

Tashi Choling Dharma Foundation recently received a bequest, which was held up for some time due to associated problems. As a result, we are asking any people considering making a bequest to follow these guidelines (prepared by Anna Crotty, a sangha member who has expertise in these matters).

BEQUESTS

In general, a bequest is a written statement in a will, which directs that a gift be made to a charity, organization or individuals, upon the death of the person who established the will (the testator).

FORMAT OF WILL

One of the most important factors to remember if you wish to bequeath a gift to a charity or organization of your choice is that it must be done in accordance with legal requirements.

For example, bequeathing property to your local football club in West Hobart will be considered invalid by the Courts and will be set aside for uncertainty. The law is very strict on the requirements of legal identification and location of the organization you wish to bequeath to as well as the precision of the gift.

So ensure that the 'full registered name of the charity or organization' is precisely named in accordance with its legal registration. Even minor discrepancies such as a misspelt word or 'common usage used to describe an organization' will make the gift invalid.

Secondly, make sure you state precisely what you are leaving. If it is a sum of money specify that sum of money. If you wish to bequeath property describe the property as well as the legal title of the property. If the property is held in shares or tenants in common specify your share of the property. If the property is held in joint tenancy you usually cannot bequest this property to any other person or organization other than the person you hold jointly with. It is safer to describe the property in legal terms and often a copy of the Certificate of Title of the property is included in the will.

Thirdly, it is important to have the current address of the charity or organization described properly in the will. Although the address may change before the will provisions are invoked the courts have stated that the address goes to mitigating circumstances if there is any misunderstanding.

Fourthly, if you wish to place conditions of the inheritance of a 'specific gift' those conditions must be clearly described and be capable of

actuality. For example, one cannot say that certain property shall be bequeath to a certain person if he or she flies to the moon. However, one can stipulate that a certain gift be inherited by an organization provided at the time of your death that it operates as a Buddhist organization in accordance to its constitutional objectives.

TYPES OF BEQUESTS

The most popular form of bequest is the specific gift. This is because during the estate administration, specific bequests are satisfied first. Thus if the estate cannot support all of the bequests made in a will the recipients of a specific bequest are more likely to inherit than other estate beneficiaries. There are also taxation benefits to the individuals and organization that inherit 'specific bequests'.

The usual wording in a will for specific gifts is below.

Remember it is not necessary to make a new will if you wish to make a bequest which has not been provided for in your original will. You can make a codicil and attach it to the original will. Once again this must be done in accordance to law. The same principals apply as described above as well as identifying in a proper way that the document is a codicil to the original will. This can be done by describing the will and the date it was signed and witnessed in the codicil itself and attaching the codicil to the original will.

The usual wording in a will for specific gifts is:

I give, devise and bequeath the following described property to**(Full registered name of organization and registered address)**.

Property known as**(Full address of property with particular description and attached Certificate of Title)**.