**Chapter 27 Settling an Estate**

1. If the decedent died testate, the executor named in the will or some other interested person petitions the court for the allowance of the will and appointment as executor or administrator cum testamento annexo of the will.

2. Notice of a hearing on the petition is given to all interested parties by either service of process, mail, or newspaper publication.

3. The decree or judgment either allows or disallows the will, if one exists, and appoints the executor of the will or the administrator of the estate.

4. Sureties on the bond are often required unless the will otherwise provides or unless all interested parties consent to a bond without sureties.

5. The amount of the bond is usually twice the value of the personal property of the estate.

6. A will may be contested on the grounds that: (a) the will was improperly executed; (b) the testator was of unsound mind; or (c) the will's execution was obtained through the use of undue influence or fraud.

7. If a will is contested on the ground that the testator was not of sound mind, the proponent of the will (the person offering it for probate) has the burden of proving that the testator was of sound mind.

8. After being appointed, one of the first duties of the personal representative is to file an inventory with the court.

9. Creditors have from nine months to a year to make claims against a decedent's estate.

10. A federal estate tax return must be filed within nine months after the date of death when the gross estate exceeds the amount that is exempt from the tax.

11. The gross estate for tax purposes includes all property that the decedent owned at death including individually owned real or personal property, jointly owned real or personal property, life insurance, inter vivos trusts, and gifts made in contemplation of death.

12. An accounting, called the first and final account if it is the only one, is prepared to close an estate.

# Understanding Legal Concepts

1. F, testate 6. F, intestate

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4. F, twice 9. F, does

5. F, often 10. T

# Checking Terminology

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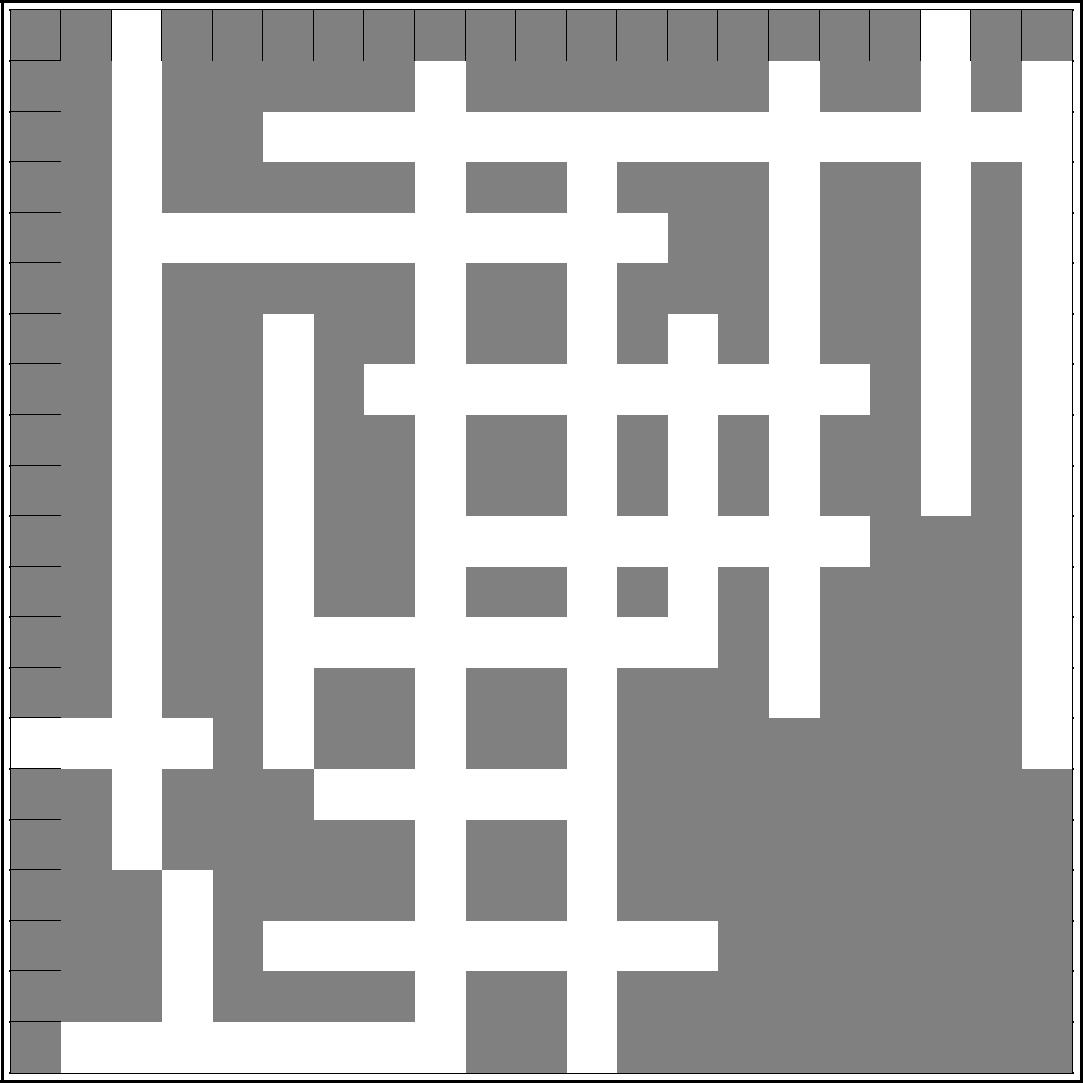
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# Using Legal Language

Soon after Kevin died, Karen filed a petition for the probate of the will and for the allowance of her **bond**, which was her promise to pay an amount of money to the probate judge if her duties are not faithfully performed. She was not required to have **sureties**—that is, people who would stand behind her in the event she failed to do her job. She then notified his next of kin and all of his **heirs**—that is, the people who inherited from his estate. After a waiting period, a hearing was held, and the court issued its decision, called a(n) **decree** or **judgment**, allowing the will. The court then issued Karen a certificate of her appointment called **letters testamentary** because this was a testate case rather than **letters of administration**, which would have been issued had Kevin died intestate. She could now be called a(n) **fiduciary**—that is, a person who holds a position of trust. Karen's first job was to file a(n) **inventory** listing the assets of the estate. Her next task was to file a federal estate tax return listing the **gross estate**, which includes the value of all property Kevin owned at his death, both in his own name and jointly with others, as well as life insurance, **inter vivos** (between the living) trusts, and gifts made within three years of death, called **gifts made in contemplation of death** or **gifts causa mortis**. Anything left to Kevin's surviving spouse, which is known as the **marital deduction**, was not taxable. Many states now have a(n) **sponge tax** which is a tax equal to the credit allowed for state death taxes on the federal estate tax return.

**Puzzling Over What You Learned**



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*Caveat:* Do**not**allow squares for spaces between words and punctuation (apostrophes, hyphens, etc.) whenfilling in crossword.

**Across**

1. Amounts inherited from the estate of one’s spouse.
2. All property that the decedent owned at death, including individually and jointly owned property, life insurance, living trusts, and gifts made in contemplation of death.
3. Between the living.
4. A detailed list of articles of property in an estate.
5. A tax imposed on the estate of a deceased person.
6. A person who inherits property.
7. The decision of a court of equity.
8. A person in a position of trust.
9. The decision of a court of law.

**Down**

1. A tax that soaks up money for the state that the estate is being given credit for in any event.
2. People who would have inherited had a decedent died intestate.
3. An accounting, if it is the only one, presented to the court in final settlement of a decedent’s estate.
4. The duty of proving a fact.
5. A tax imposed on a person who inherits from a decedent’s estate.
6. A certificate of appointment as executor of a will.
7. A person offering a will for probate.
8. A federal tax imposed on gifts totaling more than $1 million made during one’s lifetime.
9. A promise by the personal representative to pay an amount of money to the probate judge if the representative’s duties are not faithfully performed.