

A guideline for writing your will

It is not very expensive to have an attorney draft a will for you. Even though you can write your own will, there are many special considerations you may not be aware of that a lawyer will readily identify for you. Failure to deal with these items appropriately can thwart your intent and can result in unexpected expenses. The decision to draft your own will should be made hesitantly and only after careful consideration.

Idaho law recognizes handwritten wills, referred to as holographic wills. Material provisions of the will and the signature **must be** in the handwriting of the person making the will. Although it is not necessary to have the will dated, witnessed, or notarized, it is a good idea to date your will to avoid confusion if you should have more than one will. So, if for some reason you cannot handwrite your own will, you will have to seek the assistance of an attorney. Also, if you think your will might be contested or if you have doubts about certain provisions, or if your estate is large enough to possibly benefit from tax planning, see an attorney.

If you choose to write your own will, you can use the following clauses and provisions, modifying them to suit your particular needs. Remember, the will must be in your handwriting, and must be signed by you.

1. I, _____ (name) _____, of _____ (name of county) _____ County, Idaho, being of sound mind and under no undue influence,

¹¹ The residue of your estate means all of the property in

make my last will and testament, revoking all previous wills and codicils.

2. I direct that all my just debts and funeral expenses be paid as soon after my death as possible, and that all expenses of administering my estate taxes be paid out of my residuary estate.

3. I appoint _____ (name) _____ as my personal representative, to serve without bond. If he/she is unable to serve, I appoint _____ (name) _____ as my personal representative, also to serve without bond.

4. I give my personal and household effects as follows:

LIST

(Item of personal property)

(Person to receive property)

For example:

Tools

John Smith

5. I give the residue¹ of my estate, real and personal, to my spouse _____ (name) _____ if he/she survives me. If my spouse fails to survive me, I give the residue of my estate to my children, to be divided equally. If one of my children fails to survive me, his/her share shall be divided equally among his/her children **OR** his/her share shall be divided equally among my surviving children.

OR

I give the residue of my estate, real and personal, as follows:

For example:

30 percent to Jane Doe

20 percent to Joan Doe

50 percent to Mary Doe

your estate that has not already been distributed either in your will or by some other means.

SOME OPTIONAL CLAUSES

6. I declare that I am married to (name) and intend to confirm to my spouse his/her half of our community property and to dispose of my half of our community property and all of my separate property.

7. I give to (name) (organization) the sum of \$ _____, if he/she survives me.

8. If any person dies within 60 days after my death or under circumstances in which there is no sufficient evidence to determine whether such person had died within 60 days after my death, I shall be deemed to have survived such person.

9. The laws of Idaho shall govern all questions as to the validity and construction of this will.

(If you are married for the second time and it is your intention to leave your entire separate property to your children you should consult with an attorney).

Date _____

Signature of Testator

If you have any questions concerning holographic wills or the above provisions, contact an attorney.

CHECKLIST

Yes No

- 1. Did you read this **entire** brochure?
- 2. Did you understand all of it?
- 3. Will your estate be small enough at your death to avoid significant tax consequences?
- 4. In preparing your will, did you write in pen (not with a typewriter or computer)?
- 5. In preparing the will, did you use clean sheets of paper without other marks on them?
- 6. Did you identify yourself in the will by giving your full name and address?
- 7. Did you express your intent that the document be your will?
- 8. Did you name a personal representative?
- 9. Did you dispose of all your property through provisions of the will?
- 10. Did you write the will without any errors or erasures?
- 11. Did you sign and date the will?
- 12. Did you number the pages of the will?
- 13. Did you place the signed will in a safe place where your survivors will find it?

If your answers to all of these questions are yes, you should have a valid will.

Idaho Legal Aid Services, Inc. Area Offices

1447 S Tyrell Lane, Boise	345-0106
1104 Blaine, Caldwell	454-2591
610 W Hubbard, Suite 219 Coeur d'Alene	667-9559
482 Constitution Way, Suite 101, Idaho Falls 524-3660	
633 Main Street, Lewiston	743-1556
150 S. Arthur, Pocatello	233-0079
475 Polk, Twin Falls	734-7024
Idaho Senior Legal Hotline	1-866-345-0106
Idaho Senior Legal Hotline (Spanish-speaking)	1-866-954-2591
Domestic Violence Legal Advice Line	1-877-500-2980
TTY (Deaf & Hard of Hearing)	1-800-245-7573

Questions and
Answers About:

Holographic Wills