

Your executor – an important appointment

The executor of your Will is responsible for the administration of your entire estate following your death – from identifying and collecting all your assets, to paying your debts, to the ongoing protection and management of your assets – until the administration of your estate is complete.

You must nominate an executor in your Will. The choice of executor is completely up to you. You can nominate either:

- one or more individuals (either family or friends), or
- a professional trustee company, such as AET.

If you have an existing family trust or a self-managed super fund, then your choice of executor is even more important because control of these entities, and the assets owned by them, usually (in the case of an SMSF) and often (in the case of a family trust) pass to your executor(s). While many people appoint their partner as executor, an independent executor, such as a professional trustee company may be more appropriate.

The role of an executor

The role of an executor is to carry out your wishes in accordance with your Will without being influenced by other parties – the executor must be completely trustworthy and beyond reproach. Your executor deals with all necessary third parties (eg government, banks, insurance companies, lawyers) to ensure that your affairs are managed in the way you intended. An executor's duties include:

- locating your Will
- obtaining grant of probate from the court
- confirming the beneficiaries of your estate
- advising the beneficiaries of their entitlements once determined
- verifying your assets and liabilities (including capital gains tax reconstructions if required)
- collecting and managing your assets throughout the administration
- preparing a statement of your assets and liabilities, which includes obtaining any necessary valuations
- lodging all necessary tax returns (including your final tax return and estate tax returns)
- protecting your assets pending distribution (including insurance, safekeeping of valuables and reinvestment of surplus funds)

- arranging the sale of assets, if any
- establishing testamentary trusts (if any)
- making interim and final distributions to beneficiaries
- paying all lawful debts
- keeping proper accounts, and
- preparing a full statement of all receipts and disbursements.

As you can see, the role of executor is a complex task, which is often more complicated and time consuming than most people realise.

Why would you need a professional executor?

The appointment of a professional trustee company as your executor will not only help to balance the interests of your beneficiaries, but ensure that all the necessary functions required to administer your estate are undertaken in a professional and efficient manner and in the way you intended. You might consider appointing a professional executor if:

- you have complex family arrangements that require an independent and unbiased executor (eg second or third marriages, step-children, family disputes)
- you have complex assets that need to be administered efficiently (eg trusts, companies, overseas assets, overseas superannuation, commercial property)
- you have a complex Will with ongoing trusts and distributions that will require ongoing involvement from a trustee (eg testamentary trusts for a grandchild's education, charitable trusts)
- you do not have a family member or friend you can trust and rely on to look after the administration of your estate
- all your trusted family members or friends reside overseas
- you do not wish to burden your family members or friends with such an onerous task
- you have vulnerable beneficiaries who need to be protected (eg disabled beneficiaries or family law risk).

The benefits of engaging us as your professional executor

Engaging a professional trustee company to be your executor has many benefits. Most importantly, it gives you peace of mind; our highly experienced team of estate and trust administrators will ensure your wishes are managed effectively and efficiently. We understand that your circumstances are unique and we can provide either an holistic service or a tailored service where we continue to work with your specialist advisers in the administration of your estate.

- **Experience:** We have been administering estates for more than 130 years. We have a team of specialists with a wealth of experience in law, tax, accounting and business, who will ensure that your estate is administered effectively and efficiently. We call on this wide range of skills and experience to ensure that even the most complex estates are managed with aptitude and care.
- **Independence:** Our estate administrators are objective and impartial. We will administer your estate in line with your wishes for the benefit of your beneficiaries. While we will actively engage with your beneficiaries, we will not succumb to pressure and will remain steadfast in meeting our fiduciary obligations.
- **Continuity and accessibility:** Administering estates is what we do – every single day of the year. As a professional trustee company, our attention is constant – we do not get distracted by other issues, we do not take holidays, we do not get sick and we do not die. An experienced trust officer will be assigned to manage your estate and all relevant parties will have access to them.
- **Security:** As a statutory trustee company, our own assets are given as security for the proper administration of an estate.
- **Transparency:** As executor, we will provide full, detailed information and accounts at regular intervals or upon request.
- **Confidentiality:** Our staff are required by law and by company policy to treat all details relating to the estate as confidential.

How much does it cost?

The fees for our services, including estate and trustee administration are available in our financial services guide.

Case study

Brad's adviser has referred him to an AET estate planning specialist, Annette, to discuss his estate planning needs. Brad has been divorced once (from first wife Sarah) and is currently married to Connie.

Brad has four children: three from his marriage to Sarah – Steve (28), Ella (25) and Leo (16) – and Georgina (5) with his current wife, Connie.

By giving 30 per cent of his estate directly to the children from his first marriage, and having the remaining 70 per cent of his assets held in a trust for Connie and Georgina, Brad intends to provide for all his children as well as his current wife. The family home, in which all the children were born and raised, is to be held in the trust and, if Brad predeceases Connie, she will continue to be able to live in the house. Brad chooses to appoint Connie as well as his three eldest children – Steve, Ella (who lives overseas) and Leo – as co-executors and trustees.

Annette reviews his request but asks him to consider his choice of giving four people the responsibility of co-executors and co-trustees of his estate and raises the following issues:

- How is the relationship between Connie and his three children from his first marriage? If the relationship is not strong, and communication is weak or non-existent, issues might arise during the process of administration.
- As Ella lives in San Francisco, is she able to meet her executorial obligations? The physical distance may make it hard for her to effectively fulfil her role and this could delay the administration process.
- Leo is young and while is underage now, even if Brad were to die in a few years, would Leo have the level of expertise required to be an executor?
- The personal situation of all four trustees varies widely – if a certain decision is made that benefits one over another, there may be a conflict of interest, particularly given the separate family lines.
- Has he asked if they are all comfortable taking on this role in conjunction with the others? Dealing with the administration of the estate of a loved on can be a difficult task, especially at an already emotional time. You may wish to avoid imposing the additional stress on your family involved with properly administering your estate.

After considering the possible scenarios, Brad begins to understand that, by appointing Connie and his three children as co-trustees and co-executors, he may be putting them in a very uncomfortable position, not only from a relationship standpoint, but also as a result of potential conflicts of interest. Instead, he elects to appoint AET as his executor and trustee. Because of the level of independence that a professional executor/trustee brings, Brad has assurance that his estate will be administered efficiently and in accordance with his wishes.

If you would like to discuss the appointment of your executor, call us today on **1800 882 218**.