

## How can Estate Assets be protected?



A complex Will (perhaps on its own or in conjunction with other documents) can contain flexible discretionary testamentary trusts which place the Estate Assets in the hands of the Executor on trust with a discretion as to how the funds are to be distributed to particular beneficiaries.

## Advantages of a complex Will



A complex Will;

- Protects Estate assets;
- Provides a flexible structure for your Executor to make decisions as to when Estate assets should be distributed;
- Maximises the tax concessions available for distribution of Estate income;
- (Depending on individual circumstances) may be able to deal with any possible claims against your Estate and for a one off fee establishes a structure that will not require substantial alteration unless your circumstances change;

## Disadvantages of a complex Will



A complex Will;

- is more expensive than a simple Will

## Where to from here?



As you can see it is extremely important to have a professionally drawn Will – **so don't delay, call today !!!**



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**DYING WITHOUT A WILL**  
could be the  
**BIGGEST MISTAKE**  
you ever make!



*Protect Your Family*



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Plan for the future

## Do you need a Will?



Yes, so that distribution of your estate assets after death can occur with certainty and without delay.

All working Australians are required to have superannuation and unless there are death benefit nominations in place, your superannuation death benefits may be payable to your Estate and if so, would be distributed in accordance with your Will.

## What happens if you die without a Will?



If you die without leaving a valid Will then your Estate is distributed under the laws of intestacy. In simple terms, this means that your Estate is distributed between surviving immediate family members in fixed proportions rather than having any regard to your wishes or the needs of your family and is more expensive and time consuming.

## What do you need to do to make a valid Will?



A valid Will needs to;

- Be in writing;
- Appoint an Executor (also called a Trustee);
- Deal with all of your Estate assets;
- Be validly witnessed in accordance with strict legal requirements.

## What can happen if a Will is made that does not comply with all legal requirements?



The consequences of an incorrectly prepared will can be disastrous. Specific gifts may not be effective or part of your Estate may be distributed under the Will and part may be distributed under the laws of intestacy.

Based on previous experiences involving "kit" Wills, we strongly advise against these types of Wills.

Our firm has been involved in Estate litigation where a "kit" Will was not properly witnessed and the legal fees paid by the Estate were approximately 25% of the value of the Estate. If the deceased had received proper advice at the time the Will was made then there would have been many more thousands of dollars available for distribution to the beneficiaries of the Estate.

## Who can challenge a Will?



It is usually the case that any potential challengers to a Will are a spouse, former spouse, children or any person who has lived in your household as a dependant. For a claim to succeed the claimant must prove that no adequate provision has been made either during your lifetime or in your Will and that the claimant can demonstrate a need relative to the size of the estate and the circumstances of the other beneficiaries.

Once we have taken instructions from you we will be able to advise you about any potential claims against your Estate and steps that you can take to prevent or minimise any potential claims.

## Are there different types of Wills?



There are simple wills and more complex wills.

## How do you know what type of Will is needed?



Based on your instructions we will be able to advise you on what type of Will is suitable for you.

## Advantages of a simple Will



A simple Will;

- Is straightforward;
- Sets out with certainty the distribution of Estate assets;
- Is comparatively inexpensive.

## Disadvantages of a simple Will



If a simple Will is used;

- The distribution of assets is inflexible and does not take advantage of tax concessions that are available to testamentary trusts;
- If at the time of your death any of your beneficiaries are bankrupt, addicted to gambling or illicit substances or going through a matrimonial dispute then the beneficiaries' entitlements are put at risk.
- It will not be structured to prevent or minimise any possible claim against your Estate.