

What happens to my will once it is written?

The original Will must be securely stored until needed. You should retain a copy to be maintained with your important papers and identify the location of the original Will.

Can I change or revoke my Will once it is written?

You can change your Will as often as you wish during your lifetime. You may revoke your will by writing a new Will, destroying the old Will or by executing a codicil to your will. A codicil is a small supplement or addition to your will. If the devisee(s) are going to change, a new Will should be executed.

Do my witnesses have to know what is in my Will?

The law only requires that two witnesses, not related to you by blood or marriage or to any of your devisee(s), watch you sign & date the Will and that they know you have said it is your Will.

Do I have to use certain "legal" language in my Will?

There are no specific legal words required to make a Will valid. It is, however, important to use simple, clear and straight-forward language.

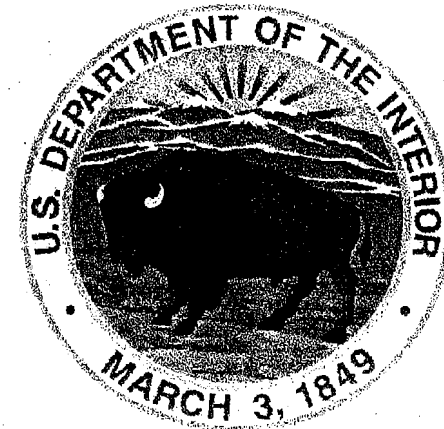
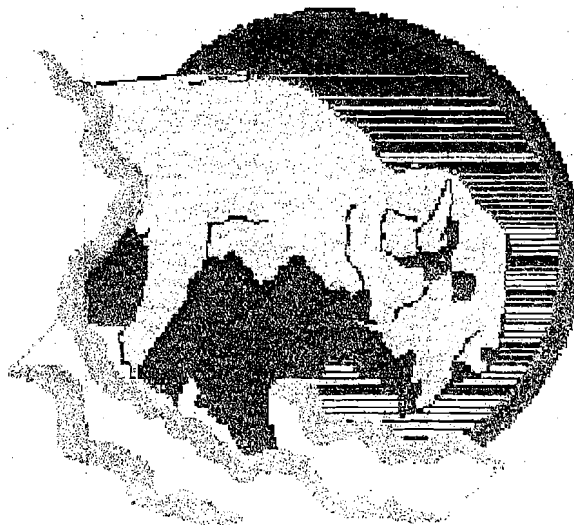
Is there anything else I might to know about making a Will?

A person must be mentally alert when he/she makes and signs a Will. Age or physical condition is not a sign of incompetence. A person must also be free of undue influence, persuasion or force when the Will is made.

FOR ADDITIONAL INFORMATION ABOUT THE AMERICAN INDIAN PROBATE REFORM ACT OF 2004 (AIPRA) CONTACT:

1-888-678-6836

EXT. 888



FREQUENTLY ASKED QUESTIONS REGARDING INDIAN WILLS AND THE IMPORTANCE OF ESTATE PLANNING

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What is a Will?

A Will is a document that provides direct instructions for distributing land or money belonging to a person at the time of his/his death. However, having a Will does not mean that you won't need to go through the probate process. Note: You must be an Indian 18 years of age or older and capable of disposing your Trust/Restricted Indian property by Will.

What is the meaning of "Probate"?

Probate is a legal process by which a judge determines who will receive your property after you die according to State, Tribal, and/or Federal law.

What do they call people who are involved in a probate or a will?

- **Decedent** -- this is the legal term for the person who died.
- **Devisee** -- person who receives property under a will.
- **Testator/Testatrix** -- person who makes a will. Properly, a man is a testator and woman is a testatrix.

What is "Trust" or "Restricted Indian Property"?

Real or personal property where title is held by the United States government for the benefit of an individual Indian or an Indian tribe. Typically, title to this property cannot be transferred to another person without the consent of the Secretary of the Interior or his/her authorized representative.

Who can prepare a Will for Me? Do I need an attorney to prepare it?

At the present time, the BIA no longer provides this service. You need to consult an attorney. Your agency should be able to provide you with names of Legal Services organizations that may or may not charge a fee for this service. If you consult an attorney, you may want them to contact the BIA for facts concerning your trust property.

Who can inherit my restricted Indian property?

WE STRONGLY SUGGEST THAT YOU PREPARE A WILL WHICH ALLOWS YOU TO CONTROL HOW YOUR TRUST PROPERTY IS PASSED BY CREATING AN ESTATE PLAN, SUCH AS A WILL OR DEED. AIPRA HAS CREATED NEW PROVISIONS ON WILLS.

When preparing a Will, you must identify the person to take property by the name, age/birthdate, tribe and his/her relationship to you. You may want to identify alternate devisee(s) in the event your primary devisee(s) predecease you. If your chosen devisee(s) are non-Indians, this must be stated in your will.

Who inherits my property if I die without a Will?

The American Indian Probate Reform Act (AIPRA) of 2004 was enacted on October 27, 2004 and changes the way trust estates are distributed to your heirs after your death. AIPRA increases the importance and benefits of writing a will or doing an estate plan. AIPRA also improves your ability to consolidate your interests in trust/restricted land.

Your trust property will pass under the new federal probate code or approved tribal probate code rather than under the state laws that currently govern Indian probate. Additional information is available through the BIA and Office of the Special Trustee for American Indians. You can call them at 1-888-678-6836, extension 888.

Since my spouse & I have all our property in both of our names, do I still need a Will?

YES! Even though your spouse will get all your jointly held property upon your passing, it is still sound estate planning to have a Will. A Will covers unforeseen situations like the simultaneous death of you and & your spouse or any additional property you may accumulate that is not jointly held. It is always advisable that both spouses have a Will since you can never be certain which spouse will die first.

What if my spouse is a non-Indian?

If your spouse is non-Indian, you may consider giving a Life Estate, meaning your spouse has the right to use the property or receive any generated income for his/her lifetime. Again, AIPRA can affect your heirs who are not Indian, be sure to seek information at your local agency or at the toll-free number listed above.

Can I disinherit a relative in my Will?

In most states you cannot disinherit your spouse. Although you can omit your non-Indian spouse in order to keep the Indian land in trust status. You can disinherit any other relative, including children. You should expressly mention the relative you want to disinherit.