

Wills

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Why should you have a Will and review it regularly?

Simply, a Will is a document wherein you express your wishes as to how you would like your assets to be gifted upon your death. If you do not have a will there is a greater chance that your assets will not be gifted as you would have wished.

A review of your will would also involve looking at assets which will not be part of your estate.

e.g. Property owned jointly with others, property owned in companies or trusts, superannuation funds etc. You need to consider how these assets are treated upon your death and who they may end up with.

We have probably all heard of cases where after someone's death there has been a dispute or a related person appears to have been unfairly treated. By preparing an appropriate will, many of these issues can be avoided.

Consideration should be given to such factors as:-

■ *If husband and wife own their home jointly and either dies the deceased share of the property will be transferred to the survivor. The property will not form part of the deceased estate.*

Therefore if it was a second marriage and each had prior relationship siblings, the deceased siblings may not be a beneficiary of the deceased interest in the home.

Is that the couples intentions?

■ The distribution of a large amount of assets or ongoing income to a child who may already have substantial income may cause significant income tax exposure to that child. It may have been an option to make a gift within the estate into a trust for the benefit of the Childs family. The advantages of such may be the distribution of estate income to the Childs spouse of children (even under 18) at significantly lower tax levels.

A gift to a child out of an estate may expose that amount to the:-

- risk of marriage property settlement
- risk of trustee in bankruptcy
- risk that the child will waste the money as they are not responsible of have some risk habits e.g. gambling, drugs etc.

In this situation the gift could remain in a trust with the estate with the income benefit to the child but no access to gift capital. Control over the gift amount can remain with the estate executors or with an independent party.

The above examples involve the adoption of a testamentary trust within the will.

Whilst you think your will may be very simple, you must consider all the possibilities upon your death. And remember, death is one of life's certainties and

'Lets face it we work all our lives to create assets surely by some thought and care we should do our best to preserve them for those we wish to benefit.'