

***Wills Trusts and Estate Administration 8th edition  
Hower Test Bank***

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## **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

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

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1. *An individual or trust institution appointed by a court to care for and manage the property of a minor or an incompetent person*
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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:
- a. Distributee
  - b. Executrix
  - c. Heir
  - d. 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:
- a. Letter of instructions
  - b. Will
  - c. Codicil
  - d. 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?
- 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

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.