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.

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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

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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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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*

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

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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.

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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.

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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.

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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
   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:
   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
   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:
   a. Letter of instructions
   b. Will
   c. Codicil
   d. 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?
   a. Surviving minor child
   b. Surviving spouse
   c. Surviving adult child
   d. Sibling

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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.

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