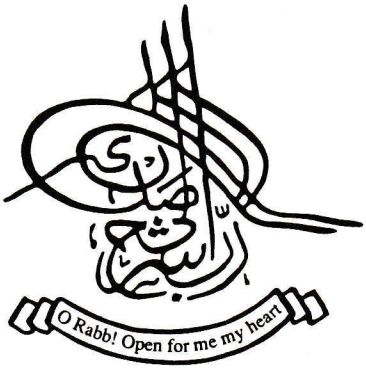
AL-Wasiyyah

"Islamic Will"

A mandatory Commandment
For the residents of
North America



By

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1. FOREWORD

Praise be to Allah, the Cherisher and Sustainer of the worlds and may His peace and blessings be upon the Prophet, his family, his companions, and those who follow his guidance until the day of Resurrection. Our main problem today is not that Islam has nothing to offer about the issues which humanity is facing today, but that we, the Muslims, are not following the principles of Islam to save our honor, religion and interest of our immediate family which are so dear to us. What have we practically done to protect those very interests for which we have sacrificed the Islamic Values in lieu of the western way of life i.e. hard earned wealth? Have we made sure that it will be used by our family and not consumed by the probate system? The fact of the matter is that our priorities are so much mixed up that some times we overlook the very fact of death and make no plans to safeguard the interest of our family after our death. Allah has mentioned death before life when guiding us relating to our struggle during our life on earth in Sûrah Al-Mulk: *"He is the One Who created death and life, so that He may put you to test, to find out which of you is best in deeds. He is the All-Mighty, the All-Forgiving. 67:[2]"* As a result we leave the family in a mess for which we ourselves are responsible and cannot blame the local American Laws. Just imagine, what we want to leave behind after all the hard work which we have done during all of our lives? A family which will be forced to go to the local courts to gain an access to our bank account and other assets even for their daily necessities of life, therefore, cursing us instead of being grateful to us! Well that is exactly what is going to happen if you don't leave a "Will" behind you to save them from the local court system which may eat up as much as 70 to 80 percent of your assets by the time your family is through the legal battle. Your spouse having every thing you left for her may not be able to use anything and may even have to work to support herself. Local court may even appoint a Christian or a Jew to be the guardian of your minor children.

Muslims coming from Muslim countries do not realize these atrocities because the Shari'ah Laws are recognized and enforced by the governments over there. They must realize that United States government does not have Shari'ah laws. You should know that Islam is the only religion which has the complete laws of Inheritance, fair and equitable, enacted by Allah Almighty himself. These laws have made the Islamic Will & Testament very simple and brief. Will is the strongest instrument one can have to enforce Shari'ah laws here in the United States. Your are lucky to be in United States because "Will" is enforceable in all 50 states according to your wishes by the local courts of law.

Allah's commandments in Sûrah Al-Mâ'idah (verses 44, 45 & 47), initial Will document published by MSA through Br. Mahmoud Rashdan and the efforts of other brothers, may Allah reward all of them for their good work, was the motivating factor to complete this manual in order to update their 1980 work and to explain the various terminologies and questions relating to Wills, Probate system, Revocable living trust and so on. Having being a

litigation attorney for 6 years with special emphasis in Islamic Law (Shari'ah) in Pakistan and Islamic worker for last 43 years of which 30 years being in United States, I felt obligated to provide this information and help the Muslim brothers and sisters in North America to fulfil their Islamic obligation and safeguard their assets through leaving a properly drawn Will.

In dealing with the subject I have recorded only what is necessary for the reader to know about the Wills, American Court System and Laws of Inheritance. This document is written for laymen and not for attorneys even though I had this manual reviewed by Attorneys, Bar associations, Ulema and Jâmia Al-Azhar Al-Sharif. For detailed information about a particular State Law, since the Laws may differ in some respects like "Community Property" from State to State, the reader is advised to consult an attorney.

At the end I would like to pray for all brothers and sisters who helped and encouraged me to complete this work with the grace of Allah. I would also like to request you to remember us in your prayers. May Allah accepts this humble effort, which I have made for His pleasure alone and dedicated for His cause free of any compensation, reward or royalty for this work in favor of The Institute of Islamic Knowledge for the development of Islamic literature and Da'wah material. May Allah guard us and help us to strive hard for the cause of Islam, His forgiveness and pleasure.

Âmeen

Muhammad Farooq-i-Azam Malik

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2. INTRODUCTION

Allah Almighty sent Muhammad (peace be upon him) with the true way of life and complete code of law which provides mankind all what is needed in this life and in the Hereafter. His message is for the whole mankind for all times to come. Islamic law is for practical life of a human being and prepare him to be just to himself, his family, his friends and community at large.

Allah Almighty has clearly commanded in Al-Qur'an:

> *"Those who do not judge by the law which Allah has revealed, they are indeed Kafirs (unbelievers)."* (5:44)

In the very next verse it is again repeated in the following words:

> *"Those who do not judge by the law which Allah has revealed, they are indeed Zalims (wrongdoers)."* (5:45)

In the same section with an interval of one verse it is again repeated in the following words:

> *"Those who do not judge by the Law which Allah has revealed, they are indeed Fasiqs (transgressors)."* *(5:47)*

We the residents of North America know that the Islamic Law is not recognized and enforced by the local courts. Question arises what should we do? Can we judge by the Law which Allah has revealed in order to save ourselves from being unbelievers, wrong doers and transgressors? The answer is. Yes, we can! How? Through leaving a properly drawn "Will." Now we should ask ourselves another question: if we have the opportunity and ability to enforce the Laws which Allah has revealed (The Laws of Inheritance) through executing a Will, and we do not, what excuse will we have on the Day of Judgement for not doing so? Remember, on the Day of Judgement our own family members will bear witness against us that we left them at the mercy of Kafirs and that judgement relating to our estate was made by the Kafir Laws instead of the Law of Allah Almighty? Allah has made the writing of a will mandatory through giving an ordered in the Qur'an in Sûrah Al-Baqarah in the following words:

> *"Will is made obligatory before the death of any one who is leaving some property behind him, that he should bequest it equitably for his parents and relatives. This is a duty incumbent on the righteous." (2:180)*

Muslims living in North America who own any property that is subject to inheritance and do not execute and leave a will are in direct violation to all the above stated commandments of Allah, therefore, are putting their faith in jeopardy as a believer. Following Ahâdith of Rasool Allah (peace be upon him) shed more light about the issue of leaving a Will:

Ibn Sayyidunâ Umar reported:

"It is not right for any Muslim person who has anything to bequeath that he passes even two nights without having his will written". *- Agreed (Mishkât # 2938)*

In another Hadith reported by Sayyidunâ Abu Hurairah, Rasool Allah said:

"Men and women make 'Ibâdât to Allah for sixty years when death approaches they hurt someone in their will (debarring the lawful heirs or bequeathing more than 1/3 of there estate), thus making themselves worthy of Hell Fire".
- Tirmazi, Abu Dawood & Ibn-e-Majah. (Mishkât #2942)

In another Hadith reported by Sayyidunâ Jabir, Rasool Allah said:

"Anyone who executed a will, provided he was on the Right Path, followed the Sunnah and was righteous, witnessing to the truth; he died in such a condition that he is forgiven (by Allah)". *Ibn-e-Majah (Mishkât # 2943)*

It is very clear form the above quotations of Al-Qur'an and Ahâdith that any Muslim who has some property must execute a Will, being fair to every one, in which the desire to implement the Islamic law of Inheritance is clearly expressed. Unless we do so, the State Laws of inheritance will apply to your estate, a sample of how your estate will be handled in case of intestacy (when you leave no will) is spelled out in "State's Will and Testament" in item #10 of this Manual. The importance of writing a Will from Islamic point of view can not be stressed more when Allah Himself and His Rasool (peace be upon him) have done. They have made it so clear that there is no room for saying anything else.

Will, various elements affecting the Will and their execution are explained in this Manual along with a sample of "Islamic Will and Testament" and Shari'ah Schedule of distribution spelling out the Islamic Law of Inheritance in detail.

WILL, PROBATE
AND
REVOCABLE LIVING TRUST

Definitions and Explanations

1. WILL

A Will is a legally recognized instrument used to dispose off a decedent's property, appoint a guardians for minor children and name a person or entity to "execute" or carry out the dispositional terms of the Will. A Will, like other legal instruments, including trust agreements, can be contested in a court of law. The primary basis for such contests is the allegation that the person was not of sound mind and memory when the instrument was executed or that its execution was procured by fraud or undue influence. Contesting of Wills or trust instruments is extremely rare.

Contrary to common belief, a Will need not be probated. A family can agree to follow the terms of the Will and privately administer the provisions of Will by such means as bonds in lieu of probate, affidavits of heirship, and family settlement agreements. If no Will or trust counterpart is executed, a deceased person's estate will be distributed in accordance with the laws of the state of the decedent's residence. A Will can incorporate a trust or trusts commonly called "testamentary trusts." A Will can pass assets in accordance with the laws of Islam and fulfill the requirements of Shari'ah. Interpretations of Wills are supported by a very substantial body of laws which assist courts in interpreting the decedent's intentions.

A Will must be filed with the court but need not be probated. If a family desires not to probate a Will, but disputes arise among the family members at a later time, one or more of the family members may elect to have the Will probated and thereby supervised by the court and to obtain direction and safeguards from the court.

In your Will, you may designate certain individuals or other entities to fulfill certain duties involving gathering and distributing your assets, probating your Will, and guardianship of your minor children. The titles used in your Will are Executor, Trustee and Guardian. I have discussed each term to help you understand and select someone to serve in those capacities as well as their alternates.

A. **Executor:**

The executor is responsible for gathering the assets that are to be disposed of under your Will. The Executor will be responsible for paying any debts or taxes you may

still owe. The Executor will also probate the Will in Court and assure that your property is conveyed to the persons entitled to receive it.

Often, a husband and wife will designate each other to be the Executor. However, you may select whomever you feel will best perform the duties involved. You may also select alternate Executors in the event your first choice predeceases you or is unable, unwilling or unsuitable to serve. In addition, you may designate your Executors to be independent; that is, they may carry out their day to day responsibilities without continual approval by the Probate Court. This procedure, will save your estate both time and money.

B. **Trustee:**

If you feel any of your beneficiaries is not able to manage his share of inheritance, you may appoint a Trustee to manage it for him. Generally, a Trustee is desirable when your beneficiaries include minor children, either your own, your grandchildren, or other children who may inherit from you.

The duties of the Trustee include gathering and preserving the Trust assets, collecting income from the assets, and distributing them according to the instructions of your Trust. Often, the person who serves as Executor is the person who serves as Trustee. However, you may select whomever you feel is best qualified to perform the duties of a Trustee.

C. **Guardian:**

You may also designate a guardian in your Will for any minor children you and your spouse may leave. The guardian may be the same as your Executor or Trustee.

2. BEQUESTS:

In so far as it disposes of your property, the bequests are the most important part of your Will. Great consideration should be given as to how and to whom you bequeath your estate.

A. **General Bequest:**

A typical Will contains a general bequest clause which passes all your property (real estate, cash, autos, etc.), except specific property bequeathed to specific beneficiaries. The beneficiaries of your general bequests may be an individual (like your spouse) or

a group (like your children) and in whatever shares you indicate. You may also designate alternate beneficiaries (like your grandchildren, nephews, etc.) in the event your primary beneficiaries predecease you.

Thus, whatever property interest you have will pass to the beneficiaries that you designate and in an order that you elect. You may add or dispose of any property during your life and it will not affect the general beneficiaries.

B. **Special Bequests:**

You may also earmark certain property for certain beneficiaries (such as the ISGH, IEIT, IIK, ISNA, MSA, ICNA, TINA a particular Masjid, relative or a friend etc.) Thus, you may state that you give $1,000.00 to A or you give your automobile to B, and so on. However, if you do not have that certain property, which you designated as such, your beneficiary will not be able to receive it. For instance, if you give your automobile to B, but sell it, then B does not have anything to receive. After making your specific bequests, you may then have a general bequest to pass the balance of your estate to your heirs.

3. REVOCABLE LIVING TRUST:

A revocable living trust is somewhat like a "Will substitute". It can dispose of assets after a decedent's death in the same fashion as a Will. A trustee administers the trust terms much like an executor of a Will.

A revocable trust can do more than a Will; it can provide for administration of the trust's assets during the lifetime of the creator of the trust (often times called a "settler" or "grantor") when he or she becomes incompetent. It can avoid expensive and embarrassing court guardianship proceedings and preserves the privacy of the settler's affairs. A power of attorney should also be executed by the settler to cover other assets not held by the trust to handle his other business affairs. The revocable trust can incorporate and pass assets in accordance with the laws of Islam and fulfill duties under Shari'ah. The administration of the trust before and after the settler is not subject to the jurisdiction of the probate court and is, therefore, private. There is no doubt the services of an attorney will be needed to assist in the administration of the revocable trust after the settler's death, especially with fiduciary accounting, fiduciary tax return (if required), assisting with principal and income items, selling and liquidating assets such as real estate and business assets. Services can be satisfactorily negotiated if an attorney charges on a percentage basis with a revocable trust. Keep in mind, however, that a percentage fee may be less in the long run than an hourly-fee basis, depending on the complications of the estate and similar factors.

A trustee and successor trustees can and should preferably be family members (if possible). The terms set forth in the trust must be strictly adhered to by the trustee, and he may be individually liable for breach of duty in compliance with the terms of the trust. The trustees will have the same duties as an executor in a probate case such as inventorying and marshalling assets, liquidating and distributing assets, accounting to the recipients of the trust such as principal and income, filing fiduciary income tax returns and federal estate tax return, if required.

While the settler is living, he can be the initial trustee and has full access to the trust assets. He can also alter, amend or revoke the trust at any time. Under these circumstances, the settler need not apply for a federal employer's tax identification number nor is he required to file federal and state fiduciary income tax returns; he can merely report the net income from the trust on his personal return using his Social Security number. A settler can name the trust as beneficiary of life insurance proceeds, IRA, pension benefits and annuity funds. (A person can also do the same with a Will.)

A person must also execute a "pour-over Will." As to assets not already placed in the revocable trust, the Will pours the assets over into the trust. The Will may be probated (unless the family elects not to as discussed above). It is important to "fund" the trust during the settler's lifetime and place as many assets as possible into it so that few assets, if any, will be passed to the revocable trust under the "pour-over Will." Failure to adequately fund the revocable trust during the settler's lifetime will defeat its purpose.

A revocable trust can be contested if it is alleged that its execution was procured by fraud or undue influence. A revocable trust avoids ancillary probate administrations. If a person owns real estate in several states, the real estate may be probated in the respective states where located, but by placing the titles to the real estate in the name of a revocable trust, such ancillary administrations can be completely avoided.

4. COMMUNITY PROPERTY:

It means that all the property acquired during the marriage is shared equally by husband and wife even though only one spouse had the earnings and / or paid for the acquisition of that property weather real or personal. In those States where property is considered a community property. In the absence of a properly drawn Will your estate will be distributed in accordance with community property laws. These laws have the following implications:

A. If you have children, your wife (or husband) inherits NOTHING. She (or he) already owns 1/2 of the community estate.

B. Your children take your ENTIRE one-half of the community property.

C. Your wife may have to go to work because her half may not be enough to support her, while she may still have the legal obligation to support the children.

D. *An ADMINISTRATION* may be necessary.

a. Why an administration?	You may have creditors who would insist on it. Also, some stock transfer agents might insist on it.
b. Who would supervise the administration?	The Probate Court.
c. Who would the administrator be?	Whoever the Court appoints. May be a creditor.
d. Wouldn't he has to post bond?	He would.
e. Wouldn't all this cost money?	It certainly would.
f. Could I avoid such a court-supervised administration by a properly drawn will?	Yes, you can.

E. *A GUARDIANSHIP* may be necessary for the estate of your minor children.

a. Why might a guardianship be necessary if I leave no will?

- To protect the property and rights of the minors.
- To sell their interest in the home, personal property and the stocks.
- To handle the children's money.
- Social Security and the Veterans Administration may require it before they will pay certain benefits.

b. Who would appoint the guardian? The Probate Court.

c. Who would supervise the guardianship? The Probate Court.

d. Would the guardian be required to post a bond? Yes.

e. Wouldn't all this cost money? It certainly would.

f. Can it be avoided? Yes, with a properly drawn will.

5. PROBATE AND ITS SYSTEM OF OPERATION:

Probate is a division of the local courts system, called the Probate Court. It supervises the administration of decedent's estate form the time a Will is declared valid by the court to the ultimate discharge of the executor from further responsibility of his or her duties in administering the terms of the Will. The primary purpose of a probate is the protection of interests and rights of all interested parties in the decedent's estate, and to provide guidelines for the executor of the Will.

Probate involves the following:

A. An inventory and appraisal of assets is made for the protection of all interested parties and of the executor and to establish cost basis for federal income tax purposes.

B. An accounting of all assets, liabilities, post-death income and post-death expenditures are made, whether administration of the estate is in probate or by a trust. The Probate Court mandates the preparation of an accounting for the protection of all interested parties. The accounting is necessary for fiduciary income tax purposes and to comply with the principal and income Act of the state in which a decedent resided.

Although the Probate Court has jurisdiction over administration of the Will, there is, in reality, very minimal contact with the court. An attorney would usually spend less than two (2) hours in court for an ordinary estate, one court appearance to open the estate and one to close it. The inventory and accounting report of the executor is "filed" with the Court Clerk.

A Probate Court does not "take" any part of the estate's assets other than a required filing fee to open the estate (normally $100.00 or so) and a required publication of a creditors claim notice in a newspaper. The fees are those of the attorney and the executor. Attorney fees are always a matter of negotiation with the client and may sometimes be a percentage of the value of the probate estate, a percentage of the entire estate (probate and non-probate) or an hourly rate. An executor is also entitled to be paid for his or her services, but if he/she is a family member, the fee is usually waived. The reasonableness of all attorney fees and executor fees must be determined by the court before they can be paid. The key to minimizing costs is negotiating a satisfactory charge for services in handling the estate and appointing family members as executors.

Probating a Will is always good because it restricts the estate creditors claim period - usually six (6) months form the date of opening the estate - after which any creditor of the decedent who fails to file a claim against the estate is forever barred from collecting the alleged debt. If the estate is not probated, creditors may have three to five years within which to make claims directly against the individuals who received the estate assets. Although the probate estate is usually not fully distributed prior to the six month creditors claim period, partial distributions can be made almost immediately after the estate is opened. Sometimes an agreement to indemnify the estate is required in case a creditor files a claim and the distributed assets deplete the estate to the extent that a bona fide creditor cannot be paid with the remaining assets.

Once a probate estate is closed by the court, the executor is legally relieved from further responsibility to the estate beneficiaries. Some causes of delay in probate or trusts are as follows:

A. Dilatory conduct on the part of the attorney and/or the executor.

B. Delay in the process of selling assets of the descendent such as with real estate, business assets, collecting and paying debts, etc.

C. Waiting for the Internal Revenue Service to grant a "closing letter" before all assets can be distributed.

D. Marshalling and inventorying assets of the decedent. And

E. Carrying out distributions of assets to charities and/or family members and friends.

6. HOW TO AVOID PROBATE EXPENSES?

You Can avoid probate expenses by leaving a properly drawn Will, which provides for an independent administration, whereby an executor of YOUR choice, serving without bond, winds up your estate. At the Probate Court, he need only prove up your will, and file an inventory, and appraisement, and a list of claims. There is no further court supervision.

A. Is such an independent administration possible in all states?

No. In some States, such as Texas, the probate laws make it possible to incur minimum possible expenses if you leave a properly drawn will.

B. How much will it cost?

Surprisingly little, for an uncomplicated will, probably no more than a lawyer would have to charge for making one appearance in the Probate Court. But if you leave no will, your spouse's lawyer, or the lawyer for the court appointed administrator or guardian, may be required to make many such appearances.

7. WHO CAN MAKE A WILL?

You can, if:

A. You are of sound mind; and

B. You are eighteen years of age, or

C. You are lawfully married, or

D. You are in the armed forces or auxiliaries, or the maritime service.

8. WHAT DOES A WILL DO?

Nothing....until you die!

A. It determines who receives a person's property at his death.

B. It can be changed by the maker at any time or as many times as he wants. The latest executed Will shall supercede earlier Will documents. No one gets any property so long as the person making the will lives.

C. It can save death taxes and expenses.

D. A properly drawn Will can save or avoid many problems created by the death of an individual who did not execute a Will.

9. CAN I DRAW MY OWN WILL?

Yes, you can. But if you are a millionaire, you will be better off in leaving it to a professional.

A. May I name my wife or husband as an executrix or executor?

Yes, you may.

B. Is it wise to name my wife executrix?

Not always. She may not have the business training or experience necessary to administer your estate, and you may wish to relieve her of this burden, by naming a trusted and capable friend or relative.

10. WHAT IF I DON'T HAVE A WILL?

In such a case, the State shall enforce her own 'WILL.' For example the Will of State of Texas shall read:

WILL AND TESTAMENT OF THE STATE OF TEXAS

FIRST ARTICLE

I give my wife only one-third of my separate personal property and a life estate in one-third of my separate real property, but I give her none of my community property. I give my children the remaining two-thirds of my separate estate and all of my community estate.

A. I appoint my wife as Guardian of my children, but as a safeguard, I require that she report to the Probate Court each year and render and accounting of how, why and where she spent the money necessary for the proper care of my children.

B. As a further safeguard, I direct my wife to produce to the Probate Court a Performance Bond to guarantee that she exercises proper judgment in the handling, investing and spending of the children's money.

C. As a final safeguard, my children shall have the right to demand and receive a complete accounting from their mother of all her financial actions with their money as soon as they reach legal age.

D. When my children reach legal age, they shall have full right as to how and whichever way they decide to spend their respective shares. Should there be property with my wife, they shall have the right to file a law suit in District Court and force the sale of such property to gain their interest although my wife may be dependent upon the income from such property for her livelihood.

SECOND ARTICLE

Should my wife remarry, and thereafter die having made no legal will, her second husband shall be entitled to one-third of her separate personal property and one-third life estate in her separate and real property.

A. Should my children need some of this share for their support, the second husband shall not be bound to spend any part of his share on my children's needs.

B. The second husband shall have the sole right to decide who is to get his share, even to the exclusion of my children.

THIRD ARTICLE

Should my wife predecease me or die while any of my children are minors, I do not wish to exercise my right to nominate the Guardian of my children.

Rather than nominating a Guardian of my preference, I direct my relatives and friends to get together and select a Guardian by mutual agreement. In the event that they fail to agree on a Guardian, I direct the Probate Court to make the selection. If the Court wishes, it may appoint a stranger acceptable to it.

FOURTH ARTICLE

Under existing tax law, there are certain legitimate avenues open to me to lower death taxes. Since I prefer to have money used for governmental purposes rather than for the benefit of my wife and children, I direct that no effort be made to lower taxes.

FIFTH ARTICLE

Although I may name an Independent Executor and provide that no action shall be taken in the County Court regarding the settlement of my estate other than probating and recording of my will, filing an inventory, appraisement, and list of claims of my estate, I direct by my inaction that my estate be entirely supervised by the Probate Court.

A. I direct my widow and children to apply to the Probate Court for a Widow's and Family Allowance to maintain themselves for the 12 months immediately following my death.

B. I further direct that my wife shall first apply to the Probate Court for permission to pay my just debts out of my estate.

C. If it is necessary to sell or dispose of any of my real or personal property in order to satisfy any of my just debts, I want my wife to apply for permission to make such disposition on whatever terms the Probate Court requires.

IN WITNESS WHEREOF, I have set my hand and seal to this , my Last Will and Testament, consisting of ___ pages, on this _____ day of _____, 2000.

By the State of Texas for ___YOUR NAME APPEARS HERE___

11. THE CHOICE IS YOURS!

If you agree with the above Will then don't bother to write one, State already have the above stated Will for you. But if you don't like the State's Will and Testament and you want to enforce the Shari'ah and remain a believer, then you should draw your own Islamic Will and Testament. Guidance is clear and the Choice is yours!

Here are some instructions, guidelines, Shari'ah requirements, will Questionnaire and a Sample of Islamic Will and Testament.

12. INSTRUCTIONS TO DRAW A WILL:

A. The name of the state (province) and county should be mentioned at the beginning of the Will.

B. Identify testator (the person who is executing a Will) in a consistent way and use his name as written on the title to properties. Write the middle name clearly and consistently on all documents and throughout the Will. Married women may use maiden or marriage names but must be consistent in writing the same name on all documents.

C. Select witnesses who are young and who are unlikely to move far away, so that they may be around if needed at the time of the execution of the Will. The same applies to Notary Publics.

D. If your estate is considerable, consulting a lawyer and/or tax specialist on ways and means to save on estate taxes, both Federal and State, is highly recommended. There are many ways of saving on estate taxes without violating the Islamic rules of inheritance. Attention should be paid to marital deductions, generation skipping, selecting the taxable year of the estate, selection of valuation date of the property of the estate, differences between simple Will and Wills with trust, etc.

E. Signature at the end of the Will should be done in the presence of the witnesses and the Notary Public. The signatures of the testator, witnesses, and Notary Public should be original on all copies. You should sign every page of each copy of the Will in the designated place at the bottom of each page.

F. You may find it better to keep two copies with you instead of one. In this case, make four copies and keep two copies with you but in two different places, such as a safe, or deposit one in your bank or at your office.

G. In some States the spouse is given a minimum legal right to the estate such as one-third, or one-half. Also, in the States that apply the community property rule, one-half of the property is considered a property of the surviving spouse. In those cases, the spouse may challenge the Last Will and Testament in court. To avoid such a challenge, you may have to consult with your lawyer to write an agreement between you and your spouse to consent to your Last Will and accept the share assigned to him/her in your Will and expressly resign the right to challenge the Will by all means for certain considerable compensation. Such a contract may have to be attached to the documents of your Last Will and Testament.

H. Periodical reviewing of the Will is always recommended, especially for the purpose of tax saving. However, each time you review your Will, be sure to implement all the Shari'ah and the legal requirements.

I. Select for executor a young, practicing Muslim, preferably your son or daughter, You may appoint your spouse or any friend.

13. SHARI'AH REQUIREMENTS RELATING TO WILL AND BEQUEST:

A. The total value of charitable contributions and testimony transfers must not exceed one-third of the net value of the estate, i.e., the value of the estate after the deduction of expenses and taxes. Shari'ah, requires the testator to be very careful not to exceed one-third of his/her net estate.

a. Testamentary transfers to anyone who receives any share (large or small) is not allowed in Shari'ah. Consequently, in this Article the name of any person who received any part of the estate must not appear. These include parents, husband and wife, and sons and daughters because whenever the testator is survived by any of these heirs, they have certain shares in the net estate.

b. Charitable contribution is a very good type of Sadaqah and is highly rewarded, *Insha Allah*. However, if the value of net estate is small, it is recommended

to reduce or eliminate such contribution in order to leave the heirs more (or all) of that small estate. It is recommended that the Islamic Centers, Islamic Schools or the Institute of Islamic Knowledge be made the beneficiary of such charitable contributions. Such contribution is deductible for the purposes of estate taxes. However, if the testator desires to have such contributions used for tax saving, he/she must be sure that the organization named is tax exempt.

c. The testator may like to accommodate what is known in some schools of jurisprudence as the obligatory testamentary transfer. Obligatory testamentary transfers are shares in the estate assigned to sons and/or daughters of the testator's children who died in the lifetime of the testator. These grandchildren are given, according to some schools of jurisprudence, the share their parents would have received, had they survived the testator, provided that this share together with other contributions and transfers do not exceed one-third of the net estate. This case applies when a person is survived by sons or daughters, and grandchildren whose deceased parent was the testator's own son or daughter. Without the obligatory testamentary transfers such grandchildren are disqualified because the testator is survived by his own children. (See case number 1 of attached Schedule of Distribution.) Thus, if the testator likes to include such grandchildren, a paragraph should be added to Article III, of the Islamic Will, to read as follows:

I ordain/direct that if, at the time of my death, I am survived by son(s) and/or daughter(s) and son(s) and/or daughter(s) of my son(s) and/or daughter(s) whose father(s) i.e., my son(s), or mother(s), i.e., my daughter(s) died before me, these grandchildren shall inherit from me according to the following:

i. Their total share shall be equal to the share that accrues to their father(s) and/or mother(s) if they were alive at the time of my death, provided that the total share of such grandchildren added to other transfers and contributions in Article III does not exceed one-third of net estate after implementation of Article II.

ii. The said share shall be divided among them so that all male grandchildren are equal in their class and all female grandchildren are equal in their class and each grandson receives twice as much as each grand daughter.

B. The testator might like to assign a certain amount or proportion of his/her estate to some persons who are not heirs such as a non-Muslim spouse, a non-Muslim parent(s) and foster or adopted children. This testamentary transfer must also stay within the limit of one-third of the net estate.

C. Non-Muslim relatives may not inherit from a Muslim because of the several authentic traditions of the Prophet (peace be upon him) to this effect. For example, Sayyidunâ Usama bin Zaid reported that Rasool Allah (peace be upon him) said: "A Muslim can not inherit from a Non-Muslim and a Non-Muslim can not inherit from a Muslim." Agreed upon - (Mishk'at #2192) In an other Hadith Sayyidunâ Abdullah Bin Umerra reported that Rasool Allah (peace be upon him) said: "Persons belonging to two different religions can not be combined in the inheritance."

Abu Dawood, Ibn-i-Maja, Tirmazi - (Mishk'at #2915)

D. In Shari'ah, a murderer or an accessory in the murder of a person, may not inherit from him/her at all whether by virtue of relationship (kin or in-law) or by virtue of testamentary transfer. Sayyidunâ Abu Hurairah reported that Rasool Allah (peace be upon him) said; "Murderer can not inherit (from the estate of the victim)".

Tirmazi, Ibn-i-Majah - (Mishk'at #2916)

E. Illegitimacy is considered a break in the line of relationship. However, since there is a chance that in North America Islamic marriages may not always be registered in the civil records, there should be recognition of such marriages.

F. Any fetus conceived before the death of the testator is recognized in Shari'ah as a full-fledged heir if born alive within the normal (Islamically-acceptable - which is one year) period of pregnancy.

G. As for the widows, Allah commands in the Qur'an: " Those of you who die and leave widows, should bequeath for them a year's maintenance without causing them to leave their homes; but if they leave their homes on their own, there is no blame on you what they chose for themselves in a fair way. Allah is Mighty, Wise. *Al-Baqarah 2:[240]*

H. In the Islamic system the treasury of an Islamic State is the heir of those who have no heirs. But since an estate of a Muslim may not be inherited by non-Muslims, it becomes very important to name an Islamic organization that shall receive any residue after the distribution of all shares. This clause is of special significance for Muslims who are not survived by Muslim relatives.

14. SOURCES OF INFORMATION:

AL-Qur'an
AL-Hadith
M.S.A.: Last Will and Testament
Tax Facts: Bob Bullock, Texas Comptroller of Public Accounts
Your Estate under Texas Law: John Sharp, Texas Comptroller of Public Accounts
Do I need a Will? : Texas Bar Association

WILL QUESTIONNAIRE

The following information is needed so a law office may complete your will. These questions and comments may also help you understand the significance of a Will and goals you may accomplish.

Please fill in the questionnaire completely and accurately. Please PRINT in PENCIL.

1. PERSONAL DATA:

State your full name:

_____

First Middle Last

Present Address: _____

Street City

_____

County State Zip

Home (Tel.) _____ Work (Tel.) _____ D.O.B: _____

Month Day Year

Present age: _____ Name the present spouse: _____.

2. CHILDREN:

Give the following information for children born or adopted by you and your present spouse:

First, Middle & Last Name Date of Birth Age

1. _____
2. _____
3. _____
4. _____

Give the same information for children born to you or adopted by you from prior marriages but NOT adopted by your present spouse:

	First, Middle & Last Name	Date of Birth	Age
1.	_____		
2.	_____		
3.	_____		

3. ASSETS:

The inheritance tax law must be considered when you prepare your Will. In general, there is no tax liability if the value of your estate is below $675,000.00. In order to aid you in determining your taxable estate, you may complete the following:

PROPERTY	DESCRIPTION	$ VALUE
Real Estate	_____	_____
	_____	_____
	_____	_____
Automobiles, Mobile Homes, and other Vehicles	_____	_____
	_____	_____
	_____	_____
Boats, Motors	_____	_____
Jewelry	_____	_____
	_____	_____
Collectors Items	_____	_____
Bank Accounts	_____	_____
	_____	_____
	_____	_____
Stocks & Bonds	_____	_____
	_____	_____
Antiques	_____	_____
Other Personal Property	_____	_____
	_____	_____
	_____	_____
Life Insurance Policies	_____	_____
	_____	_____
	TOTAL ESTIMATED ESTATE	$ _____

4. PEOPLE WHO WILL ADMINISTER YOUR ESTATE:

In your Will, you may designate certain individuals or other entities to fulfill certain duties involving gathering and distributing your assets, probating your Will, and guardianship of your minor children. The titles used in your Will are Executor, Trustee and Guardian. We will discuss each duty and you may select someone to serve in those capacities as well as alternates.

A. **Executor:**

The Executor is responsible for gathering the assets that are to be disposed off according to your Will. The Executor will be responsible for paying any debts or taxes you may still owe. The Executor will also probate the Will in Court and assure your property is conveyed to the persons entitled to receive it.

Often, a husband and wife will designate the other to be the Executor. However, you may select whomever you feel will best perform the duties involved. You may also select alternate Executors in the event your first choice predeceases you or is unable, unwilling or unsuitable to serve. In addition, you may designate your Executors to be independent; that is, they may carry out their day to day responsibilities without continual approval by the Probate Court. This procedure, as allowed by the State of Texas, will save your estate both time and money.

Please give the full names of your choices, in the order of preference, for an Executor. In addition, state their present addresses and their relationship to you. (You may select as few or as many as you wish.) Use a blank paper if necessary.

Full Name and Address **Relationship**

_____

_____

_____

B. **Trustee:**

If you feel any of your beneficiaries is not able to manage his/her inheritance, you may appoint a Trustee to manage it. Generally, a Trustee is desirable when your beneficiaries include minor children, either your own, your grandchildren, or other children who may inherit from you.

The duties of the Trustee include gathering and preserving the Trust assets, collecting income on the assets, and distributing them according to the instructions of your Trust. Often, the person who serves as Executor is the person who serves as Trustee. However, you may select whomever you feel is best qualified to perform the duties of Trustee.

Please give the full names of your choices for Trustee, in the order of preference. In addition, please state their present addresses and their relationship to you. You may have as many or as few choices as you wish. Use additional paper if necessary.

Full name and Address **Relationship**

_____

_____

_____

C. **Guardian:**

Your Will may also designate a Guardian for the minor children you and your spouse may leave. The guardian may be the same as your Executor or Trustee. Indicate your choices for Guardian in the order of preference. You may select as few or as many as you wish. Use additional paper if necessary.

Full Name and Address **Relationship**

_____

_____

_____

5. BEQUESTS:

In so far as it disposes off your property, the bequest is the most important part of your Will. Great consideration should be given as to how and to whom you bequeath your estate.

General Bequest:

The typical Will contains a general bequest clause which passes all your property (real estate, cash, autos, etc.), except specific property bequeathed to specific beneficiaries. The

beneficiaries of your general bequests may be an individual (like your brother) or a group (like your brothers and sisters) and in whatever shares you indicate. You may also designate alternate beneficiaries (like your grandchildren, nephews, etc.) in the event your primary beneficiaries predecease you.

Thus, whatever property interest you have will pass to the beneficiaries you designate and in an order you elect. You may add or dispose of property during your life, however it will not affect the general beneficiaries.

Special Bequest:

Special Bequest is to earmark certain property for certain beneficiaries (such as the ISGH, IEIT, IIK, ISNA, MSA, ICNA, TINA, a particular relative or a friend etc.) Thus, you may state that you give $1,000.00 to A or you give your automobile to B, and so on. However, if you do not have that certain property, your beneficiary will not be able to receive it. For instance, if you give your automobile to B, but sell it, then B does not have anything to receive. After making your specific bequests, you may then have a general bequest to pass the balance of your estate.

Suggested Approaches to Bequests:

We suggest a husband and a wife may wish to consider the following, generally accepted method:

1. Each spouse leaves all their property to the other in trust for children and then let the spouse distribute according to Islamic Law, in case the spouse is a Muslim.

2. However, if your spouse predeceases you, or you are divorced, then your property would go to your children (in trust, if minors), in accordance with Islamic Law documented in the Schedule of Distribution.

3. However, if any of your children predeceases you, your share shall go to the rest of your children, in accordance with the Schedule of Distribution.

We suggest the following for the single parent:

1. Your property would pass to your children (in trust, if minors) in accordance with the Schedule of Distribution.

2. If any child predeceases you, his/her share shall go to your other children, in accordance with the Schedule of Distribution.

We suggest a single person with no children to consider the relatives and in case of no relatives, the Islamic Center, Islamic School or the Institute of Islamic Knowledge to pass on his/her estate.

NOTES:

1. Special provisions may have to be made if there are children from prior marriages not adopted by your spouse.

2. In a community property state. Thus generally, you own only one-half of the property accumulated during the marriage. The other half is the property of your spouse. Your Will can only convey your one-half. Your Will cannot convey your spouse's one-half, while your spouse is living.

3. It is possible you may have children born or adopted after the date of execution of this Will. Therefore, unless you state otherwise, the Will shall treat these children in the same manner as the children included in the Will. If you do not have any children at this time, you should change your Will when you do have children.

4. While we suggest the above outlines for your consideration, we do not mean to imply that alternative arrangements cannot be made. We will be happy to discuss specific disposition of your property.

Please PRINT your intended disposition of the property of your estate. Use additional paper if necessary.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

6. TRUSTS:

A Trust is an instrument that you create whereby you designate a Trustee to administer

the property you bequeath to certain beneficiaries. Commonly, the trust is used for your beneficiaries who are under the age of 21. The trust will provide that the trustee will be responsible for preserving the assets passed to your beneficiary. The trust will also provide that the trustee shall disperse funds for the beneficiary's health, maintenance, support and education. In addition, the trust will also provide that the trust funds are not subject to the creditors of your beneficiary and thus they cannot reach the trust funds during the life of the trust.

The Trust may be set up in two manners:

1) The Single Trust.

2) The Multiple Trust.

The Single Trust places your bequest in one trust for the benefit of several beneficiaries. The trust is maintained for the collective care of the beneficiaries under a specified age. After the youngest beneficiary reaches a specified age, the remainder of your trust is divided among your beneficiaries or alternate beneficiaries.

The Single Trust is created when you have minor children and you want the bequests to all of your children be in that trust. Any child over a specified age will not be able to use the trust. Rather, the trust would be used to support the minor children. Thus, the minor children would receive the financial benefit which your older children had received from you. Then, once all your children attain a given age, the balance of the trust shall be equally divided. You may also provide that if one of your son or daughter dies who has children, the trust may be used for those children, and when the trust is divided, your grandchildren shall inherit the share of their mother or father.

The Single Trust is normally created where the anticipated trust estate is relatively modest, so that, if separate trusts were established for each child, the trust for the youngest child would have insufficient assets for his support until he completed his education. The principal disadvantage of such a trust is that the older children receive their shares at a much later date.

The Multiple Trust is to establish a separate Trust for each beneficiary under a specified age. Thus, your Will may provide that each child would receive an equal share. The share of any minor child would be placed in trust only for his benefit. They would then receive the balance of the trust upon attaining a specified age. Multiple Trusts may also be created where the beneficiaries are minors but are not your children. Thus, it would be expected that a particular beneficiary was receiving support from other sources, and that the beneficiaries were not competing for use of the trust funds for their support and education.

If you desire to establish a Trust, please ANSWER the following:

Under what age should the Trust be established: _____
(Normally, the Trust is for beneficiaries under the age of 21)

At what age do you want the Trust to terminate: _____
(Often, a trust is designed to end at the age of 24 to allow for trust funds to be used for the beneficiaries' higher education)

A. If the trust is for your children, do you want a Single Trust ____or a Multiple____

B. If the Trust is for other beneficiaries, do you want a Single Trust___or Multiple__

Please PRINT any special provisions you may wish to insert in the trust. (For instance, limits on amounts spent on the beneficiary, purpose for which trust may be used, alternate beneficiaries, etc.)

7. EXECUTION OF YOUR WILL

In order for your typewritten Will to be valid, the State such as the State of Texas provides that it must be signed by you in front of at least 2 Witnesses over the age of 14. The Will we prepare for you shall have 3 Witnesses in case the Will must be probated in a state requiring three witnesses to be a valid Will. In addition, some states including the State of Texas provide that the Will may be self-proved if it is notarized. This procedure allows the Will to be probated without the necessity of producing the witnesses.

However, the witnesses must be disinterested parties. Therefore, a relative or anyone inheriting under the Will should not be a witness.

We suggest that you keep your Will in a safe place, but NOT in a safety deposit box. You should inform someone you trust as to the location of the Will and your "Personal Inventory File". This information will assure all your assets are accounted for and your wishes carried out.

8. REVOCATION AND CHANGES:

Your Will can be revoked by executing a new Will or destroying your existing Will. You may also revoke your Will in writing if it is executed in the same manner your Will was executed. You may also make changes by writing a codicil; however, to be valid, it must be executed in the same manner your Will was executed.

****

A sample of :

LAST WILL AND TESTAMENT

THE STATE OF NAME OF YOUR STATE **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF NAME OF YOUR COUNTY

I, WRITE HERE YOUR FULL NAME, a resident of WRITE HERE YOUR FULL ADDRESS County of YOUR COUNTY, State of YOUR STATE, above the age of 18 years, hereby declare this instrument to be my Last Will and Testament, hereby revoking all wills made by me before this date.

Preamble

I bear witness that there is no deity worthy of worship besides Allah, the One, the Merciful, Almighty God—Creator of the Heavens and the Earth and all therein—God of Ibrãhïm (Abraham), Musa (Moses), Isa (Jesus), Muhammad and all the other Prophets, may peace be upon them all; and I bear witness that Muhammad, peace be upon him, is His servant and His Rasool and is the last of the chain of the Prophets.

This is my counsel to my relatives and friends, my Muslim brothers and sisters, and all those who remain after me: that they should strive to be true Muslims. They should worship Allah alone as He should be worshiped and fear Him as He should be feared in conducting their affairs. They should love Him and His Prophet Muhammad, peace be upon him, with a complete love. Let them obey Him and hold fast to His Shari'ah. Let them spread and firmly establish His Deen of Al-Islam, and let them die only in a state of complete submission to His will as a Muslim.

Finally, I ask all my relatives, friends and all others—whether they choose to believe as I believed or not—to honor my Constitutional Rights to these beliefs. I ask to honor this document which I have made, and not to change it in any way. Rather, let them see that I am buried as I have asked to be buried and let my properties be divided as I wanted them to be divided.

Article I
Funeral and Burial Rites

I ordain that no autopsy or embalmment be done on my body unless required by law, that without unjustified delay my body be washed, wrapped with cloth free of any ornaments

and other articles, pray Salat-ul Janaza and then buried, which should be done by Muslims in compliance with the Religion of Al-Islam.

A. I hereby nominate and appoint WRITE HERE THE NAME OF YOUR SPOUSE OR TRUSTED FRIEND _____

Social Security # _____ Driving License or I.D. # _____ to execute these and other necessary provisions for my proper Islamic funeral and burial. In the event that he/she is unwilling or unable to execute,

I nominate and appoint WRITE HERE THE NAME OF YOUR SECOND CHOICE SON, DAUGHTER OR TRUSTED FRIEND _____

Social Security # _____ Driving License or I.D. # _____ to execute these provisions. And in the event that both of them are unwilling or unable to execute, I nominate and appoint the local Muslim community in the area where I died to execute these provisions of funeral and burial.

B. In the event of legal difficulties in the execution of this Article, I direct the above-named persons to seek counsel from the Islamic Society of North America (ISNA) or the Islamic Society of Greater Houston (ISGH), 3110 Eastside St., Houston Texas 77098.

C. I ordain that absolutely no non-Islamic religious service or observance shall be conducted upon my death, or on my body.

D. I ordain that my body shall be buried without casket or any other encasement that separates the wrapped body from the surrounding soil. In the event that the local laws require casket encasement, I ordain that such encasement be of the simplest, most modest, and least expensive type possible.

E. I ordain that my grave be level with the ground or slightly mounded with no construction of any kind. The marking, if necessary, should be a simple rock, merely to indicate the presence of a grave.

Article II

Debts and Expenses

A. I direct that all trust properties shall be returned to the rightful owners. I further direct that my executor hereinafter named first apply the assets of my estate to the payment of all my legal debts—including such expenses incurred by my last illness and burial as well as the expenses of the administration of my estate. I direct said executor to pay any outstanding "obligations to Allah" (Huqüq Allah) which are binding on me including unpaid Zakah, Kaffarat or unperformed Hajj.

B. I direct that all inheritance, estate and succession taxes (including interest and penalties thereon) payable by reason of my death shall be paid out of and be charged generally against the principal of my residuary estate.

Article III

Charitable Contributions and Testamentary Transfer

I direct my executor to pay the Testamentary awards and charitable contributions to the following named persons and organizations. I further direct that the combined total in these categories must not exceed 1/3rd of the net estate after deducting the payments stated in Article #II above. If the award in this article exceed 1/3rd, then each award should be reduced proportionately:

A. Name of Person/s _____

WRITE HERE THE NAME OF YOUR NON-MUSLIM WIFE OR ANY OTHER PERSON WHO CANNOT INHERIT UNDER THE SHARI'AH

B. Organization/s _____

WRITE HERE THE NAME OF IIC, ISLAMIC CENTER, ISLAMIC SCHOOL OR MASJID OF YOUR CHOICE

Article IV
Distribution of Remainder of My Estate

A. I direct and bequeath that all the remainder of my estate after the execution of Articles II and III be distributed to my following heirs, provided these heirs survive me, as follows:

Name	Relationship	Share
WRITE HERE THE NAME OF FATHER, MOTHER, WIFE AND EACH CHILD. REFER TO THE SCHEDULE OF DISTRIBUTION FOR WRITING THEIR SHARES		

B. Should I die as a result of murder, I direct that the adjudged murderer, principal or accessory in the murder, shall be disqualified to receive any part or share of my estate.

C. I direct that any fetus, conceived before my death, whose relationship to me qualifies it to be an heir according to this Article shall be considered an heir if the fetus is born alive within a maximum of 355 days of my death. I further direct that, whenever there exists a fetus who may become an heir according to this section, the whole distribution of the residue and remainder of my estate after the execution of Articles II and III, shall be delayed until after the birth of the fetus, and distribution of the remainder of my estate be adjusted in accordance with Exhibit 'A' attached herewith.

D. I direct and ordain that any bequest that lapse due to the fact that a legatee predeceased me or any bequest that is disclaimed or refused by any of the legatees named or referred to in this Last Will and Testament shall be given to The Islamic Center/Society of _____ _____ for Islamic Education, Da'wah or Endowment Fund.

Article V
Separability

I direct and ordain that if any part of this Last Will and Testament is determined invalid by a court of competent jurisdiction, the other parts shall remain valid and enforceable.

Article VI
Executor and Guardian

I hereby nominate and appoint WRITE HERE THE NAME OF YOUR SPOUSE

Social Security # _____ Driving License or I.D. # _____
to be the executor of this, my Last Will and Testament.

In the event that he/she is unwilling or unable to act as executor, I nominate

and appoint WRITE HERE THE NAME OF YOUR SECOND CHOICE SON, DAUGHTER OR TRUSTED FRIEND

Social Security # _____ Driving License or I.D. # _____
to be the executor of my Will.

I give my executor herein named power to settle any claim for or against my estate for this purpose if need arises I give my executor the power to sell any property, real, personal or mixed, in which I have an interest, without court order and without bond. I direct that no bond or surety for any bond be required from my executor in the performance of his/her duties.

If my spouse WRITE HERE THE NAME OF YOUR SPOUSE should not survive me,

I appoint WRITE HERE THE NAME OF YOUR SECOND CHOICE SON, DAUGHTER OR TRUSTED FRIEND

Social Security # _____ Driving License or I.D. # _____
as guardian, if a guardian be necessary during the minority or other disability of any of my child, and I direct that no bond shall ever be required of any such guardian.

SIGNED at _____ on the ____ day of _____ 20___,
in the presence of the undersigned witnesses who have attested this instrument at my request.

Testator YOUR SIGNATURES HERE IN FRONT OF WITNESSES

The above instrument is published this _____ day of _____ 20___,

as the last Will and Testament and signed by PRINT YOUR NAME HERE,
the testator, in our presences, and we in the presence of one another, sign our names.

Witness #1 PRINT THE NAME OF WITNESS _____ _____
Name Signatures

Witness #2 PRINT THE NAME OF WITNESS _____ _____
Name Signatures

Witness #3 PRINT THE NAME OF WITNESS _____ _____
Name Signatures

THE STATE OF NAME OF YOUR STATE
COUNTY OF NAME OF YOUR COUNTY

Before me, the undersigned authority, on this day personally appeared:

PRINT YOUR NAME HERE _____ (testator), and
Name D.L. or I.D.#

PRINT THE NAME OF WITNESS _____ (Witness #1),
Name D.L. or I.D.#

PRINT THE NAME OF WITNESS _____ (Witness #2),
Name D.L. or I.D.#

PRINT THE NAME OF WITNESS _____ (Witness #3),
Name D.L. or I.D.#

whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said testator, declared to me

and the said witnesses in my presence that said instrument is his/her Last Will and Testament, and that he/she had willingly made and executed it as his/her free act and deed for the purposes therein expressed; and the said witnesses, each on their oath stated to me in the presence and hearing of said testator, that the said testator had declared to them that the said instrument is his/her Last Will and Testament, and that he/she executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said testator and at his/her request ; that he/she was at the time eighteen years of age or over (or, being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Testator: YOUR SIGNATURES IN THE PRESENCE OF A NOTARY

Witness #1 SIGNATURES OF WITNESS

Witness #2 SIGNATURES OF WITNESS

Witness #3 SIGNATURES OF WITNESS

Subscribed and acknowledged before me by the said Testator, and
Subscribed and sworn to before me by the said Witnesses:

this _____ day of _____ , 20_____ A.D.

(Seal)

_____

Notary Public _____ County, _____

Printed Name of Notary Public: _____

This document is made in three copies, all the same and all original.
One copy is with me, one is deposited with

NAME OF YOUR ISLAMIC CENTER

and one with the Executor.

EXHIBIT 'A'

THE ISLAMIC LAW OF INHERITANCE

Allah's Commandment in the Holy Qur'an

In the name of Allah, the Compassionate, the Merciful.

"For every parent and relative We have appointed the rightful heirs to inherit what they leave. As for those with whom you have made firm agreements, give them their share. Surely Allah is a Witness to every thing". 4: [33]

"Allah commands you concerning your children: that the share of a boy shall be twice that of a girl. In case where there are more than two girls, their share will be two thirds of the estate; but if there is only one girl, her share will be one half of the estate. If the deceased left children, each of the parents shall get one sixth of the estate; but if the deceased left no children and parents are the only heirs, the mother shall get one-third of the estate; but if the deceased left brothers and sisters, then the mother will get one-sixth. *(The distribution in all cases shall be)* after fulfilling the terms of the Will and the payment of Debts. With regards to your parents and children, you do not know who is more beneficial to you, therefore, Allah issued this ordinance. Indeed Allah is the Knowledgeable, Wise. You shall inherit one-half of your wives estate if they leave no child, but if they leave a child then you will get one-fourth of their estate; after fulfilling the terms of their Will and the payment of Debts. Your wives shall inherit one-fourth if you leave no child; but if you leave a child then they shall get one-eighth of your estate; after fulfilling the terms of your Will and the payment of Debts. If a man or a woman leave neither ascendant nor descendants but has left a brother or a sister, they shall each inherit one-sixth; but if they are more than two they shall share one-third of the estate; after fulfilling the terms of the Will and the payment of debts; without prejudice to the rights of the heirs. Thus is the commandment of Allah. Allah is the Knowledgeable, Forbearing". 4: [11-12]

"They ask you for a legal decision *(relating to inheritance in the case of a childless person)*. Say: Allah gives you His decision about those who leave no descendants or ascendant as heirs. If a man dies childless and leaves behind a sister, she shall inherit one-half of his estate. If a woman dies childless, her brother will inherit all of her estate. If the childless person leave behind two sisters, they both shall inherit two-thirds of his estate; but if he leaves more than two brothers and sisters, the share of each male shall be equal to that of two females. Thus Allah make His commandments clear to you lest you go astray. Allah has perfect knowledge of every thing". 4: [176]

In a case where an assistance in the interpretation of the above Law of Inheritance is needed, the Executor shall seek guidance from:
The Islamic Society of North America (ISNA) - or - The Islamic Society of Greater Houston (ISGH).

SCHEDULE OF DISTRIBUTION

Based on the Law of Inheritance
Developed by M.S.A.
FOR THE RESIDUE AND REMAINDER OF ESTATE
REFERRED TO IN ARTICLE IV OF THE
LAST WILL AND TESTAMENT

	Surviving Heirs	**Share of the Remainder**
Case No. 1:	**One son or more (including any number of daughters)**	
1.a	with no other relatives	He or they get all remainder such as sons are equal in their class, daughters are equal in their class, and for each daughter half as much as for each son.
1.b	with wife	1/8 to wife, rest as in 1.a
1.c	with husband	1/4 to husband, rest as in 1.a
1.d	with father and mother	1/6 to each to father and mother, rest as in 1.a
1.e	with one parent	1/6 to parent, rest as in 1.a
1.f	with any possible combination of 1.b, 1.c, 1.d, and 1.e	Each spouse and parent takes the share mentioned above and rest as in 1.a
1.g	with father of father (while father deceased), and mother of father (and no father nor mother)	1/6 to each father of father and mother of father and rest as in 1.a
l.h	l.g with wife	1/6 to mother of father; 1/6 to father of father, 1/8 to wife, and rest as in 1.a
1.i	1.g with husband	1/6 to mother of father; 1/6 to father of father, 1/4 to husband and rest as in 1.a
1. j	with father of father (no father) and mother	1/6 of each mother and father of father, rest as in 1.a
1.k	l.j and wife	1/6 to each of mother and father of father, 1/8 to wife and rest as in 1.a
1.l	1.j and husband	1/6 to each of mother and father of father, 1/4 to husband, rest as in 1.a
1.m	with father and mother of mother (no mother)	1/6 to mother of mother; 1/6 to father; rest as in 1.a
1.n	l.m . with wife	1/6 to each of father and mother of mother; 1/8 to wife, rest as in 1.a

	Surviving Heirs	Share of the Remainder
1.o	1.m with husband	1/6 to each of father and mother of mother; 1/4 to husband; rest as in 1.a
1. p	more than one same-degree grand-mother (i.e., mother of mother or of father) in 1.g, h, i	Grandmothers share equally 1/6; rest as in 1.g, 1.h, and 1.i, respectively
1.q	disregard any other relatives in case no 1.	none

Case No. 2 - One daughter or daughters no sons

2.a	with no other relatives	if one only, she takes all remainder; if more than one, they share equally
2.b	with wife	1/8 to wife; rest, i.e., 7/8 as in 2.a
2.c	with husband	1/4 to husband; rest, i.e., 3/4 as in 2.a
2.d	with father	1/2 to the one daughter and 1/2 to father; 2/3 to daughter equally if more than one and 1/3 to father
2.e	with mother	1/4 to mother and 3/4 to the one daughter; (if more than one) 1/5 to mother and 4/5 equally among daughters
2.f	with parents	1/6 to mother, 1/2 to daughter, and 1/3 to father; 1/6 to mother, 2/3 to daughters equally, and 1/6 to father
2.g	with wife and father	1/8 to wife, 1/2 to daughter, and 3/8 to father; 1/8 to wife, 2/3 to daughters equally, and 5/24 to father
2.h	with wife and mother	1/8 to wife, 7/32 to mother, and 21/32 to daughter; 1/8 to wife, 7/40 to mother and 7/10 to daughters equally
2.i	with wife and parents	1/8 to wife, 1/6 to mother, 1/2 to daughter and 5/24 to father; 3/27 to wife, 4/27 to mother, 16/27 to daughters equally, and 4/27 to father
2.j	with husband and father	1/4 to husband, 1/4 to father, and 1/2 to daughter; 3/13 to husband, 2/13 to father, and 8/13 to daughters equally
2.k	with husband and mother	1/4 to husband, 7/36 to mother, 5/9 to daughter; 3/13 to husband, 2/13 to mother, and 8/13 daughters equally
2.l	with husband and parents	3/13 to husband, 2/13 to mother, 2/13 to father, and 6/13 to daughter; 3/15 to husband, 2/15 to mother, 2/15

	Surviving Heirs	Share of the Remainder
		to father and 8/15 to daughters equally
2.m	with father of father (no father and no brother or brothers)	1/2 to father of father, 1/2 to daughter; 1/3 to father of father, 2/3 to daughters equally
2.n	with 2.m with wife	as in 2. g but father of father in place of father
2.o	2.m with husband	as in 2.j, but father of father in place of father
2.p	2.m with mother or without mother but mother of father or mother of mother	as in 2.f but father of father in place of father, and grandmother in place of mother
2.q	2.p and wife	as in 2.i but father of father in place of father and grandmother in place of mother
2.r	2.p and husband	as in 2.l but father of father in place of father, and grandmother in place of mother
2.s	2.p (and 2.q,r) but with both mother of mother and mother of father and without mother	grandmothers share equally the share assigned to the mother or to one grandmother in cases 2.p, 2.q and 2.r respectively; the rest as in 2.p, 2.q, and 2.r respectively
2.t	with son of son	1/2 to daughter, 1/2 to son of son; 2/3 to daughters equally, 1/3 to son of son
2.u	with more than one son of son (including any number of daughters of son(s) .	as in 2.t and the share of son of son is divided among sons of son and daughters of sons according to rules establishes in 1.a
2.v	2.u with wife or husband	1/2 to daughter, 1/4 to husband (or 1/8 to wife), rest to children or sons as in 2.u; 2/3 to daughters, 1/4 to husband (or 1/8 to wife) and rest to children of sons as in 2.u
2.w	2.v with two parents, or with father of father - (and no father and no brothers) and mother or with father of father (no father and no brothers) and a grandmother(s) of either side (no mother)	1/2 to daughter, 1/8 to wife, 1/6 to father or father of father, 1/6 to mother or grandmother(s) and 1/24 to children or sons as in 2.u; 6/13 to daughter, 3/13 to husband, 2/13 to father or father of father, 2/13 to mother or grandmother(s) and nothing to children of son; 16/27 to daughters equally, 3/27 to wife and rest equally to parents, grandfather and mother, grandfather and grandmothers or grand father on one hand and grand mother on the other, nothing to children of son; 8/15 to daughters, 3/15 to husband and the rest as in preceding paragraph, and nothing to children of son.

	Surviving Heirs	Share of Remainder
2.x	with daughter(s) of son	3/4 to one daughter, 1/4 to daughter(s) of son equally among them; all to daughters, nothing to daughter(s) of son
2.y	with sister(s) of same two parents (no brothers) or with brother(s) of same two parents (no sisters)	1/2 to one daughter, 1/2 to sister/brother, or equally among sister/brothers; 2/3 to daughters, 1/3 to sister/brother, or equally among sisters/brothers
2.z	with sister(s) and brother(s) of same two parents	1/2 to daughter, 1/2 to sister(s) and brother(s) on the basis of 1 share to female and 2 shares to male; 2/3 to daughters, 1/3 to sister(s)and brothers on same basis
2.aa	2.y with wife or husband, or 2.z with wife or husband	1/2 to daughter, 1/8 to wife and 3/5 to sister(s) and/ or brother(s) as in 2.y and 2.z; 1/2 to daughter, 1/ 4 to husband and 1/4 to sister(s) and /or brother(s) as in 2.y or 2.z; 2/3 to daughters, 1/8 to wife (or 1/ 4 to husband) and rest to sister(s) and/or brother(s) as in 2.z or 2.y.
2.ab	with uncle(s) from same parents as father	1/2 to daughter and rest to uncle(s) equally; 2/3 to daughters equally and rest to uncle(s) equally

Case No.3 -	**Children of Son(s) and no sons and daughter**	Apply Case No. 1 and Case No. 2 after substituting daughter of son for daughter and sons of son for son

Case No. 4 -	**Parent(s) and no offspring**	
4.a	father alone or father and his brother(s) and/or sister(s)	all remainder to father alone, nothing to brothers and sisters
4.b	father and wife or husband	1/4 to wife or 1/2 to husband, and rest to father
4.c	father and mother (no brothers and no sisters)	1/3 to mother, rest to father
4.d	4.c with wife or husband	1/4 to wife, 1/4 to mother, rest to father; 1/2 to husband, 1/6 to mother and rest to father
4.e	4.c or 4.d with at least two brothers and or sisters or one brother and	1/6 to mother, nothing to brother(s) and sister(s),

	Surviving Heirs	Share of Remainder
	one sister of any side	rest to father; 1/6 to mother, nothing to brother(s) and sister(s), 1/4 to wife (1/2 to husband), rest to father
4.f	mother only	all remainder
4.g	mother and husband or wife	1/4 to wife or 1/2 to husband, rest to mother
4.h	mother with one brother of same two parents on father's side, or one sister of same two parents on father's side	1/3 to mother, rest to brother, 2/5 to mother, 3/5 to sister
4.i	4.h with husband or wife	1/3to mother, 1/4 to wife, or 1/2 to husband and rest to brother; 4/13 to mother, 3/13 to wife, 6/13 to sister; 2/8 to mother, 3/8 to husband, 3/8 to sister
4.j	mother with at least two brothers, one brother and sister(s) all of same two parents or father's side	1/6 to mother, rest to brothers or to brother(s) and sister(s) according to the rule in 1.a
4.k	4.j with husband or wife	1/6 to mother, 1/4 to wife (or 1/2 to husband) rest to brother or to brother(s) and sister(s) as in 1.a
4.l	mother with two sisters or more of same two parents or father's side	1/5 to mother, 4/5 to sisters equally among them
4.m	4.l with husband or wife	3/8 to husband, 1/8 to mother, 4/8 to sisters equally among them; 3/13 to wife, 2/13 to mother, 8/13 to sisters equally among them
4.n	mother with one brother of mother's side or one sister of mother's side	2/3 to mother, 1/3 to brother or sister
4.o	4.n with husband or wife	1/2 to husband, 1/3 to mother, 1/6 to brother or sister; 1/4 to wife, 1/2 to mother, 1/4 to brother or sister
4.p	mother with more than one brother and/ or sister or mother's side	1/3 to mother, 2/3 to brother(s) and sister(s) equally among them
4.q	4.p with husband or wife	1/2 to husband, 1/6 to mother, 1/3 to brother(s) and sister(s) equally among them; 1/4 to wife, 1/4 to mother, 1/2 to brother(s) and sister(s) equally among them
4.r	with mother and father of father (no brother(s) or sister(s))	1/3 to mother, rest to father of father.
4.s	4.r with wife or husband	

	Surviving Heirs	Share of Remainder
		1/3 to mother, 1/4 to wife (or 1/2 to husband), and rest to grandfather
4.t	with mother and son of brother who is of the same two parents	1/3 to mother; rest to son of brother
4.u	4.t with husband or wife	1/3 to mother, 1/2 to husband (or 1/4 to wife) and rest to son of brother
4.v	with mother and brother of father of same two parents	1/3 to mother, rest to brother of father
4.w	4.v with husband or wife	as 4.m but brother of father instead of son of brother
4.x	with father and mother of mother and no mother	1/6 to mother of mother and rest to father
4.y	with mother, brother(s) and father of father	1/6 to mother and rest among brother(s) and father of father equally unless grandfather's share goes below 1/3. (If does, he gets 1/3 and rest to brothers equally).

Case No. 5 - Husband or wife, no offspring and no parents and no father of father

5.a	Husband	1/2 to husband and rest to North America Islamic Trust, Inc. of Indiana to be used for establishment of Islamic Centers and Mosques in North America
5.b	wife	1/4 to wife and rest as in 5.a
5.c	with a brother or one or more brother(s) and sister(s)	1/2 to husband (or 1/4 to wife) and rest to the one brother or equally to brothers, or to brother(s) and sister(s) on the basis of 2 shares to each brother and 1 share to each sister
5.d	with sister(s)	1/4 to wife (or 1/2 to husband) and rest equally among sister or to the one sister
5.e	with a son(s) of brother(s) or son(s) and daughters of brother(s)	as in 5.c but niece and nephew in place of sister and brother
5.f	with brother(s) of father	1/4 to wife (or 1/2 to husband) and rest to uncle(s) equally

IF THE TESTATOR'S CASE IS NOT COVERED IN ANY OF THE ABOVE CASES, THE EXECUTOR SHOULD CONSULT WITH :
THE ISLAMIC SOCIETY OF NORTH AMERICA OR I.S.G.H. OF GREATER HOUSTON, FOR GUIDANCE IN THE DISTRIBUTION