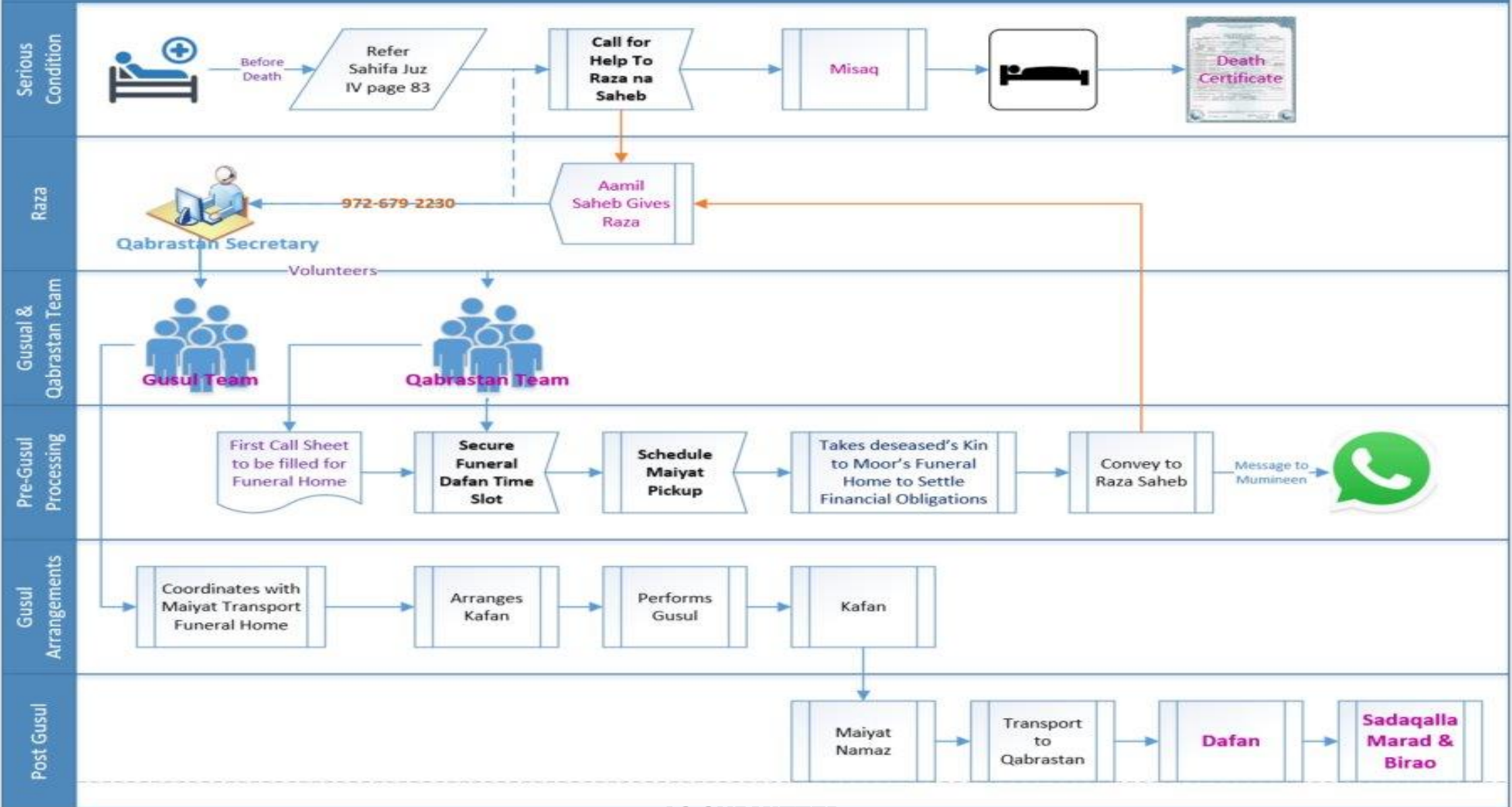
**February 2020**

**( Updated Sept. 2020)**

# **1. BURIAL STEPS - IMMEDIATELY AFTER DEMISE.**

- 1. Namazi Kafan** and ( Khaki Shifa; Attar and Zam Zam Water) - store in easy accessible area. -
- 2. Will/Life Estate Planning.** ( Per Shariah Norms). ( Secure and safeguard these documents)
- 3. Prepay / Save in Hussain Qardan fund: Qafan / Dafan Expenses** (Today's Prices **Sept. 2020** for Dallas jamaat) :-
  - Moore Funeral Home: (\$ 3,300) + Transport (\$1200) + Qaber Lot (\$4,000) + 3 layer Qaber Monument (\$7000) = **\$15,500**
  - Qardan Hasana is available.
- 4. Please Contact Janab Amil Saheb (or Raza na Saheb) and Qabrastan Umoor Secretary** ( Shk. Huzaifa Bhai Jamali ) to make any arrangements.

# Momin End of Life, Gusul & Dafan Process



AS SUBMITTED

# **CHECK-LIST FOR A FAMILY AFTER THE DEATH OF A LOVED ONE -**

**“IDENTITY / TAX / FINANCIAL / WEALTH  
MANAGEMENT / TRUSTS / WILLS  
CONSIDERATIONS.”**

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# **DISCLAIMER**

- ❑ **THE ONLY OBJECTIVE OF THIS PRESENTATION IS PURELY INFORMATIONAL AS REQUESTED.**
- **NOT LEGAL OR NOT TAX OR NOT FINANCIAL PLANNING ADVICE..**
- **SOME SLIDES HAVE BEEN “COMMENTED ON” BY A FRIEND (A SR. PARTNER IN MAJOR NATIONAL LAW FIRM); HOWEVER, THE INFORMATION IS NOT TO BE TAKEN AS LEGAL ADVICE ;**
- **YOU MUST GET YOUR OWN PROFESSIONAL LEGAL/TAX/FINANCIAL ADVICE.**

## **AGENDA ITEMS - DISCUSSION ONLY**

- Steps Immediately After Death.**
- Initial Financial Matters.**
- Estate Administration Matters.**
- Tax Filing Responsibilities & Elections.**
- Survivor Estate Planning Update.**
- Longer Term Financial Planning.**
- Update/creation of – “Will; Estate/Trust documents; Etc.**

# **1. IMMEDIATE STEPS AFTER DEATH**

- ❑ **Determine Deceased wishes at time of death.**
  - **“Will”; “Letter of Wishes” and/or Health Care Proxy – if noted.**
- ❑ **Secure home – inside and outside – ( to protect identity and valuable theft)**
  - **Secure Driver’s license; valuables; documents; passport; safe deposits contents; etc.**
- ❑ **Tend to digital assets and accounts.**
- ❑ **Funeral arrangements:**
  - **Contact Amil Saheb and follow- Faith protocols.**
  - **Consider benefits of pre-planned funeral arrangements and/or separate set aside savings.**
- ❑ **Contact family/community for assistance and support-- Delegate tasks.**
- ❑ **Order death certificates:**
  - **10 to 15 depending on number of financial accounts.**
  - **Funeral home often handles this.**
- ❑ **Confirm no one is driving the decedent’s motor vehicle.**



## **2. INITIAL FINANCIAL MATTERS**

- ❑ **Notify Social Security Administration** - (funeral home often handles this; or can do it on-line on Social Security .gov website).
  - **Fraudulent use of S.S. numbers prevalent.**
- ❑ **Contact and meet** with legal, tax and financial advisors, (e.g., attorney, CPA, financial planner) - (IF ANY).
- ❑ **Develop financial snapshot** for /of deceased including month-of-death financial account statements, - (e.g., bank and investment accounts, annuities/ pension policies, retirement accounts, Etc.)
- ❑ **Manage credit accounts** including canceling or updating credit cards and notifying big 3 credit reporting agencies.
  - **Prevent Fraudulent use of credit information.**
- ❑ **Cancel** driver's license and voter registration.

## **2. INITIAL FINANCIAL MATTERS – Cont'd.**

- ❑ **Contact and cancel or update insurances including health, homeowner's and vehicle, etc.-- IF Any.**
- ❑ **Contact retirement plan/s, including IRA, companies and request claim documents.**
- ❑ **Contact decedent's employer or past employers for benefit information. ( pension or retirement benefits).**
- ❑ **Consider source of immediate spending funds, --e.g., jointly-owned bank accounts, social security payments; Medicare payments; ins. proceeds, Retirement plans; etc.**
- ❑ **Pay appropriate bills – some of “decedent – only” bills are payable from probate estate, if any!**

### 3. ESTATE ADMINISTRATION MATTERS

- ❑ Meet with attorney to review **“Will provisions”**; or state law distribution statute (**“intestacy”**) - if no will exist, to determine estate distribution and begin estate proceeding.
- ❑ Review deceased’s date of death financial snapshot to determine **“probate” vs. “non-probate”** assets.
  - **Probate** – assets in decedent’s name alone with **no** joint owner or **no** beneficiary which pass pursuant to “will” provisions or intestacy statute.
  - **Non-probate** – assets with joint owner (with right of survivorship) or named beneficiary that pass automatically to surviving owner or beneficiary.
- ❑ Consider disclaimer option, if appropriate!.
- ❑ Review **“Any Revocable Trusts”** Or other kinds of Trusts with Attorneys / Executors.
- ❑ Plan appropriately for any special needs beneficiary.
  - **Disabled spouse, child or grandchild.**

### **3. ESTATE ADMINISTRATION MATTERS (CONT.)**

#### **□ Deal with personal assets :-**

- **Distribution to family members vs. sale.**
- **What were the “wishes” of the deceased!**

#### **□ Plan for family-owned business interests.**

- **Is the Family Owned Business legal structure appropriate? - ( S/P VS LLC VS S-Corp.).**
- **Assess Operating agreements and “AOA” specific conditions.**

#### **□ Consider “ongoing” management issues.**

- **If any Succession plans exist - then ensure compliance.**
- **Update POA and all account signatories.**

## **4. TAX FILING RESPONSIBILITIES & ELECTIONS**

- ❑ **Review decedent's date of death Financial snapshot to determine estate tax filing responsibilities.:**
  - **Federal estate tax exemption (2020) - \$11.58 mil.**
  - **Portability filing! ( from deceased spouse to living spouse).**
  - **State estate tax, if applicable!.**
- ❑ **Assign tax return filing responsibilities, e.g., estate, individual income tax, fiduciary income tax; etc.**
  - ❑ **Attorney, CPA, Enrolled Agent, POA family member, etc.**
- ❑ **Obtain EINs for estate, testamentary trust(s) or any lifetime trusts now requiring EIN.**

## **4. TAX FILING RESPONSIBILITIES & ELECTIONS (CONT.)**

- ❑ **Consider individual income tax and fiduciary income tax elections and decisions:-**
  - **Individual tax return filing status.**
  - **Estate fiscal year end.**
  - **Estate deductions – estate tax return or fiduciary income tax return?.**
  - **Retirement Plans and Other Savings accts. – **final individual return or beneficiary return?****
  - **Medical expense deduction.**
- ❑ **Obtain valuations of hard-to-value estate assets including real estate and closely-owned business interests:-**
  - **Consider valuation discounts, where appropriate.**
  - **For basis step up purposes even if no estate tax.**

## **5. SURVIVOR ESTATE PLANNING UPDATE**

- ❑ **Review “Will, Revocable trust, power of attorney and health care proxy (and related documents) and update as appropriate:-**
  - **Reconsider distribution provisions in “will” and “Trust”.**
  - **Reconsider agents and fiduciaries (executors and trustees) in all documents.**
  - **Verify surviving adult children have estate plan documents.**
  - **Update beneficiary designations for retirement accounts and annuities.**
  
- ❑ **Consider new SECURE Act rules for retirement accounts:-**
  - **10 year distribution rule. ( Change VS over Beneficiary lifetime - Tax Impacts). Can give deceased IRA funds to charitable trust directly if stated in the “will”.**
  - **Outright v. trust beneficiary.**
  
- ❑ **Establish / fund savings funeral arrangements.**

## **5. SURVIVOR ESTATE PLANNING UPDATE (CONT.)**

- ❑ **Consider adding beneficiaries to other bank and investment accounts for probate avoidance purposes.:-**
  - **JTWROS – joint with right of survivorship.**
  - **ITF – in trust for.**
  - **POD – payable on death.**
  - **TOD – transfer on death.**
  - **Be sure beneficiary designation does not contradict estate distribution plan as outlined in will or lifetime trust.**
- ❑ **Long Term Care Planning Options:-**
  - **Long term care ( Pre-paid and other options).**
  - **Asset transfers – Revocable vs Irrevocable trust.**
  - **Dis-ability Benefits.**



## **6. LONGER TERM FINANCIAL PLANNING**

- ❑ **Sale of home and moving:**
  - Suggest wait at least 6 months to make **informed** decision.
- ❑ **Develop a monthly budget of income and recurring expenses. (Loss of deceased income benefits). Do not forget Social Security; RMD's; S.D. Ira's; Solo 401K; Pension / Profit share plans of deceased spouse etc.**
  - Estimate how it will change over time.
- ❑ **Review and alter investment Options. (Shariah basis).**
- ❑ **Review Retirement and all Other Savings and assets owned and their objectives:-**
  - Performance, need and beneficiaries.
- ❑ **Create surviving spouse "will" or trust to avoid probate situation in future. .**
- ❑ **Pray and shukur to Allah for giving all family saber and the deceased "Jannat Al Firdaus". Ameen. Ameen.**

# 7. POINTERS – WILLS & LIVING TRUSTS / ESTATES

## Kinds of wills:- ( NOTE:- All Wills become Public Information at death)

**1. Attested Written Wills:-** Most common type of will, an attested written will is typed and printed, then signed by the testator and two witnesses. Witnesses must either see firsthand the testator signing the document or hear the declaration of the will.

**2. Handwritten Wills:-** Also called holographic wills, this type of will is entirely handwritten and signed by the testator. Some states Do Not Allow them. Probate court requires three witnesses to verify the handwriting is that of the testator and a separate witness to verify the location of the will.

**3. Oral Wills:-** Also called nuncupative, are only valid in North Carolina when the testator is extremely ill or in imminent peril of death. The testator must have specifically requested both witnesses to be present. Other restrictions do apply.

**4. Joint Wills:-** are signed by two or more people as a separate will for each person. This type of will enters probate after the death of each testator. Keep in mind that once a joint will is created, the beneficiaries, documented wishes, executor — if named — and tax plans can't be changed after the passing of one testator.

## 7. POINTERS –"WILLS & LIVING TRUSTS / ESTATES". – Cont'd.

### (A). Types of wills:- Cont'd.:-

5. **Simple Will:-** A simple will is the one most people associate with the word "will." Through a simple will, you can decide who will receive your assets and also name a guardian for any minor children. Writing a simple will can, indeed, be simple. 2.

Testamentary Trust Will

6. "**Testamentary Trust will**" -- places some assets into a trust for the benefit of your beneficiaries and names a trustee to handle the trust. This is useful if you have beneficiaries who are minors or who you don't want to inherit your assets to handle on their own. Through this type of will, you can put assets in trust and place conditions on the inheritance, which may be gradual based on age or other factors.

7. **Joint Will:-** or **Mirror Will** :- This is signed by two or more people as a separate will for each testator. Generally, is executed by spouses in favor of the other spouse to inherit everything. The terms of joint wills—including executor, beneficiaries, and other provisions—cannot be changed even after the death of one of the testators. Because of this inflexibility, joint wills can become problematic for the surviving spouse, as their wishes may change.

8. **Living Will:-** This will has nothing to do with distributing your property after your death. Instead, it allows you to choose what medical treatments you want to have if you become incapacitated.

**Note --** you can have more than one type of will at the same time and different wills can all be valid. A "Living Will" - for example, can legally co-exist with a simple will since they serve entirely different purposes.

## 8. **SOME “WILL” SPECIFICS TO TEXAS**

- One of the **biggest benefits** of a **last will and testament** is that it allows the **testator to select the executor** of the estate — an important decision, as the executor will be in charge of carrying out the wishes contained in the will and deciding how assets should be divided. Because of this, creating a will often provides the testator with a great peace of mind, knowing that her wishes will be followed after her death.
- A **Texas last will and testament** also gives a testator the **option of choosing a guardian** for minor children. You may also set up a **trust through which property is held** for the benefit of another.
- **Another plus of having a valid will** is that it can make **Texas’s probate process** go more smoothly. Probate is the court-supervised process of distributing the estate of a deceased person, and Texas is known for having a relatively quick and simple probate process; because of **“independent administration,”** which allows executors to ask the court to act as independent executors and wrap up estates with little court supervision and intervention. **All beneficiaries must agree** to this procedure.
- In Texas, a **will must first be proved in court within four years after the death of the testator**; if this does not happen, the **“will” does not enter probate** and the testator’s property is distributed through **Texas’s laws of intestacy**.
- Once a will has been proven in court, any outstanding debts and taxes of the estate are paid and then the property of the testator is distributed according to the will’s provisions.
- A will may also be used in Texas to **disinherit an heir**.

## 9. **SUGGESTIONS -WHAT “NOT” TO INCLUDE IN A WILL!**

- ❑ **Property that shouldn't be included in your will is :- any type that is already subject to laws regarding its distribution upon your death. Some common types of such property include the following:**
  - **Property held with a right of survivorship:** Community property with the right of survivorship and property held in joint tenancy or tenancy by the entirety will pass automatically to the co-owner upon your death, and nothing you write in your will can change that.
  - **Property held in a living trust:** A “**Living Trust**” is specifically set up to facilitate the transfer of property upon the grantor's death and to bypass probate. Accordingly, the beneficiaries of a living trust automatically receive any property held by the trust upon the grantor's death. You can always change the terms of a revocable trust during your lifetime by amending the trust documents, but you cannot do so through a will.
  - **Life insurance or annuity proceeds:** The beneficiary named on a life insurance or annuity policy automatically receives the proceeds.
  - **Proceeds from retirement plans, pensions, IRAs, and 401(k)s:** As with life insurance proceeds, these pass directly to the beneficiary named on the forms.
  - **Pay-on-death bank accounts:** Money in a pay-on-death bank account goes automatically to the beneficiary listed.
  - **Transfer-on-death (TOD) property:** Stocks, bonds, real estate, or vehicles may be held in beneficiary this way, and they pass automatically to the named beneficiary.

## 10. Suggestions - What to include in your Will / Estate?

- ❑ **Any real or personal property that will not pass automatically to a beneficiary upon your death should be listed in your “ Last Will and Testament” document**
- **The best way to make sure you're not forgetting anything is to simply sit down and make a list of all of your assets as well as corresponding people you would like to receive them after your death. ( as per Shariah) and then manage the beneficiary listings and values accordingly).**
- **Charitable Contributions can be listed in the “will” document from a account that has no legal defined beneficiary.**
- **Personal valuables owned like : Jewelry; Paintings; heir looms; other non-titles assets, etc.**
- ❑ **Estate is all the assets and liabilities of a deceased person, which, according to Islamic law, may be inherited by the deceased person's heirs.**
  - **These Assets include all immovable properties like home; real estate; land; etc.; all Movable property like bank funds, sole retirement accounts; all liquid funds, shares, jewelry, equipment, vehicles, clothes, etc.**
  - **The liabilities would include all amounts owed to anyone or entity or obligations of the deceased person including wife’s Mehr; haj obligations; any other obligatory commitments made.**

## 10. Suggestions - What to include in your Will / Estate? Contd.

- **Include “Attestation clause” at the end appended to the “Will” just below the “testator’s signature.”**
  - ✓ **The witnesses ( Get 2 witnesses to attest the Will) -- attests a will by signing it; his or her signature to confirm, *inter alia*, that he or she witnessed the testator sign the “Will”. This may help under US Law ( depending on the resident state laws) in executing the “Will” under probate rules.**
  - ✓ **This also attest that the “Will” was signed voluntarily by the Testator ( an adult over 18 yrs of age) under his/her own free will and of sound mind).**
- **Partnerships : They generally dissolve upon death of a partner and the estate is the beneficiary of the fair market value of the deceased partner’s share.**
  - ✓ **The surviving partners may enter into a new agreement with the beneficiary/beneficiaries of the deceased partner’s estate, if they so desire.**

# **11. Shariah Focus - points to consider For Wills (Estates).**

- **One needs to reconcile the Shariah compliant “Will” with the local Country regs. to ensure its effectiveness of being executed.**
- **A Muslim may transfer his entire property during his lifetime by way of a gift to any person, unless it is a “Marzulmaut “(death bed) gift, i.e. one in contemplation of death.**
- **A gift given by a person suffering from Marzulmaut cannot take effect beyond one-third of the estate of such donor after payment of funeral expenses and debt, unless the heirs of the donor give their consent after his death to the excess taking effect.**
- **According to the principles of Shariah: spouse, parents, children, grandchildren, siblings, grandparents (paternal), uncles/aunts, nephews/nieces are considered as heirs to the estate.**
- **It further imposes several conditions on who can become an heir mentioned as below:**
  - a. **Any illegitimate children and adopted children will not be considered as heirs;**
  - b. **Non-Muslim cannot benefit from the estate of a Muslim;**
  - c. **A person committing murder to benefit from the estate will be ineligible to claim the estate;**
  - d. **Divorced women cannot claim from ex-husband's estate unless they are in “iddat” period.**



## **11. Shariah Focus - points to consider For Wills (Estates)- Cont's.**

- **Use “Wasiyat “ for grandchildren and other family relatives or entities not included in Fara'id. ( Can Allocate 1/3<sup>rd</sup> of Assets of Estate.)**
- **Do not include burial instructions in will/trust. However, **DO** plan for your **Burial** and last rites costs in terms of your **Budgeting and Contingency Planning** . ( In DFW approx. \$15K) .**
- **Include faith requirement in terms of “Will” execution to heirs.**
- **Direct your executor or trustee to consult local Amil Saheb before any distributions are made.**
- **Ensure “ Living Will “ includes health directives in case on getting incapacitated.**
- **All of the disadvantages can be addressed with proper will planning and/or other estate planning documents**

# 13. LIVING TRUSTS - (Revocable) !

- ❑ A **living trust** is a document that allows you to place assets into a trust during your lifetime.
  - ✓ You continue to use the assets, but they are owned in the name of the trust.
  - ✓ You name a trustee who is responsible for managing and protecting the assets in the trust.
  - ✓ After your death, the assets in the trust are distributed to the people you choose as your beneficiaries.
  - ✓ Most of your property can be placed into your living trust, EXCEPT items such as life insurance and certain retirement accounts are not eligible. The more property you place in the trust, the more beneficial the trust will be.
  - ✓ Most people name themselves as trustee so that they can manage the trust assets during their lifetime. You can choose anyone or even a corporation as your trustee if you prefer. If you name yourself, you will need to name a successor trustee who can step up to manage the trust after your death.
  - ✓ Living trusts allow your estate to avoid probate. By doing so you avoid the costs associated with having a will probated, but you also avoid the delay associated with probate.
  - ✓ You can also choose to delay distribution to later dates.
  - ✓ A benefit of a living trust is that (because it is not an irrevocable trust), you can alter it at any time. You can even decide to dissolve the trust if you so choose.
  - ✓ A living trust is also private. Since it is not probated, it never becomes public record.

## 13. LIVING TRUSTS - (Revocable) -Cont'd.

- Most attorneys agree that if you create a living trust, you should also have a will. This will, sometimes called a “A Pour Over Will” is your insurance.
  - ✓ In case there are any assets left out of your trust, the will directs that those assets be placed into the trust. In this way, all of your assets can be protected.
- Living trusts provide a lot of flexibility and privacy and can be an important part of your estate plan. Considering all the options available to you can help you make the best choice.
- Living trusts have most of your assets already placed in the ownership and management of a trust, so that should you become incapacitated, they are already being handled for you.
- Do consult a tax attorney for tax implications of trust owned assets and Estate taxes for assets greater than \$11.58 mil p/p ( 2020) !
- Most attorneys do recommend you also draw up a power of attorney which will authorize someone else to make legal and financial decisions on your behalf should you be unable to do so.
- A frequently used term in estate planning is “power of attorney.” Indeed, it is one of the most important documents you can have, and there are several types of powers of attorney, each with its own rules and provisions. This person is called your agent or attorney-in-fact. Note that the person you name does not have to be an attorney.

# 14. Common Powers of a Power of Attorney

- ❑ **A power of attorney :** is a legal document through which you, as **the principal**, name someone to have the **authority to make decisions and take actions on your behalf**. This person is called **your agent or attorney-in-fact**. Note that the person you name **does not** have to be an attorney.
1. **A durable power of attorney, (DPOA):-** means there is **language within the legal document providing that this power extends to your agent even in the event you become incapacitated and unable** to make decisions for yourself.
    - **A durable power of attorney generally remains in effect until the principal revokes the powers or dies**, but can also be terminated if a court finds the document invalid or revokes the agent's authority. ( **Spouse – Divorced**)
  2. **A regular power of attorney:-** on the other hand, ends if you become **incapacitated**, which may be one good reason for having a durable power of attorney in place, depending on your needs. You may **not want to find your regular power of attorney has ended—just when needed the most!!**
  3. **General OR Limited POA:-** While a general power of attorney can include a combination of the powers described above—including financial, business, legal, and medical—a **limited power of attorney does just what it sounds like: it limits** the powers granted to the agent.
    - This may also be called a **special power of attorney**, and may even refer to one single process or event,
    - **A limited or special power of attorney may also be restricted to a specific time period.**

# Follow – up Qs.

**☐ PLEASE SEND CLARIFICATIONS OR QUERIES BY EMAIL TO:**

➤ **Insta.tax@gmail.com**