

ESTATE PLANNING

Make sure your last wishes go to plan



Most of us find it difficult to think about our death when we are in the prime of our life. In fact statistics show that at least 45% of Australians do not even have a valid Will¹.

Estate planning involves so much more than just having a Will. Basically it means you plan for and arrange - during your life - the eventual disposal of your estate. One benefit is that your assets go exactly where YOU want them to go.

An estate plan entails the development of a strategy that will allow you to live a comfortable lifestyle while also planning for the smooth transfer of your assets to your beneficiaries upon your death.

What do I need to know?

The areas of law that underpin estate planning are continually changing. As a result it is becoming increasingly more complex. These areas include Wills, trusts, taxation, stamp duty, company law, bankruptcy, superannuation, family law and litigation.

It is very important to seek specialist advice when developing an estate plan. A specialist will not only ensure your plan complies with the law but will also be able to assist you in creating a plan that is suited to your individual needs and wishes.

What should an estate plan include?

There is no 'one size fits all'. Every person's situation is unique to them so financial goals and eventual wishes will vary accordingly. There are numerous options available.

Firstly, you will need a clear understanding of your end goals. You should have knowledge of the circumstances of beneficiaries as

well as a broad understanding of taxation matters. It should include both financial and non-financial considerations. An effective estate plan should minimise the tax paid (by your beneficiaries) and help avoid any family squabbles.

I already have an estate plan...

That's great. But once you have established an estate plan it should never be a 'set and forget plan'. You need to review your plan if life events occur or circumstances change.

As a minimum you should review your estate plan if you or one of your beneficiaries experience any of the following circumstances:

- Change in marital or relationship status, eg new spouse, entering into de facto relationship or divorce
- Birth or death of children or grandchildren
- Change in assets, eg additional assets or sale of assets included in a Will
- Death or mental incapacity of an executor and/or beneficiary
- Bankruptcy
- Cash gifts that do not take inflation into account
- Disagreements between jointly appointed executors
- Potential for litigation, eg not adequately benefiting a beneficiary

What documents should my estate plan include?

Key documents² may include:

- Will
- Superannuation death benefit nominations - binding or non-binding
- Enduring Power of Attorney
- Appointment of Enduring Guardian
- Anticipatory direction
- Testamentary trust
- Trust deeds for family trusts and/or SMSFs
- Life insurance nominations
- Appointer nominations

A testamentary trust is a trust set out in a Will - usually with the aim of protecting assets. Possible reasons for a testamentary trust include:

- beneficiaries are minors
- a disabled child
- you fear beneficiaries will not use their inheritance wisely, or
- you wish to protect family assets from divorce settlements or bankruptcy proceedings

What if I don't have a plan?

Your personal goal for your assets could be wealth creation, tax minimisation or asset protection. Or perhaps you simply want to ensure your assets go where you want?

Creating an estate plan will assist with all of these goals and maximise the total benefit received by your beneficiaries.

Without an effective estate plan you lack control. The ultimate risk is that your assets either fail to reach their full monetary potential (for your beneficiaries) OR your assets may not go to your intended beneficiaries.

1. tag.nsw.gov.au

2. smartmoney.gov.au



Are you 100% confident your estate plan has been set up correctly?

Have you had a change of circumstances since your last update? Perhaps you don't have a plan? Contact our office and we will be pleased to assist.