**CHAPTER 31-ESTATE PLANNING**

**TRUE/FALSE**

1. The Uniform Probate Code has been adopted in all states.

2. Estate planning has two primary goals: to ensure property is distributed as the owner desires and to minimize estate taxes.

3. *Per capita* means each heir gets an equal share of an estate.

4. A later will revokes a prior will only if that revocation is clearly stated.

5. Parents may not disinherit their minor children without good reason.

6. Property of a person who dies without a will is distributed according to intestacy laws.

7. Reva prepares and signs a document that she intends to be her will. If she has not followed the legal technicalities of her state regarding executing a will, the court may not enforce the will.

8. A spouse is entitled to a forced share of a decedent's estate.

9. The only function of a will is to dispose of a person's property upon death.

10. Jacob has been quite ill. When three of his neighbors come to visit one day, he tells them that he is dying and that he wants them to witness his oral will. In some states, he can validly dispose of his personal property by his witnessed, oral statements.

11. An executor who is related to the testator is not entitled to compensation.

12. Probate refers to the process of carrying out the terms of a will.

13. The federal government has established uniform probate laws that apply in all 50 states.

14. A minor (under age 18) can prepare a valid will if it is co-signed by a parent.

15. Under the 2008 amendment to the UPC, a notarized will does not require any witnesses, but only four states have passed this amendment.

**MULTIPLE CHOICE**

1. The percentage of people dying without a will is approximately:

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| a. | 5%. |
| b. | 25%. |
| c. | 60%. |
| d. | 90%. |

2. Through which of the following procedures can a person inherit?

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| a. | Will |
| b. | Trust |
| c. | Intestacy |
| d. | All of the above. |

3. Myron had two children, Cheryl and Pete, who predeceased him. Cheryl had three children and Pete had one child. Myron died testate. Which of the following is true?

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| a. | If Myron's will indicates that the issue are to inherit *per stirpes*, Pete's child will receive one half of Myron's estate. |
| b. | If Myron's will indicates that the issue are to inherit *per stirpes*, Pete's child will receive one fourth of Myron's estate. |
| c. | If Myron's will indicates that the issue are to inherit *per capita*, Pete's child will receive one half of Myron's estate. |
| d. | If Myron's will indicates the issue are to inherit *per capita*, each of Cheryl's children will receive one sixth of Myron's estate. |

4. A trust created in a will is:

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| a. | an *inter vivos* trust. |
| b. | a constructive trust. |
| c. | a testamentary trust. |
| d. | a probate trust. |

5. Legal requirements for a will depend on state law, but generally include all but which of the following?

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| a. | A writing. |
| b. | Signatures of at least three witnesses. |
| c. | The testator’s signature. |
| d. | Witnesses who will not inherit under the will. |

6. Lying on her hospital bed alone one night, Phyllis grabs a pen and paper. With the last of her strength, she wrote her last will and testament leaving all her worldly possessions to her next-door neighbor, Aaron. This type of will is:

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| a. | a nuncupative will. |
| b. | disinherited children's share will. |
| c. | holographic will. |
| d. | None of the above. |

7. In order to travel extensively and not worry about handling her affairs, Lee transfers most of her assets into a trust, with her bank serving as trustee. She has created:

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| a. | a travel trust. |
| b. | a testamentary trust. |
| c. | a constructive trust. |
| d. | an *inter vivos* trust. |

8. Which of the following is not required to create a valid trust:

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| a. | mental capacity of the grantor. |
| b. | witnesses. |
| c. | a beneficiary(ies). |
| d. | property transferred to the trust. |

9. Joel is displeased with his son’s lifestyle choices and, instead of dividing his estate, Joel wants to leave all of his property to his daughter, Marie, when he dies. Joel:

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| a. | may not leave everything to his daughter and nothing to his son. If Joel tries to do this, his son can take a forced share of his father’s estate. |
| b. | may disinherit his son, but he must indicate in the will his reason for doing so. |
| c. | may disinherit his son for any reason as long as Joel indicates in the will that the son was omitted on purpose. |
| d. | may disinherit his son only if Joel leaves the son a nominal amount, such as $1. |

10. Which of the following does not act as a revocation of a will?

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| a. | Destruction of the will by a house fire. |
| b. | The testator's putting an X through it. |
| c. | Physically destroying the will by intentionally shredding it. |
| d. | Signing a new will that expressly revokes prior wills. |

11. Dr. Gavornne advises his very ill patients to prepare a living will. The purpose of a living will is:

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| a. | to make a disposition of property. |
| b. | to express a desire not to have extreme medical treatment that would prolong their lives. |
| c. | to transfer life insurance. |
| d. | to consent to organ donation. |

12. Which of the following is true about wills?

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| a. | A will can be amended to change specific terms by execution of a codicil. |
| b. | The testatrix cannot disinherit her minor children without stating a reason in the will. |
| c. | If the will meets the legal technicalities, the surviving spouse cannot override it. |
| d. | Once a will is written, it cannot be changed. |

13. Under the Uniform Anatomical Gift Act:

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| a. | an individual may indicate the desire to be an organ donor by putting a provision in his will. The provision will take effect after probate of the will. |
| b. | the willingness to be an organ donor may be indicated by signing an organ donation card in the presence of one disinterested witness. |
| c. | family members of a decedent have no right to make a gift of the decedent’s organs if the decedent did not make an affirmative indication of the desire to be a donor during her lifetime. |
| d. | an effective donation may be made by an individual in a will or on a witnessed organ-donation card or by family members after the person’s death as long as the person did not indicate a desire not to be a donor. |

14. If Walter becomes incompetent to manage his affairs:

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| a. | his chosen attorney-in-fact can make decisions for him if he appointed the person in a durable power of attorney with a springing power to become effective upon Walter’s incompetence. |
| b. | a court will appoint a guardian if Walter had no power of attorney. |
| c. | his will becomes effective, and his executor or executrix will manage his business and personal decisions. |
| d. | Both a and b are correct. |

15. The major disadvantage of a trust is:

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| a. | expense. |
| b. | lack of privacy. |
| c. | it may have to go through an often lengthy probate process. |
| d. | lack of control. |

16. A handwritten will is called a:

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| a. | holographic will. |
| b. | living will. |
| c. | probated will. |
| d. | nuncupative will. |

17. When a married person dies intestate, the surviving spouse is entitled to:

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| a. | nothing |
| b. | the entire estate |
| c. | a forced share of the estate, which is calculated differently in different states |
| d. | the same portion as each of the couple’s children |

18. A pretermitted child is:

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| a. | the child named as the executor of the will |
| b. | the oldest child |
| c. | the youngest child |
| d. | a child not named in the will |

19. In legal terms, the word “issue” means:

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| a. | the children of the testator |
| b. | the process of making a will valid |
| c. | all descendents of the testator |
| d. | the process of inheritance |

20. When a testator wants to change or amend a limited portion of a will, he may use:

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| a. | the process of probate |
| b. | a codicil |
| c. | power of attorney |
| d. | nuncupative will |

21. A power of attorney may expire under all the following conditions EXCEPT:

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| a. | the attorney in fact losing the license to practice law |
| b. | being revoked by the principal |
| c. | the incapacity of the principal |
| d. | the death of the principal |

22. The Uniform Anatomical Gift Act (UAGA) allows an individual to indicate her desire to be a donor:

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| a. | by signing an organ donor card in the presence of two witnesses |
| b. | by including this wish in a will |
| c. | by using an iPhone app called “DonateLives.” |
| d. | all of the above are ways to indicate a desire to be an organ donor. |

23. Which statement is not true of trusts?

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| a. | Legal and beneficial ownership reside in the same entity |
| b. | There are four parties involved: the grantor, the settlor, the donor and the beneficiary |
| c. | A grantor can create a trust after her own death. |
| d. | Trust documents are filed with the county court and are public documents. |

24. A major advantage of an Asset Protection Trust is:

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| a. | It is shielded from creditors that arise after the trust is established |
| b. | Its proceeds are tax-free. |
| c. | Its value cannot decline due to stock market fluctuations. |
| d. | It has a guaranteed rate of return. |

25. A trust that goes into effect during the grantor’s lifetime is called:

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| a. | a testamentary trust |
| b. | an *anos durente* trust |
| c. | an irrevocable trust |
| d. | an *inter vivos* trust |

**ESSAY**

1. Discuss the differences between a will and a trust.

2. Singleton, an eighty-year-old widower, remarried. The next day, he made a will leaving everything to his son, Joey. A week after his marriage, Singleton died. How will his estate be handled?

3. Identify four ways a trust can be terminated.

4. Mountain Ridge Bank has been named trustee for a $100,000 trust Fred and Martha Betts established for “the living children of the grantors.” List the requirements for establishing a trust. Identify the primary obligation of the trustee and discuss the fiduciary duty of the trustee.