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SAFE DEPOSIT BOXES AND THEIR CONTENTS

A safe deposit box can be registered in the name of one person, who may in turn give another the right to access, or to two or more persons jointly. Because there are various significant legal consequences associated with joint registration, you should have legal advice before registering a safe deposit box (or any other asset for that matter) in joint tenancy or any other form of co-ownership.

When the renter of a box dies, there are specific rules governing access to the box and its contents. If there are joint renters or "owners" of the box, a surviving renter should have access to the box after the death of one owner, but if there was only one renter, the bank will deny access (even from a person authorized by the renter) until an executor or other representative of the renter's estate is appointed. However, upon death, the bank will open the box for the purpose of locating the decedent's will and then will file it with the court.

In the days of state inheritance taxes safe deposit boxes were sealed upon the death of the renter. No one, including a surviving renter, could have access until the tax officials inventoried its contents. Since state inheritance taxes have been abolished, this limitation should no longer be a concern.

What should be kept in a safe deposit box? As a general rule, only those documents and valuables that are irreplaceable or difficult or expensive to replace need to be kept in a safe deposit box. Items that can be replaced with minimal inconvenience, such as passports, can be kept in a safe place at home. When convenient, keep copies of the items that are in the safe deposit box.

Generally, any documents you may need during life should you become disabled, such a health care or property powers of attorney or living wills, should be kept outside of the box, or arrangements should be made for another person to have access to the box during your life.

Documents that your family will need in the event of your death, such as wills, insurance policies, cemetery plot titles or burial instructions may be kept in the safe deposit box, but copies should be kept at home or with the executor of your estate (or other family members).

Occasionally the attorney who prepared the will may keep the original for the client. Keep in mind that the attorney who prepared the will is not necessarily the one who will assist the executor through the probate process. Regardless of who holds a will, the named executor will be free to select the attorney and other advisors of his, her or its choice. If the original will is left

with the attorney, the client should keep a copy of the will in the safe deposit box and another copy at home where it is readily accessible for review.

Often people keep valuable articles, (such as coin or stamp collections) belonging to other family members in their safe deposit boxes. It is important to keep with them documentation indicating the identity of the owner and the origin of ownership or purchase, so that there is no confusion over true ownership. This is important because there may be a presumption (for ownership and tax purposes) that the entire contents of a safe deposit box belong to the box owner.

Items That Should Be In A Box

- Abstracts of Properties
- Adoption Papers
- Appraisals of Valuables
- Automobile Titles
- Birth Certificates (original)
- Bonds (U.S. savings, corporate, government, church) and especially if payable to bearer
- Certificates of Deposit
- Citizenship or Naturalization Papers
- Coin and Stamp Collections and Precious Metals
- Contracts and Agreements
- Copyrights and Original Text
- Court Decrees
- Credit Card List with phone numbers
- Death Certificates
- Deeds and Titles
- Disability Insurance-- List of amounts, insurers, numbers
- Divorce Decrees and any Pre or Post Marital or Divorce Settlement Agreements
- Employment Contracts
- Household Inventories (for insurance)
- Jewelry
- Life Insurance Policies
- Listing of bank and savings accounts and major assets
- Marriage Certificates (original)
- Military Discharge Papers
- Mortgage Instruments and Cancellations
- Negatives of Important Photographs
- Partnership Agreements
- Patents and Original Designs
- Pension Certificates
- Promissory Notes
- Property and Casualty Insurance Policies

- Stock Certificates
- Title Insurance Policies and Property Surveys
- Trust Agreements
- Valued Letters
- Veteran's Papers
- Video Tapes and Photographs of Household Contents
- Wills

As indicated above, copies of some of the foregoing documents should be kept at home or with your executor, a family member or friend. You will want to keep copies of any documents you may need to refer to from time to time, such as partnership agreements, wills and trust agreements. In addition, as indicated above, you may wish to retain the originals of any documents that may be needed immediately upon your incapacity, or alternatively retain copies and grant another person access to your box during your life. These documents may include:

- Medical and Disability Policies
- Medical Directive or Instructions regarding care
- Living Will
- Powers of Attorney
- Homeowner or Auto Insurance Policies
- Burial Instructions
- Cemetery Deeds and Requests
- Funeral Arrangement Requests
- Life Insurance Policies

Presented as information to our clients and friends, and not to be construed as or take the place of legal or other professional advice or opinion.

IRS Required "Circular 230" Notice: Pursuant to recently enacted federal regulations imposed on attorneys who give tax advice ("Circular 230"), we are required to include a notice in most of our written communications that any tax advice contained in the communication is not intended or written to be used, and may not be used: (i) by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by any governmental taxing authority; or (ii) by any person to recommend or support the promotion or marketing of any federal tax transaction addressed in the communication.