

CHAPTER 2: THE ESTATE PLAN AND THE PURPOSE AND NEED FOR A WILL

MATCHING

- a. testamentary capacity
 - b. testator or testatrix
 - c. real property
 - d. ambulatory
 - e. codicil
 - f. property guardian
 - g. fiduciary duty
 - h. legal title of a trust
 - i. principal
 - j. domiciliary administration
-
1. *An individual or trust institution appointed by a court to care for and manage the property of a minor or an incompetent person*
 2. *The capital or property of a trust, as opposed to the income, which is the product of the capital*
 3. *The sanity (sound mind) requirement for any person making a valid will*
 4. *Subject to change or revocation any time before death*
 5. *A written amendment to a will that changes but does not invalidate the will*
 6. *The form of ownership for a trust property held by the trustee, giving the trustee the right to control and manage the property for another person's benefit*
 7. *A man or woman who makes and/or dies with a valid will*
 8. *The administration of an estate in the state where the decedent was domiciled at the time of death*
 9. *A duty or responsibility required of a fiduciary, which arises out of a position of loyalty and trust, to act solely for another person's benefit*
 10. *Land, buildings, and the objects permanently attached to them*

TRUE/FALSE

1. Not everyone can legally make a will.
2. All wills are ambulatory.
3. Copies of the letter of instructions should be given to family members.
4. The testator has no control over the determination of the source from which death taxes will be paid.
5. Everyone needs a will.

6. The surviving natural parent is automatically appointed the property guardian for the decedent's minor or incompetent children.
7. A single person can be a settlor, trustee, and beneficiary.
8. To acquire the authority and powers of the position, a personal representative must be appointed by the testator.
9. Anyone may dispose of property as a gift while alive.
10. Most states require that a valid will be dated.

MULTIPLE CHOICE

1. Which is NOT a reason that many people die without a valid will?
 - a. Procrastination
 - b. Assumed expense
 - c. Reluctance to discuss property and finances with strangers
 - d. Request of the beneficiary
2. When a testator signs his or her name at the bottom of the will, he/she is:
 - a. Subscribing
 - b. Executing
 - c. Attesting
 - d. Witnessing
3. The minor daughter of a decedent can generally be any of the following EXCEPT:
 - a. Distributee
 - b. Executrix
 - c. Heir
 - d. Next of kin
4. If a person preplans his/her funeral and burial arrangements, these arrangements should be included in the:
 - a. Letter of instructions
 - b. Will
 - c. Codicil
 - d. Uniform Probate Code (UPC)
5. Which would be a reason for the creation of a trust?
 - a. To save taxes but incur probate expenses
 - b. To encourage spendthrift beneficiaries to deplete the trust fund
 - c. For religious, educational, or charitable purposes
 - d. To appoint a property guardian for a minor
6. Which is LEAST likely to be used as a substitute for a will?
 - a. Testamentary trust
 - b. Joint tenancy
 - c. Life insurance
 - d. Community property agreement

7. In order for a will to be valid, it must:
 - a. Include the date of death
 - b. Be signed only by witnesses
 - c. Be witnessed by no fewer than five people
 - d. Be written or typed with a typewriter or word processor
8. If a person wants to donate his/her organs or remains, this request should be made in the:
 - a. Letter of instructions
 - b. Will
 - c. Codicil
 - d. Donor card signed only by the donor
9. Who is the only person a testator CANNOT disinherit?
 - a. Surviving minor child
 - b. Surviving spouse
 - c. Surviving adult child
 - d. Sibling
10. A testator must have all of the following EXCEPT:
 - a. Executor
 - b. Testamentary capacity
 - c. Legal capacity
 - d. Designation of property

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-
1. ANS: F
 2. ANS: I
 3. ANS: A
 4. ANS: D
 5. ANS: E
 6. ANS: H
 7. ANS: B
 8. ANS: J
 9. ANS: G
 10. ANS: C

TRUE/FALSE

1. Not everyone can legally make a will.
ANS: T
True
Correct. A testator must have testamentary capacity.
False
Incorrect. A testator must have legal capacity.
2. All wills are ambulatory.
ANS: T
True
Correct. A will takes effect only after the testator dies.
False
Incorrect. All wills are subject to change or revocation before the testator dies.
3. Copies of the letter of instructions should be given to family members.
ANS: T
True
Correct. The letter of instructions should also be kept current.
False
Incorrect. Giving family members copies ensures that the person's wishes are known.
4. The testator has no control over the determination of the source from which death taxes will be paid.
ANS: F
False
Correct. Without an apportionment clause, family members could be placed in a hardship situation.
True
Incorrect. An apportionment clause in a will overrules methods established by state statute.
5. Everyone needs a will.
ANS: T
True
Correct. If a person has no heirs, he/she may not care how the property is distributed after his/her death.
False
Incorrect. A will designates how property will be distributed, and if a person has no heirs, he/she may not care how the property is distributed after his/her death.
6. The surviving natural parent is automatically appointed the property guardian for the decedent's minor or incompetent children.
ANS: F
False
Correct. The children are typically appointed the property guardian, but not always.
True
Incorrect. The property guardian can be a legal person, such as a corporation.
7. A single person can be a settlor, trustee, and beneficiary.
ANS: T
True
Correct. Co-trustees or co-beneficiaries are more common.
False
Incorrect. However, this person cannot be the sole trustee and the sole beneficiary.

8. To acquire the authority and powers of the position, a personal representative must be appointed by the testator.

ANS: F

False

Correct. The person named by the testator is generally also appointed by the court.

True

Incorrect. The representative must be appointed by the court.

9. Anyone may dispose of property as a gift while alive.

ANS: T

True

Correct. However, this is not the same as an *inter vivos* trust.

False

Incorrect. Such a gift is known as an *inter vivos* gift.

10. Most states require that a valid will be dated.

ANS: T

True

Correct. A valid will must also be signed by the testator and two witnesses.

False

Incorrect. The date is especially important if there are multiple versions of the will.

MULTIPLE CHOICE

1. Which is NOT a reason that many people die without a valid will?

- a. Procrastination
- b. Assumed expense
- c. Reluctance to discuss property and finances with strangers
- d. Request of the beneficiary

ANS: D

Request of the beneficiary

Correct. The future beneficiary will generally want the person to have a will.

Procrastination

Incorrect. Many people procrastinate about making a will. This is especially true of people who die prematurely.

Assumed expense

Incorrect. Many people think a will is too expensive, when in fact most attorneys charge minimal fees.

Reluctance to discuss property and finances with strangers

Incorrect. Many people are reluctant to do so. However, they may not realize that other strangers may make the decisions about their property after they die.

2. When a testator signs his or her name at the bottom of the will, he/she is:

- a. Subscribing
- b. Executing
- c. Attesting
- d. Witnessing

ANS: A

Subscribing

Correct. This signature is required for a valid will.

Executing

Incorrect. Subscribing is a part of executing.

Attesting

Incorrect. Attesting is done by the witnesses.

Witnessing

Incorrect. A person generally cannot witness the execution of his/her own will.

3. The minor daughter of a decedent can generally be any of the following EXCEPT:
- Distributee
 - Executrix
 - Heir
 - Next of kin

ANS: B

Executrix

Correct. The executor or executrix most likely will be an adult.

Distributee

Incorrect. A distributee is entitled to a share of the distribution of an estate when the decedent dies intestate.

Heir

Incorrect. Children of the decedent are typically heirs.

Next of kin

Incorrect. Next of kin include the closest blood relative(s).

4. If a person preplans his/her funeral and burial arrangements, these arrangements should be included in the:
- Letter of instructions
 - Will
 - Codicil
 - Uniform Probate Code (UPC)

ANS: A

Letter of instructions

Correct. The letter of instructions is readily accessible for the testator's review and modification.

Will

Incorrect. The will directs the distribution of property after death.

Codicil

Incorrect. A codicil is an amendment to the will.

Uniform Probate Code (UPC)

Incorrect. The UPC is a law, not a personal death-related document.

5. Which would be a reason for the creation of a trust?
- To save taxes but incur probate expenses
 - To encourage spendthrift beneficiaries to deplete the trust fund
 - For religious, educational, or charitable purposes
 - To appoint a property guardian for a minor

ANS: C

For religious, educational, or charitable purposes

Correct. Such charitable trusts are called public trusts.

To save taxes but incur probate expenses

Incorrect. Trusts can reduce both tax and probate costs.

To encourage spendthrift beneficiaries to deplete the trust fund

Incorrect. Trusts can be established to prevent this from happening.

To appoint a property guardian for a minor

Incorrect. A trust can be used to avoid this practice.

6. Which is LEAST likely to be used as a substitute for a will?
- Testamentary trust
 - Joint tenancy
 - Life insurance
 - Community property agreement

ANS: A

Testamentary trust

Correct. A testamentary trust is created in a will.

Joint tenancy

Incorrect. The other owner(s) has the right of survivorship.

Life insurance

Incorrect. A person can choose his/her beneficiary for a life insurance policy.

Community property agreement

Incorrect. A community property agreement transfers ownership rights to a surviving spouse.

7. In order for a will to be valid, it must:
- Include the date of death
 - Be signed only by witnesses
 - Be witnessed by no fewer than five people
 - Be written or typed with a typewriter or word processor

ANS: D

Be written or typed with a typewriter or word processor

Correct. A will must be a printed document.

Include the date of death

Incorrect. A testator will not know his/her date of death.

Be signed only by witnesses

Incorrect. The testator must also sign his/her will.

Be witnessed by no fewer than five people

Incorrect. A will must be witnessed by at least two people.

8. If a person wants to donate his/her organs or remains, this request should be made in the:
- Letter of instructions
 - Will
 - Codicil
 - Donor card signed only by the donor

ANS: A

Letter of instructions

Correct. The letter of instructions is typically read soon after death, allowing enough time for a useful donation.

Will

Incorrect. In some cases, it takes days or weeks to find a will.

Codicil

Incorrect. A codicil is an amendment to a will.

Donor card signed only by the donor

Incorrect. Two witnesses must also sign the donor card.

9. Who is the only person a testator CANNOT disinherit?
- Surviving minor child
 - Surviving spouse
 - Surviving adult child
 - Sibling

ANS: A

Surviving spouse

Correct. The surviving spouse has a statutory right to a share of the decedent's estate.

Surviving minor child

Incorrect. It is often in the children's best interest to leave the estate entirely to the surviving spouse.

Surviving adult child

Incorrect. Children do not have an automatic right to the estate of a parent.

Sibling

Incorrect. Siblings are less likely than nuclear family members to be named heirs.

10. A testator must have all of the following EXCEPT:

- a. Executor
- b. Testamentary capacity
- c. Legal capacity
- d. Designation of property

ANS: A

Executor

Correct. The court can appoint an administrator if no executor is named.

Testamentary capacity

Incorrect. A testator must be of sound mind.

Legal capacity

Incorrect. Generally, a testator must be 18 years old or older.

Designation of property

Incorrect. A will designates the distribution of property.