

Test Item File

Chapter One

True or False

1. A guardian is a person who is appointed to manage the affairs of the decedent's probate estate. (F)
2. The guardian of the property is responsible for a minor person's property until the child reaches the age of majority or is legally emancipated. (T)
3. A trust is an informal agreement in which a person called a trustee transfers legal title of a property to a settlor. (F)
4. A testamentary trust is a trust which is drafted as part of the testator's will and only becomes effective upon the testator's death. (T)
5. A personal representative or executor is the person who administers the deceased's estate and carries out the terms of the will. (T)
6. Few people consider the ability to determine who will receive their property upon their death to be the paramount reason for executing a will. (F)
7. Once the settlor transfers legal title of property to a trustee, the trustee will then manage the property for beneficiaries. (T)
8. Without a will that specifically states who will care for minor children, the local child welfare agency will unilaterally make these decisions. (F)
9. A testamentary trust may be established without a will. (F)
10. Incorporating funeral arrangements into a will is often futile because the will is often not found until after the decedent's funeral and burial. (T)
11. Trust beneficiaries are hold the legal title to the trust property. (F)
12. The older a person was, the more likely he or she was to have executed the documents necessary for end-of-life. (T)
13. The wealthier a person is the more likely it is that he or she has executed a will. (F)

Multiple Choice

1. What percentage of people in the United States do not have a will (approximate)?
 - a. 33%

- b. 25%
 - c. 95%
 - d. 60%*
2. What is a will?
- a. a legal document directing medical practitioners to take specific actions on behalf of a patient?
 - b. a legal document that is effective while one is alive, directing the activities of beneficiary
 - c. a written declaration of a person's intent to distribute property after death*
 - d. a non-binding, private document that makes the deceased's wishes known to his or her family
3. Most people don't have a will because of:
- a. their belief that it is too costly (this is also a good choice and the instructor may want to consider it correct)
 - b. procrastination and fear of one's own mortality*
 - c. their dislike of attorneys
 - d. their belief that it is unnecessary (this is a very good second choice and the instructor may want to consider it correct)
4. A will is ambulatory because:
- a. it cannot be changed or revoked.
 - b. it can only be changed if a person is near death and traveling in an ambulance.
 - c. it can be moved from state to state or home to home when the testator moves his or her residence.
 - d. a person may change or revoke it at any time before death.*
5. A beneficiary is:
- a. the person who writes a will
 - b. the person that receives property under a will or the holder of the equitable title under a trust*
 - c. the person that holds another's property for a testator

- d. the person that manages the deceased's estate
6. To execute a will means to:
- a. revoke it
 - b. sign it*
 - c. physically destroy it
 - d. develop it with your attorney
7. If a person dies intestate, it means:
- a. her or she died without having executed a living trust.
 - b. he or she died without having executed a will or the will was found to be invalid.*
 - c. that no medical directives were executed.
 - d. he or she died of a gastrointestinal disease.
8. The laws of intestate succession will determine:
- a. the decedent's organ transplant wishes
 - b. the distribution of property from a living trust
 - c. how and to whom all the property the decedent possessed will be distributed*
 - d. the appointment of guardians
9. One's estate upon death may be taxed at the following levels of government:
- a. federal
 - b. county
 - c. state
 - d. both A and C*
10. An apportionment clause drafted into a will can save an estate a considerable amount of money because:
- a. it stops the state from determining how death taxes owed will be paid.
 - b. it has the capacity to shelter money from the Internal Revenue Service.
 - c. within the will, the decedent can determine how and from what source any death taxes owed

would be paid.

d. both a and c*

Essay

1. How does a will help to facilitate the orderly succession of wealth?
 - A method of transferring property to family and friends that clearly indicates a decedent's intent
 - provides for how taxes are paid, if any are due, on the state and federal level and by which beneficiaries
2. What happens when a person dies without a will?
 - The person has died "intestate". This means that the state code or statutes determine how the decedent's estate will be distributed. This may not be how the decedent would have intended and may "disinherit" the people that the decedent most cared for.
3. How does a will help to deal with the issue of "death" taxes?
 - Estates are often subject to taxation in the form of state and federal estate taxes, and in some states, inheritance taxes. A will, through an apportionment clause, establishes how and from what source any estate taxes (often called "death taxes" by politicians) owed would be paid. The apportionment clause allocates the tax burden of the beneficiaries in a will.
4. Discuss the benefits of a will as it pertains to appointment of guardians for minors.
 - The guardian is the person or persons appointed to care for and manage the minor person, the minor's property, or both person and property. The guardian of the person is responsible for the care and custody of the minor person. The guardian of the property is responsible for a minor's property until the child reaches the age of majority or is otherwise legally emancipated. While a minor's parents are always the natural guardians of the person, they are not automatically the natural guardians of the property.
 - Without a will a court will have to select a guardian based on "the best interest of the child." This is usually a blood relative even if that person is not whom the now deceased parent would have wanted. In a worst-case-scenario, if nobody steps forward to take the children, they could become wards of the state further complicating matters. This is especially a problem when there are no surviving blood relatives or when the potential guardians cannot take more than one child without hardship. The children may be split up if a family willing to take all the decedent's minor children cannot be found. A court will have to appoint a special guardian to handle their financial affairs, depleting funds available for their direct care.
5. Do you have a will? If yes, describe the reasons why you thought it was important to have

one. If no, describe why you have not done so and if your reasons are similar to those described by the author.