

# October 16th Webinar by Sara Chaca - Estate/End of Life Planning Summary

## Welcome and Introductions

- Introductions
  - EcuadorVisas - Full service law firm for the expat community
  - Registrants for this webinar - Total 127 people registered
    - 73% already clients of Sara, 27% not a client yet
    - 84% US citizens, 16% other countries (including but not limited Canada, UK, Bahamas, Finland, United Arab Emirates, Lithuania, Russia)
    - 70% registrants currently living in Cuenca, 20% other parts of Ecuador, 10% outside Ecuador

## Power of Attorney (POA) Overview

- Designate someone else to carry out activities, such as banking, real estate transactions
- Only valid when you are live
- Two types
  - Limited POA - very specific activities
  - General POA - only valid for one year and need to renew at the same notary
- Useful when you are sick, incapacitated, or travel

## Ecuadorian Will Overview

- EC will for EC asset and home country will for home country assets
- Recommendation - You should have a EC will if you want to ensure that your asset is distributed according to your wishes, especially
  - you have any kind of assets in Ecuador and/or
  - Unique personal situations (marriages, 2nd marriages) and/or
  - You want to pass your assets to non-family members or charities
- EC Inheritance laws is Family based
  - For singles
    - No children - can go to other people/charities but must have a will
    - Has children - all goes to children
  - For couples
    - Any asset acquired after marriage will be 50% husband and 50% wife unless there is prenup or postnup
    - If one spouse passes away, let's say the husband passes away
      - Have children - The husband's portion goes to children. So the wife will have 50% and children has 50%

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- No children - the husband's portion will either go to the wife or other people if he wishes it with a will.
  - However, the inheritance/transfer of assets does NOT happen automatically. It needs an Effective Possession Contract after one passes away for it to happen.
- Two types of Wills
  - Open will
    - for those who is fluent in Spanish
    - Need 3 witnesses
    - Read by the notary
    - Original copy will be delivered to you
  - Closed Will ("Secret Will")
    - Those who are not fluent in Spanish
    - Need 5 witnesses
    - Only you and your lawyer who did the will know what is in the will
    - Will only be opened after you pass away
  - Changes to the will - need to be a brand new will. So try to be relatively general
- Cannot have joint wills. For a couple, each person needs their individual will.

## Ecuadorian Advance Living Will (New law) Overview (aka End of Life Will)

- In the US, it is often called
  - advance healthcare directive or
  - living wills or
  - durable powers of attorney for health care
- is a legal document that states your wishes for medical care if you are unable to communicate them, such as if you are in a serious illness or injury. It can also give someone else the authority to make medical decisions for you
- They can include instructions about:
  - Life-sustaining treatments, like breathing machines and feeding tubes
  - Organ and tissue donation
  - Cardiopulmonary resuscitation (CPR)
- Can also add instructions for burial services/cremation
- Example of a client that you are the representative for the Living Will

## Questions Sent in from the registration forms

*(Answered by Sara in the Webinar)*

1. Lots of questions related to the need to have an EC will and the relationships between home country will and EC will, such as can the US govern EC assets and vice versa?
  - a. US will for US assets
  - b. EC will for EC assets
2. Bank accounts/CD accounts

- a. We are joint owners on all our bank accounts. We did this because we were told that as joint owners when one of us passes the money goes to the other person automatically, is this true?
  - b. If our Coop offers a beneficiary, is there anything we need to beware of that?
  - c. How to avoid freezing of our bank account at the time of a spouse's death?
  - d. What happens to the \$ if there is no will?
  - e. What about CDs that are not matured when I pass?
3. Real estate
- a. Leaving real estate to someone other than children living in the USA
  - b. Disposition of our house and capital gains taxes at death
  - c. If I am the only person on our escritura (i.e. deed), how does our house pass to my wife?
  - d. What happens to any real estate property I own once I die, especially in how my heir (s) will be able to sell or continue to own it if they choose? Can they use it to obtain investment residency if they want?
4. Charity Giving
- a. May I leave a portion of my estate to the church/orphanage/non-profit organizations/charities?
  - b. Inheritance tax implications of leaving to charities
5. Spouses/Families
- a. We are an expat couple living in Ecuador. What happens if I die at home (due to illness or a sudden heart attack), What should my partner do?
  - b. I am a single expat living alone in EC and all my families are in the US/Canada and do not speak Spanish. What happens when I die?
  - c. I have lived with my Ecuadorian partner for many years but not married. What happens to my asset or hers if one of us passes? Is there such a thing as common law marriage?
6. Burial/Cremation Services
- a. How to arrange either burial or cremation in EC?
  - b. How to arrange remains or cremains (after creation) to my home country (9 generation family lot)
  - c. How will the family be notified?
7. Sara's/EcuadorVisas' Services
- a. Can you, as my attorney, be my executor in the event of my passing?
  - b. Will you obtain a death certificate and submit it to my fiduciaries?
  - c. Do you have a representative in other cities in Ecuador other than Cuenca?
  - d. What are your fees for these three documents?

## Live Q&A

*(Answered by Sara in the Webinar)*