

What is estate planning?

Estate planning is the process of working out the best way to structure your personal and financial affairs while you are alive so that you are looked after during your lifetime, and your personal possessions and financial assets are distributed the way you want when you die.

Although it includes the preparation of a valid Will, effective estate planning goes far beyond one single document.

An estate plan gives you the opportunity to:

- nominate someone to act on your behalf if you become unable to make your own decisions
- decide whether your superannuation assets and insurance will be included in your estate
- use trusts or other structures to protect your assets and gain tax benefits
- protect vulnerable family members
- specify arrangements for the smooth transfer of your business interests.

Estate planning documents (including Wills, powers of attorney, powers of guardianship, and insurance and superannuation nominations) are the tools that are used to implement the strategies that are developed as part of the estate planning process. Without a structured plan in place, the use of these documents alone are unlikely to deliver the most efficient and effective outcome.

Why is estate planning important?

Regardless of your personal circumstances, estate planning is important because it helps to ensure you are looked after during your lifetime according to your wishes and that on your death your assets will be managed and transferred according to your wishes, in the most financially efficient and tax-effective way, to the people you wish to benefit.

In the event of your death, careful consideration needs to be given to what you have, who you want to give it to, their personal needs and circumstances, potential claims, who is an appropriate executor and trustee, and most importantly what you want to achieve with the transfer of your wealth. By having a plan in place, your wishes will be clearly articulated in the documentation.

Once you know what you want to happen on your death, you need to ensure that it is reflected in your documents, the most important of which is your Will. If you die without having a legally valid Will, it can create added stress, and expense, for your family and friends at an already difficult time.

The same difficulties arise if you lose capacity and don't have the appropriate attorney and guardianship documents in place.

Benefits of estate planning

Estate planning gives you peace of mind that your affairs will be handled exactly as you would like if you become incapacitated or when you die.

Amongst other benefits, effective estate planning also allows you to:

- protect and provide for loved ones with special needs, including young children
- ensure your children's inheritance has greater protection from creditors or any future relationship breakdown.

Everyone can benefit from having an effective estate plan in place; your affairs do not need to be highly complex. However, if you have complex family or personal relationships (multiple marriages, children from different marriages or vulnerable family members for example) or significant assets (such as multiple properties, business ownership, or assets in a family trust or family company) it is even more important to seek professional estate planning advice.

Tip Your estate planning needs should be reviewed every few years or when there are significant changes to your circumstances.

Your Will – the centrepiece of your estate planning

A Will is a formal legal document that gives you the opportunity to:

- appoint an executor and trustee
- specify how and to whom you would like your assets to be distributed
- appoint a guardian for children who are minors at the time you die
- establish one or more trusts to transfer your wealth to beneficiaries tax effectively while maximising the protection of those assets
- make specific gifts to charities or establish your own charitable foundation, and
- express your wishes regarding your funeral arrangements.

To make a valid Will, you must be over 18. If you are under 18 you will need the consent of a Court.

What is an executor?

The executor is responsible for the administration of your estate, from paying your debts to the ongoing management of your assets until the estate administration is completed. Your Will must nominate an executor. You can nominate one or more individuals, or a trustee company, or both, as executor. Administering an estate can take many months (sometimes years) so you need to be sure that the nominated person is both willing and capable of undertaking the task of executor. Also, often the person(s) nominated as executor becomes the trustee of any ongoing trusts contained in your Will.

Why do you need a Will?

Without a valid Will, there is no specific person that has been nominated to look after your estate and there is no way of knowing how you want your assets to be distributed. If you die without having a valid Will you are said to have died 'intestate'. In these cases, a person – usually a beneficiary – needs to apply to the Court to be appointed as an administrator. The administrator is given the power to administer your estate in line with a strict legislative formula as to how your assets and personal effects are distributed.

While the legislation is intended to result in a fair and orderly distribution of property, the formula may not reflect what you would like to happen to your assets. In particular, the law has been created assuming that people want their estate divided among family members alone. Without a Will, it's impossible for any benefit to be made to close friends, in-laws, charities or other organisations.

In some cases, the process of dying intestate can actually be more expensive and time consuming than having a valid Will in place because it can take much longer to determine who will administer the estate and how it should be distributed. For example, if more than one person wants to be administrator, this could lead to delays and additional costs as lawyers are engaged to make the necessary applications to the Supreme Court. If your wishes are not known, there might be provision claims on your estate by different family members causing further expense and delaying the administration of your estate. Such a lack of clarity at this emotional time can make an already difficult period even harder for your family and friends.

What are beneficiaries?

Beneficiaries are the people or entities you nominate in your Will to receive cash, property or any other form of benefit from your estate. Beneficiaries can be individuals, charities, companies or trusts.

To find out more about the estate planning process, call us on **1800 882 218**.