



HOW TO GRANT A LAST WILL AND TESTAMENT IN THE STATE OF GUANAJUATO

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An open public will is the most common manner to grant a last will and testament in Mexico. A will is open whenever the testator expresses his last will in the presence of a Mexican notary public, who authenticates the act and informs of its provisions.

According to Article 2767 of the Civil Code of the State of Guanajuato, an open public will must be executed before a notary public according to the legal dispositions.

Article 2768 of the Civil Code establishes that the testator will express his last will and testament in a clear and decisive manner to the notary. The notary will write the clauses of the will, abiding by the wishes of the testator and reading out loud the clauses. If the testator agrees with the content, the testator will sign the document, as well as the notary, interpreter, and witnesses, if any. The notary will have to establish date, time, and place when the will was granted.

When the testator is not a Spanish speaker, he/she will handwrite the will in his/her native language, which will need to be translated into Spanish by an interpreter. The testator and interpreter will sign the handwritten will. The translation will be transcribed by the notary public and added to his books (protocols) as it is established in Article 2759 of the Civil Code.

If preferred, the testator can bring two personal witnesses to the meeting with the notary public when the last will and testament is granted.

The last will and testament will be registered at the Public Registry of Property and Commerce of the State where was granted.



OUR RECOMMENDATIONS

From past experiences with our clients, we have learned how to avoid possible complications when executing a last will and testament in Mexico. Unfortunately, the legal bureaucracy represents a burden in relation to fulfilling the will and wishes of the deceased person. Therefore, we would like to make the following recommendations:

1. Let the notary know if you use or have used a different name in the past, even if you have not used it in years.
2. State the full names of the heirs clearly. Do not use abbreviations and include any other names they use or have used in the past.
3. Include as an attachment the contact information of the heirs, executor, bank agent, doctor and/or any other contact information that might be relevant.
4. After granting your will, make sure that the beneficiaries appointed in your bank accounts correspond with the ones appointed in the last will and testament.
5. Provide to the executor a copy of your last will and testament, contracts with the banks, agreements with third parties, and all other important information that would help them to develop the post appropriately.
6. We highly recommend creating a clause that states your existing funds should be applied to pay your debts, severance pay for employees, probate proceedings costs, taxes to transfer your property, funeral arrangements, and any other cost that may be involved to clear all the pending matters.
7. Make sure to create a clause that allows your heirs to acquire any present or future assets. In this way your last will and testament won't need to be changed every time assets change.
8. Provide copies of your will to the parties involved and keep a set of certified copies of your will, identifications, and the contact information in a safe place.
9. Review the tax implications for your heirs. A non resident in Mexico may be subject to 25% percent tax of the total value of the inheritance.



10. The executor or executrix of your will shall be a trustworthy, well driven and organized person. This person will become the legal representative of your estate with obligations to perform and the right to receive a compensation established by you, or in case of omission up to 2% of the inheritance value.

11. Bear in mind your heiresses will have to be present or grant a power of attorney to be legally represented. In the event one of them cannot come or has a difficulty to grant a power of attorney, you may prefer to bequeath the benefit and instruct the executor or heirs to enforce your wishes.



INFORMATION REQUIRED

NAME

DATE OF BIRTH

PASSPORT NUMBER

IMMIGRATION CARD NUMBER

PLACE OF BIRTH

OCCUPATION

MARITAL STATUS

CURRENT ADDRESS

NAMES OF PARENTS
(specify whether they are alive)

NAME OF THE CHILDREN
AND AGES, IF ANY

GOODS TO INHERIT
(specify percentages that may
correspond to each heir, include real
estate property and bank accounts)

HEIR/HEIRESS & SUBSTITUTES

CONTACT INFORMATION OF
HEIRS AND EXECUTOR

NAME OF THE EXECUTOR & SUBSTITUTE
SUBSTITUTE OR ALTERNATIVE EXECUTOR