

ROLE OF THE WILL

CHAPTER FOURTEEN:

*This chapter explains the purposes
and functions of a Will.*

ROLE OF THE WILL

- It is your final set of directions of what to do with your property.
- It may make directions with reference to payment of debts, taxes and funeral expenses.
- It directs who shall receive your property, the amount or kind of property they shall receive, and the terms and conditions by which they receive it.
- It does not necessarily affect all your property; only your probate estate. See Appendix R.
- In many states, it is the only instrument by which deceased parents can specify the person(s) who shall raise their orphaned children.
- It is in your Will that you designate a party to be your executor.
- Your Will may be used to waive the requirements for posting of bonds. Example bond premiums are shown in Appendix S.
- Wills may be used for other purposes, for example: establishment of trusts (or guardianship or custodian accounts), or to seek to reduce death and related taxes. But the most basic uses for a Will are those outlined above.

Does Everyone Need a Will?

Yes and no. Thousands of people die each year owning property and not having a Will. In many of those instances property was likely transferred and debts and taxes were paid all consistent with the deceased's wishes.

Planning Exercise 20

If you died tonight having a probate estate without a Will, who would receive your property? Appendix Q** will help you with your answer.

Husband

Wife

Is this your desire?

_____ yes

_____ no

_____ yes

_____ no

Who would become your executor (See Appendix I)?*

If you died tonight not survived by a spouse and having no Will, who would:

Become your executor (See Appendix I)?*

Become your children's guardian (of their person), (See Appendix I)?*

Receive your property, (See Appendix Q)?**

Is this your desire?

_____ yes

_____ no

_____ yes

_____ no

Do you need a Will?

_____ yes

_____ yes

*Appendix I specifically illustrates Maryland law. Since individual states lack uniformity respecting procedures, as well as priorities and laws governing appointment of guardians, conservatorships, executors and personal representatives, you will need to familiarize yourself with your particular state's law. Often your local public library will have a set of the laws enacted in your state.

**Appendix Q has two illustrations which diagram how property is distributed when there is no Will. One illustrates Maryland law and the other the Uniform Probate Code, adopted in Alaska, Arizona, Colorado, Florida, Hawaii, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Carolina, South Dakota and Utah.