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Estate Planning – Where There's A Will, Your Family Will Know The Way

Many people believe they don't need estate planning because they don't have an estate. Or they think the value of their estate is not great enough, so what's the point?

WITH few exceptions, everyone has an estate – even the young child with a bank account in their own name.

If you own something of value that you would pass on to someone else upon your death, you have an estate.

Whether you know it or not, you also have an estate plan. Put simply, if you don't have a valid Will, the law determines 'who gets what'. Dying without a Will increases the costs for your estate and so reduces the assets to be distributed to your heirs.

Estate Planning Basics – You will need:

- The Will – the cornerstone of all estate plans
- A suite of other documents such as enduring powers of attorney, advance health directives, business succession agreements or binding death benefit nominations which are all critical parts of an estate plan.

The Will

A Will enables you to control, to a large extent, what happens after you have gone. Everybody should have one and it should be reviewed regularly and updated when significant events occur. Beware that offers to prepare your Will at no cost may mean significantly more costs for your estate in the long-run.

With a Will, you can:

- choose who will ensure your wishes are carried out after you pass away
- choose a guardian for minor children or others unable to fully care for themselves
- choose who you want to get what
- ensure you minimise estate tax and maximise asset protection.

What to consider?

Some common errors people make when planning their estate are a failure to:

- Consider superannuation. There are a number of issues associated with superannuation on death. Where there is a self managed superannuation fund, there

are even more issues to consider including future control of the fund

- Consider including a testamentary trust /or trusts in a Will. Testamentary trusts offer many benefits including taxation flexibility and asset protection for loved ones
- Provide for the succession of trusts, companies and partnership interests
- Contemplate blended families. An appropriately drafted Will can prevent 'the ex' from controlling the kids' inheritance or disputes across family lines
- Consider how to provide for a 'spendthrift' or vulnerable children. Some people prepare Wills leaving their estates outright to their children without sufficient consideration of whether their child is well positioned to handle this wealth. This may mean that an inheritance is squandered unnecessarily or open to attack by those who feel legally entitled e.g. your children's defacto boyfriend / girlfriend
- Adequately deal with your ownership in land. The legal ownership of the land will have a significant impact on what goes into the estate and what stays out
- Consider the impact of a family provision claim. A Will can be challenged for inadequate provision for a defined group of people.

If you decide to leave one of these 'dependents' out of your Will then you should obtain specialist advice about how to minimise the risk of a challenge against your estate so that those who you want to receive your estate actually receive it.

Bottom line: You need a Will. If you don't have one or your Will does not take into account these issues, seek legal advice.



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