

Last Wills (Part 1)

ESTATE PLANNING NEWSLETTER

Basics of Last Wills and Testaments.

What is a Last Will?

Most people intuitively know what a Last Will and Testament is; it is something of common knowledge. A Last Will is a document used to dispose of property after death. But what most people don't know is that Last Wills can serve many more purposes than simple disposition of assets upon death. The following is a list of such usage.

Why create a Will?

- To dispose of property (both real estate and personal). (It allows an individual to dispose of property by making gifts and transfers to beneficiaries as inheritances).
- To provide for a personal statement. (Last Wills can be used as living reminders of a person; they can provide for epitaphs and personal history/genealogy).
- To provide for funeral and burial plans. (Last Wills can provide needed instructions for the conduct of burials; they can also provide instructions for organ donation).
- To create Trusts for the benefit of others. (Last Wills can provide for testamentary trusts in order to pass property to another with certain conditions or stipulations attached).

Terminology of Wills

A Will is a document which describes to whom, how much, and method for the delivery of property to another following death; many persons can be involved in the process:

Personal Representative—generally is the person charged with the administration of a deceased person's estate. These persons are referred to as 'executor' (if named in a will) or 'administrator' (if there is no last will).

Probate—is the legal court process of estate administration. It is a procedure for validation of Last Wills and the process of disposing of estate assets.

Beneficiary—is the person to whom the actual gift is made. Beneficiaries may be referred to as 'devisees' (for real property gifts) or 'legatees' (for gifts of personal property). These persons may be either heirs or relatives of the deceased or other persons or organizations not related by blood or marriage.

Estate—is the gross (entire) property accumulated during a person's lifetime and owned at the time of death.

Testator—is the person making a Last Will.

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SPECIAL POINTS OF INTEREST

- Before seeking the aid of an attorney, an individual should review the basic structure and form of Wills, as contained in this newsletter.
- It is also advisable that a person seeking to create a Will decide upon the basic terms and purposes before drafting a Last Will.



WILL SUBSTITUTES

Sometimes it is advisable to forego a Last Will because the process of probate can be both costly and time consuming. The following illustrates how some property can be transferred without using a Will.

- **Joint Tenancy**—most real estate and some personal property can be held by you and a spouse (or another person) with rights to survivorship, whereby upon death the property automatically passes to the other ‘tenant.’
- **Life Insurance**—proceeds from policies can be used to pay for burial costs and to provide monetary gift to others without court intervention.
- **Living Trusts**—are trusts which can be modified or terminated at the free will of a Settlor. They are not included in probate administrations.
- **Living Gifts**—property can be given to others before death, but there may be some gift taxation issues and potential problems in probate cases.
- **Specific Purpose Trusts**—created for any number of reasons and purposes. (Examples include: Spendthrift Trusts, Totten Trusts, and others)
- **Letters of Instruction**—are specific instructions for burial and organ donation and need not be placed in a Last Will. However, these documents are generally legally unenforceable.
- **IRAs and 401(k)s**—with a designated beneficiary.

Sometimes it is advisable to forego a Last Will, but before deciding, one should consult with an experienced attorney.

WARNING

All Wills must be signed in the direct presence of both the will-maker and any notary.

Witnesses should use the same pen as the will-maker and should sign immediately after the will-maker has signed.

It is also advisable that all dates be hand-written and all signatures should occur only on the final page of the Will, following all contents of it.

Caveat—Witnesses should be disinterested, meaning that they do not stand to inherit under the Will (this is necessary to prove that no undue influence has been used to induce the creation of a Last Will).

However, creditors or other persons to whom a debt is owed by the will-maker can act as a witness.

It is also preferable that a named personal representative not also act as a witness.

HOW A LAST WILL IS CREATED

The essential elements of a Last Will must be met (otherwise it is not valid):

- * There must be a **Testamentary Intent**, a person must establish by word or deed that the Last Will is intended to serve as a final disposition of property.
- * A will maker must have **Capacity** to create and declare a Last Will. This generally requires both soundness of mind and the ability to identify the “natural objects of his or her bounty.” It also requires reaching the age of majority (minors lack capacity).
- * Most Wills must be **Written and Signed**. (Note—Iowa will sometimes allow hand-written Wills and Death Bed oral declarations; Iowa also allows a third person to sign on behalf of a will-maker when so needed)
- * There must be **2 Witnesses** who attest to the Will, both by signing in front of a will-maker and notary and attesting to the will-maker’s declaration of intent.

Self-Proving Wills:

- * Ordinarily, the signature of witnesses is used to identify persons who will be called into court during probate to testify on the validity of a Last Will. However, the law also recognizes the possibility that these witness may die before a Will is probated. In these cases, Iowa allows for notary certification of witness signatures so that later proof of a valid will execution is no longer necessary.

Once all the above elements have been met, a valid Will is created and will go into effect upon the creator’s death. However, it should be noted that Last Wills are ambulatory documents, meaning that they can be freely revoked, modified, or changed entirely before death.



TYPES OF PROPERTY SUBJECT TO PROBATE

Property: Terminology and Classification. Only certain property is subject to official probate administration. Although, the IRS will require that all property be included in a gross (entire) estate listing for taxation purposes.

A testator should take some time to review how property is treated under the law.

Generally all **Real Property** (real estate) is subject to probate.

- * Real Property is subject to the laws where the property is located. As such, a single probate proceeding may not be enough when real property is located in multiple States. In these cases, a personal representative will be required to open a separate action in each State where this property is located.
- * Real Property includes: land and buildings, fixtures attached to the land, financial or ownership interests in real estate, and things grown or part of the land (with exceptions for those grown for purpose of sale, like agricultural crops).

Personal Property consists of all things not real property.

- ⇒ Examples of tangible personal property include: clothing, books, cars, appliances, jewelry, electronics, tools, animals, commercial crops, household goods, and the like.
- ⇒ Intangible personal property includes: cash, annuities, bank accounts, personal injury lawsuits, rental lease rights, stocks and bonds, and other items where ownership is usually proved with a document or account listing.

Some Personal Property, while generally considered as such, might not be subject to probate.

Examples include: life insurance policies, IRAs, retirement plans, 401(k)s, pension plans, social security payments, and other property whereby a beneficiary is designated.

Generally, if an item allows for the designation of a beneficiary (and does not provide for payment directly to a Testator's final estate) is not subject to probate, and will pass directly to the named beneficiary upon death.

ADVISEMENT

Potential Tax Consequences.

Last Wills pose some concerns for both taxation and debt collection.

It is advisable to discuss these concerns with a skilled attorney or certified financial planner or accountant.

For instance, while some property can be exempted from probate, taxes may still be required on an estate's entire assets.

There are generally two types of federal and state taxation issues, inheritance (death) taxes and personal income taxes.

Because an estate often comprises of various creditors, debts, and obligations, it is equally true that the federal and state governments also be described as "creditors" for tax purposes.

The payment of debts and creditors take priority over all other distributions of property. It is possible for an entire estate to be depleted before any gifts to family or friends can be made.

Thus it is extremely important to seek appropriate tax help! (preferably before drafting a Last Will).

OTHER NOTES ON PERSONAL REPRESENTATIVES

In Iowa, a personal representative must be a legal resident of the State, or employ the direct services of someone who is.

Representatives owe the estate fiduciary duties, meaning that they will be held to loyalty, trust, and good faith standards.

When a person dies with a Last Will in place, the personal representative is called an “executor” and can have some specific duties added or removed by the provisions of the Will.

However, if a person dies without a Last Will, a court will appoint a representative, called an “administrator.” These persons are held to strict legal standards under the law. They can be almost anyone the court appoints and will be awarded compensation to be paid out of the estate, even to the detriment of beneficiaries.

But, even if a Last Will names a personal representative, a court is still free to appoint someone else. Usually this is not the case and generally occurs only if the court finds the named person to be very unfit for service.

To ensure that a named personal representative is actually appointed for service, a will-maker should provide a copy of the Will to this person. By doing so, the named person will be able to furnish the court with the proper Will so that other people cannot claim the representative title with altered or fake documents.

LIVING WILLS

Living Wills are those created while a person is still alive. They are intended to go into effect and operation only upon a person’s medical incapacitation.

These Wills usually provide for a Power of Attorney for another person to make legal decisions regarding the health and medical care of an incapacitated person.

They can also be used to describe the types of care a person may require or even declare that some types of care should be avoided, like blood transfusions and life-sustaining care.

Because living wills are rather complex and unrelated to other material presented in this newsletter, they will not be covered in detail. A full discussion is beyond the scope of the topics presented herein. Look for other newsletters where this topic is more fully discussed.

SELECTING A PERSONAL REPRESENTATIVE

Selecting an appropriate Representative is one of the most challenging things for a Testator in creating a Last Will.

Great care must be taken to ensure that the person to be named is both willing and able to handle the complex work involved in probate administration.



Examples of some of a Representative’s duties include:

1. The ability to take possession of all estate property and to protect it, even against other family members.
2. The ability to file final death estate taxes, both inheritance taxes and personal income taxes of the Testator. A tax-prep expert can help.
3. The ability to present issues in a court of law, both legal arguments to defend the estate and the filing of court papers. However, the use of a skilled attorney can help in this area.
4. The ability to financially account for all debts and to pay any creditors.

WHO CAN BE A PERSONAL REPRESENTATIVE

Generally, a Representative can be any person or corporate entity which possesses good moral character and is capable of entering valid contracts. Persons with mental handicaps, intoxicated persons, and others of unsound mind essentially cannot serve as Representative. In Iowa, this includes persons known to be “spendthrifts”, persons of known financial irresponsibility.

Examples of Representatives include:

- * **A Relative.** This can include heirs by blood or marriage. A relative can also be a close friend. In any event, such person should be both trust-worthy and capable of handling an estate administration.
- * **Any natural person with legal capacity.** This excludes minors and others whom the law presumes to be unfit to enter into contracts, because activities of a probate often involves the making of contracts and changing of property titles.
- * **Any corporate entity.** Such “legal persons” include, but not limited to, financial institutions, banks, credit unions, and any other organization that the law specifically allows for the ability to act as a Fiduciary.

MODIFICATION OF WILLS

Generally, a Last Will is freely modifiable at any time for any reason prior to death.

In the past, the most common method for modifying a Will was to use a “codicil.” Codicils were documents which could be attached to an existing Will without operating to revoke or invalidate it entirely. It was used merely to add to or to remove some un-needed provisions.

Other methods once included a line item veto approach, whereby a Testator would make handwritten changes either by crossing out certain provisions or writing in additional provisions or both.

However, today both of these former practices are no longer acceptable. By the use of modern technology, it is now advisable to create an entirely new Will by modifying an existing one with word processing software. This is usually an easy and simple process.

Most attorneys today will not aid in the partial modification of Wills using the older methods and will advise upon the creation of a new document to ensure proper validity.



When contemplating a modification, it is advisable to create an entirely new document to ensure against potential validity problems later on.

REVOCATION OF WILLS

There may be times when a will-maker will want to revoke a Will.

1. A Will is generally revoked whenever a new one is created or an existing one is modified.
2. Property often changes during the course of a lifetime, creating a new Will to provide for this usually results in revoking a prior one.
3. Beneficiaries die before the Testator does.
4. New beneficiaries are identified.
5. New personal representatives may be needed.
6. Family disagreements arise.
7. A Testator finds new ways to avoid probate and thus no longer needs a Last Will.
8. Other issues.

If and when the time arises for the need to revoke a Will, there are many methods for doing such.

It is important that a Testator revoke a Will properly to ensure that a former Will cannot later be used in court probate proceedings.

How to Revoke a Will:

1. **By physical act.** A Testator can personally destroy a Will (by tearing, burning, or writing ‘canceled’ on it).
2. A Will can also be revoked **by operation of law.** This is usually beyond the control of the Testator and usually occurs whenever a Will cannot be found (and its contents are unknown to everyone), by divorce, or by remarriage.
3. **By Subsequent Writing.** The creation of a new will and sometimes codicils can revoke a former Will. (note– this revocation must be specifically addressed in the new Will or it may not invalidate the old one leaving much confusion).
4. A Will can also be revoked **by successful challenge to it.** These challenges in probate court generally relate to how the Will was created, often challenging the valid elements for its creation, ie. it was not properly witnessed or signed.

Note: If a Will is revoked without revoking all other former ones, then the law will revive the last former Will and it will once again become effective, even if not intended to be.



MORE ON BEQUESTS

The term 'bequest' refers to the act of gifting. A bequest is either a legacy or a devise depending on the type of property to be gifted.

The following is a list of property types:

1. Intestate Property—is property that exists but has not been included in any manner within a Last Will.
2. Residuary Assets—are those things that have not been specifically granted to others. It is usually the largest part of an estate and includes all left-over property.
3. General Devises and Legacies—are gifts in monetary proportion or fixed amount to be paid only after the sale of real estate or personal property. For example, "I give to my son 50% of the proceeds from the sale of my home."
4. Specific Devises and Legacies—are property given fully to an identified individual.

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Iowa's Probate Code can be found by reviewing:

Title XV, Chapter 633 and 635
(on Iowa's Legislative Website)

BENEFICIARIES

Beneficiaries are the persons to whom the actual gift is made. Beneficiaries may be referred to as 'devisees' (for real property gifts) or 'legatees' (for gifts of personal property).

These persons may be either heirs or relatives of the deceased or other persons or organizations not related by blood or marriage.

Other terms and organizational hierarchy applies to gifts in general.

- * Gifts of Real Property are given to Devisees. These gifts can be made in fee simple (outright entirely) or by life estate where a person enjoys possession and use only during that person's lifetime, then the land passes to another. Gifts of leases can also be made.
- * Gifts of Personal Property are given to Legatees.

A Testator can generally grant a gift to any person either by specific direction or under instructions to set aside a particular dollar amount (also known as a "general gift").

Order of How Gifts May be Disposed of

Debts and Obligations must be paid prior to any gifts being made. This includes the payment of taxes and to creditors.

Whenever estate assets are insufficient to pay these obligations, the law requires that certain gifts be used to pay the balance. This is called "abatement." Abatement generally follows an order of gift categories (also known as marshaling of assets):

1. First, any property which has not been included in the Will is used to pay any outstanding balance.
2. Next, residuary assets (see insert at left 'More on Bequests') are used because they comprise of general assets not previously mentioned in the Will.
3. Then, general legacies and devises are used.
4. Fourth, demonstrative legacies are used.
5. Finally, any specific gifts (legacies or devises) are used.

Note: Probate courts will make every effort to honor specific over general gifts in abatement.

Other Ways for a Gift to Fail

1. **Ademption**—occurs whenever the Testator no longer owns the property gifted at the time of death. In some cases, a substitute gift can be provided for.
2. **Lapses**—occur whenever a beneficiary dies before the Testator does. In these cases, the gift will fall into the residuary assets unless an alternate beneficiary is put in the Will.

Coming up in the Next Issue:

1. Dying Without a Will, the Intestate Succession Statutes
2. Examples of Will Contents, what should be included
3. Potential Complications
4. Best Practices and Advice





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Last Wills (Part 2)

ESTATE PLANNING NEWSLETTER

Detailed Discussion of Last Wills.

Review of Last Issue

Last Wills are documents designed to distribute a person's property after death.

Common Uses

- To provide final gifts to family, friends, charities, or others.
- To provide for a living statement after death, epitaphs, family genealogies, burial instructions, and organ donation provisions.
- To create Trust funds for the benefit of others.

Testamentary Trusts

- Are created in a Settlor's Last Will.
- They can only be Irrevocable and take operation only upon the death of the Settlor.
- They are partially probated, but are not included in a Settlor's final gross estate for death-tax purposes.

IN THIS ISSUE

In this Issue, detailed discussion will dive deeper into the workings of Wills, including:

1. Intestate Succession—dying without a Will.
2. What should be included in a Last Will, and examples.
3. Potential complications.
4. Tips on working with an Attorney in Creating a Last Will.
5. Best Practices and Advice.

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SPECIAL POINTS OF INTEREST

- Before seeking the aid of an attorney, an individual should review the basic structure and form of Wills, as contained in this newsletter.
- It is also advisable that a person seeking to create a Will decide upon the basic terms and purposes before drafting a Last Will.



INTESTATE SUCCESSION LAWS

All States provide laws governing the distribution of assets whenever a person dies without leaving a valid Last Will. These laws are commonly referred to as intestate succession statutes.

There are some serious disadvantages to **dying without a will**.

- **Beneficiaries become “heirs”**—Iowa law provides inheritance to all blood relatives in a specific distribution format. These include persons whom the deceased person might not have even considered.
- **Valid Heirs cannot be disinherited**—Iowa law will not prevent property from passing to an heir whom the deceased person would have wanted to not include.
- **Surviving spouse usually gets all**—gifts to children and friends might not be considered if a person dies leaving behind a living spouse.
- **Heirs must be living at time of distribution**—In a Will, if a beneficiary dies before the Testator, an alternative beneficiary can be assigned. This is not true when dying without a Will, no substitute beneficiaries are allowed.
- **Property is subject to Escheat**—whenever no surviving spouse or heirs can be found, any property which cannot be distributed will automatically become the property of the State of Iowa (it escheats).

There are some serious disadvantages to dying without a Will!

MORE ON THE DEGREES OF RELATIONSHIP

There are two basic methods for determining classes of persons eligible to inherit when a person dies without a valid Will. They are the civil law computation and the common law computation.

The two systems attempt to distribute property using similar concepts but can also result in varied outcomes.

A full discussion of these outcomes is beyond the scope of this newsletter, but it is important to know that no matter which system is used, it will be a system that is not controlled by a Testator's Last Will.

The real concern is that ascertaining which survivors will be entitled to inherit is often complex and not easily recognizable.

HOW INTESTATE DISTRIBUTIONS ARE MADE

Generally, intestate property passes to heirs along degrees of relationship. For illustrative purposes, the following represents a typical order for distribution:

1. First, to a surviving spouse and maybe to lineal decedents (children), if none then to:
2. Other lineal decedents, like grandchildren or great-grandchildren, if none to:
3. Lineal ascendants (ancestors) like parents and grandparents, if none to:
4. Collateral relatives of decedent's parents, like brothers, sisters, aunts, uncles, if none to:
5. Other next of kin, blood relatives, like cousins, nephews, nieces, if none to:
6. The State (it escheats)!

How property is distributed:

There are two basic methods for distributions, per capita and per stirpes.

- * **Per Capita distribution** refers to equal distribution “by the heads.” For example, if a person is survived by three children and three grandchildren, only the three children would inherit as heads of their family lines. The grandchildren would be ineligible.
- * **Per Stirpes distribution** refers to the method for inheritance by class or group. For instance, suppose in the above example that one of the three children had already died but left behind one of the three grandchildren. In this case that grandchild would inherit as being a member of a class because his/her parent would have inherited if they were alive.



PROVISIONS IN A WILL

On a very basic level, all good Wills should contain similar content areas.

Content is usually contained within specific articles and titles within the document.

- * **Exordium and Revocation Clause.** Wills should contain some basic information about the Testator and a provision which revokes prior Wills if needed.
- * **Payment of Debt and Taxes.** Because the payment of obligations takes precedence over gifts, a Testator should plan accordingly.
- * **Appointment of Personal Representative.** This is where a particular person or entity can be named. A Testator can also describe specific duties and even waive any requirements for the posting of a bond upon the representative.
- * **Specific and General Gifts.** This section forms the heart of the Last Will. These provisions should be very detailed while also using simple language so as to avoid any ambiguities.
- * **Residuary Clause.** Because the types and amounts of property can change wildly after the creation of a Will, it is important to provide for how this new or additional property should be disposed of. By including this clause, a Testator can ensure that no property will be treated under the Intestate Succession Statutes.
- * **Simultaneous Death and Successor Clauses.** These provisions outline what should happen in the event a Testator and spouse die together or when named beneficiaries die first.
- * **Attestation Clause.** This is where a Testator and witnesses sign and certify the intent to create a valid Last Will.

Failure to nominate a personal representative does not invalidate a Will as the probate court will appoint one as needed.

OPTIONAL ITEMS THAT CAN BE INCLUDED

Besides addressing the basic content areas of a Will, a Testator also has options for additional content. Examples include:

1. Burial and organ donation clauses.
2. The specific disinheritance of children and others.
3. Testamentary Trusts and Trust Funds.
4. The appoint of persons to act as guardians for minor children.
5. Powers of Attorney for other related matters not part of the probate process.
6. Personal Statements

TIPS FOR WORKING WITH ATTORNEYS ON WILLS CREATION

Before consulting with an attorney for the creation of a Will, a prospective Testator should first review the two-part series Newsletter on Wills, as provided herein.

After mastering the basic terminology and workings of Wills, you will be more capable of presenting your proposals to the attorney for review.

In addition, you can aid your attorney by compiling some information:

1. Records and Location of all property intended for distributions.
2. If you have any prior Wills, bring copies of all of them.
3. Draft a basic outline of what you wish the Will to do and how it should work.
4. Be sure you can discuss information on all known intended beneficiaries, including location and background.
5. Determine if a Trust should be placed in a Last Will, and if so bring a copy.
6. Make an informed and reasonable preliminary determination of who will serve as personal representative, this includes finding someone willing and capable.
7. **Perhaps most important,** you should brainstorm what would happen if parts of your Will were to fail. Make plans for successors and possible situations where your Will might become invalid (of course, your attorney will also help you to develop this level of insight).

POTENTIAL COMPLICATIONS

Certain provisions of a Will can be held invalid for public policy purposes.

- For instance, a surviving spouse is allowed by law to elect to take a share of an estate against the Will. This law effectively makes it impossible for a Testator to fully disinherit a surviving spouse. Also if the law allows the spouse to inherit more than what the Will provides, the spouse can choose either (usually choosing the higher payout). In Iowa, the amount of a spouse's "elective share" is equal to 1/3 of the estate.
- Pretermitted (omitted) Children. Unlike a surviving spouse, children and others can be fully disinherited. However, if the Will does not specifically mention a person to be omitted or provides no reason for the omission, a probate court will assume that this child should be allowed and will inherit under the Will. That child's share of the estate is governed by the Intestate Succession Statutes discussed earlier.
- Divorce and Remarriage often results in the provisions favoring a former spouse to become null automatically by operation of law. However, a Testator might want to continue these gifts as part of a divorce decree or alimony obligation. And remarriage can result in revocation of an entire Will. Such remarriage revocation is not customary in Iowa.



HOW TO AVOID PROBATE

The probate process is often time consuming, costly, and complex. Many estates facing full and formal probate can ease the transition of property thru means other than the creation of a Last Will. Sometimes these methods will be more favorable both in terms of simplicity and taxation.

In addition, most estates will qualify for informal small estate probate. To qualify for informal probate in Iowa, an estate must contain less than \$100,000 in gross assets. Small estate procedures are more stream-lined, yet they also require some court intervention and supervision.

As a result, the vast majority of probate cases require the attention of a skilled attorney. However, if done correctly the costs of an attorney can be reduced greatly by consulting with an estate planner, an attorney experienced in all forms of property issues.

But there are many methods for avoiding probate. Some of the more common options include:

- Placing property in trusts.
- Using life insurance to pay for burial and other expenses and to provide financial support to loved ones.
- Investing in personal retirement funds and designating a beneficiary.
- Placing property into joint tenancy with rights of survivorship.
- Other methods. Consult with an estate planning attorney for more details.

COMING SOON

In addition to this Newsletter, another topic of interest is the process of probate itself.

In an upcoming newsletter, we will be discussing how the probate court works, terminology and procedures will be explored.

Look for a newsletter to be titled, "Iowa Probate" set to be published at a future date.

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**Iowa's Trust Code can be
found by reviewing:**

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(on Iowa's Legislative Website)**

BEST PRACTICES AND PRACTICAL ADVICE

The following discussion is intended for educational purposes only:

1. Taxes, debts and other obligation must be paid first. Other expenses, like burial and administration fees, must also be paid before gifts can be made. It is best to determine these costs tentatively prior to assigning specific gifts.
2. Remember, a surviving spouse cannot be disinherited and can take property against a Will. In Iowa, this amount equals 1/3 of the estate. Plan all other gifts accordingly.
3. If minor children are possibly to be left behind, one should nominate guardians so that they do not become wards of the State.
4. Always use a residuary property clause to ensure that all property, future and left-overs, can pass thru the Will.
5. When disinheriting children, always specifically mention this in a Will or else a probate court will grant them a share of the estate.
6. Because Wills contain unique provisions which are individually tailored, most attorneys avoid or will not create "joint or mutual" Wills for married couples.
7. There may also be other exemptions for homestead and family allowances which cannot be defeated by a Will. Be sure to ask your attorney about these items.

Tips and Advice

1. If a Last Will is intended to be held secretly by a Testator, letters of instruction should be created which at least discusses the existence of a Will and how to access it upon the Testator's death to avoid dying without a known Will (Intestate Death).
2. Whenever possible and advantageous, one should consider Will alternatives to avoid the full probate process. Almost all property can be made to pass outside of probate.
3. Note— personal property is generally used before real property to pay the obligations and taxes of an estate. Plan accordingly.
4. A Last Will should be created in the home State and domicile of the Testator.
5. Remember, in Iowa, persons with known financial irresponsibility (spendthrifts) cannot serve as personal representatives.
6. Avoid using pre-printed or fill-in-the-blanks Wills, such as those provided by commercial enterprises as these forms often do not provide a deep level of coverage and may even contain invalid provisions under Iowa law. It is always best to talk with an Iowa attorney personally.
7. Totten Trusts are a great idea for those wishing to pass on money held in bank accounts to another person upon a Settlor's death. Such trusts are created by the bank directly and are often called "pay on death" accounts. (No lawyer is needed).

