

## WHAT'S YOUR LEGACY?

Many people prefer not to make a will, or plan how to minimise tax on their estate. They're too busy... They don't want to think about it... They'll do it next year. But there are many good reasons for making a will and keeping it updated. Not least, that a lifetime of hard work and wealth-building should result in gifts to your family, not to the taxman.

Careful planning in your lifetime will mean that the tax payable on your estate is minimised, if not eliminated altogether. A structured use of trusts and lifetime gifts ensures that as much as possible of your estate goes to your family. Whether you make a simple will to pass on wealth to the next generation, or create a more complex structure involving trusts and asset protection, it is more important than ever to make sure that the legacy you leave is not tarnished by 'what might have been'.

### IF YOU'VE NEVER MADE A WILL...

If you are among the two thirds of the population without a will, then the question of who decides who inherits your money, property and other assets is easily answered: it's the state. Your beneficiaries will be determined according to statutory rules.

One consequence of this is that an unmarried partner has no automatic entitlement to inherit anything, and nor do step-children. While in some circumstances they might be able to establish a claim from your estate, it will be a long and uncertain period before that becomes clear, not to mention an expensive legal exercise.

Furthermore, if you do not make a will, then there is no chance for any planning to mitigate inheritance tax. Nor can you specify who should be your executor, the person(s) who administer your estate.

### IF YOU ALREADY HAVE A WILL...

If you do already have a will, it makes sense to review it regularly, and keep it updated. Has your will been overtaken by life events? If you have got married or divorced since making the will, or had children or grandchildren, then you may wish to make changes to reflect this.

Other reasons for updating your will may relate to changes to your assets and wealth, or the fact that you have retired.

It is easy for business people to overlook the fact that their business will form part of their estate. It often makes sense to distinguish in your will between business assets and other assets such as your house. If you want one of your children to inherit and take over the business (perhaps because they work in it), then that should be specified in your will. If not, it could be that all of your children will have an equal share by default.

If any changes are required to your will, then this can often be achieved by a simple codicil (i.e. an appendix to the existing will), rather than a completely new will.

## **CLAIMS AGAINST YOUR ESTATE**

It is easy to overlook the possibility that someone can bring a claim against your estate after you die, on the basis that their share of your estate should have been greater, or that they were left out of your will entirely. When making your will, it is important to consider whether your spouse, former spouse, cohabitee or children might have grounds for a claim. If not, you could be leaving your executors (and beneficiaries) with a long and expensive headache in resolving who should benefit.

## **TAX AND ESTATE PLANNING**

Your will should be central to an effective estate plan and tax minimisation strategy. As the saying goes, don't forget about inheritance tax (IHT) - it won't forget about you! No-one wants to pay more IHT than they need to. With careful tax and estate planning it is usually possible to reduce – or even eliminate – tax liability on your estate.

When making a will, there are a number of IHT planning opportunities available. One of the main ones is that couples who are not married or in a civil partnership (and so do not benefit from the IHT transferable Nil Rate Band) can save tax by using Nil Rate Band discretionary trusts in their wills. Others involve leaving gifts to charity, and making sure that agricultural and business property relief are used most effectively.

Also, a couple with a house and modest savings may wish to use their wills to preserve part of the value of their home, by avoiding it being used to pay their surviving spouse or partner's care fees.

## **PROBATE & ESTATE ADMINISTRATION**

Probate is the process of dealing with the affairs of someone who has died and administering their estate. It can be a long and sometimes complicated task. It is especially difficult to manage the administration of an estate when coming to terms with the loss of a loved one, or at the same time as having a full-time job or dealing with the demands of normal family life.

It therefore makes sense to choose as executor of your will someone who is able to manage the task.

This Guide is for reference purposes only, and does not provide advice for any particular set of circumstances.

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