

Take these lists to an attorney, who will make certain that all the formal requirements for a valid will are met. He/she will also help you take advantage of any available tax savings, or make any other special arrangements, such as setting up a trust.

Can I write my own will?

Yes. In Idaho, a handwritten ("holographic") will is valid, so long as all the important provisions are in **your handwriting**. You must also **sign** the will.

If you have a complex or large estate (over \$200,000) or if you have any doubts about how to write a holographic will **see an attorney**. Wills are not expensive to draft and the mistakes you can make can be very costly.

How can I change my will?

You can change your will at any time before your death.

- You can write a new will to replace the old one. It should be dated and state "I hereby revoke all prior wills and codicils."
- You can also revoke any old will by destroying it with the intent to revoke. Be sure you also destroy all copies.
- You can change just a part of your will by executing a "codicil." A codicil is an addition to a will that may change a particular gift or add a beneficiary. It must be executed with the same formality as a will. It should also be titled as a codicil, signed, and should identify the will it is supplementing. It should be signed by two witnesses.

If you do want to change your will, see the attorney who helped you prepare it.

When should I change my will?

You may wish to update your will if, after the will is written:

- You get married, remarried, or divorced.
- You have or adopt children.
- Any beneficiaries die or become incompetent.
- You acquire new property or sell a major item mentioned in your will.
- The tax laws are substantially changed.

It is good to review your will once a year to make sure it still reflects your wishes.

Idaho Legal Aid Services, Inc. Area Offices	
310 N. 5 th Street, Boise	345-0106
1104 Blaine, Caldwell	454-2591
410 Sherman Ave, Suite 303, 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:

Wills

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, 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)
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For example:

Tools	John Smith
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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

¹ The residue of your estate means all of the property in your estate that has not already been distributed either in your will or by some other means.

50 percent to Mary Doe

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.