

distributing your assets

Estate planning in plain English

what is estate planning?

Estate planning is about wealth succession – a way to help protect the wealth you have built over your lifetime, so that it is distributed according to your wishes following your death.

You spend a large part of your life working to earn money to look after yourself, to provide for your family and to save for the future. Given the focus that is placed on creating wealth while you are alive, it seems logical to want some control over what happens to these assets once you are gone.

Estate planning is about giving you that control. Control to make sure that:

- ~ the people you care about are looked after once you are gone, and
- ~ your assets are passed to the people you want to receive them.



who benefits from estate planning?

Estate planning is beneficial for everyone. The more complicated your personal and financial affairs, the more important it is to have an estate plan.

Planning for the future becomes more important at certain times in your life, such as:

- ~ getting married, living with a partner, separating or getting divorced
- ~ having children, including step-children
- ~ moving house, interstate or overseas
- ~ buying real estate or other valuable assets
- ~ family separation involving other family members
- ~ buying, selling or operating a business
- ~ setting up a family trust or company, or
- ~ if you have family members with special needs or children who are vulnerable.

what's involved in estate planning?

There are three main tools that can help you with your succession planning.

1. A Will
2. Powers of Attorney
3. Superannuation nominations

making a Will

A Will is a legal document that outlines how you want your assets and possessions distributed upon your death. It can cover a range of special requests including providing for children and guardianship, and your charitable objectives.

what happens if you don't have a Will?

Dying without a Will is called 'dying intestate'. When this happens, the court will appoint an administrator and your assets will be distributed according to a strict formula. This formula may not be in line with your intentions, and the outcome may not be in the best interests of your family and loved ones.

what should you consider when preparing a Will?

- ~ Who do you want to be your beneficiaries?
- ~ How you want to protect your beneficiaries? eg those who may be at risk due to marriage breakdown or action from creditors.

- ~ Who will you choose as the executor of your Will?
- ~ Do you have any specific bequests?
- ~ What assets need to be included?
- ~ What are the tax implications?

when should you update your Will?

Your Will should be reviewed and updated whenever there are major changes in your life, such as:

- ~ marriage, separation or divorce
- ~ birth of children
- ~ death of family members
- ~ significant changes to the value of your assets
- ~ significant changes to the way you own assets, such as the formation of a family trust or self-managed superannuation fund
- ~ entering a new business or change to existing business structures, or
- ~ retirement.

what is not distributed through your Will?

Assets owned as joint tenants pass directly to the surviving owner (eg bank account, maybe your residence).

Superannuation benefits may be specifically directed to a beneficiary where a binding nomination is in force.

The payout from a life insurance policy where you elect for someone else to be the policy beneficiary.

testamentary trusts

A testamentary trust is established by the Will and results in the trustee looking after the estate assets on behalf of the beneficiaries. It is an effective estate planning tool because it allows the trustee to distribute income from the estate to the beneficiaries in a tax efficient manner.

Children under 18 who receive income from a testamentary trust are subject to adult tax rates, rather than higher tax rates that would otherwise apply to minors.

A testamentary trust can also protect assets from spendthrift or bankrupt beneficiaries who may be prone to misuse assets they inherit.

Powers of Attorney

A Power of Attorney is a legal document allowing you to appoint someone to act on your behalf. When in force, the signature of the person you appoint as your Power of Attorney has the same legal force as your own.

There are different Powers of Attorney, each with a different purpose:

General Power of Attorney allows someone to act on your behalf with regard to your personal and financial affairs. You can set limitations around the powers if you wish, defining specific timeframes or asset boundaries. For example, you can nominate someone to operate a specified bank account or sell a specific asset while you are overseas. All General Powers of Attorney become void if you lose your mental capacity to make decisions.

Enduring Power of Attorney is similar to a General Power of Attorney, but it is not automatically revoked if you become mentally incapable. Someone appointed under an Enduring Power of Attorney can make important financial decisions in the event of your absence, illness or incapacity.

Enduring Guardian / Advanced Health Directive (which are only available in some states) allow you to nominate someone to make health care decisions on your behalf. It is not revoked if you lose your mental capacity. Some of the decisions that a Guardian can make include:

- ~ what future health treatment you have, including the medical practitioner who should treat you
- ~ whether to donate organs
- ~ where you should live
- ~ whether to participate in experimental health care, and
- ~ whether to have life-sustaining treatment withheld or withdrawn.

superannuation nominations

What happens to your super when you die?

What is a binding nomination?

Your super might be one of your biggest assets. Most super funds will allow you to nominate specified people (eg your spouse/partner or children) to receive your benefit after you die. Be mindful of tax implications and discuss these with your adviser.

children are the most important consideration of your Will

Without question, the most important consideration when preparing your Will is your children, in particular young children.

Your Will should detail who you want to take care of your children in the event of your death, as well as how you want them to be cared for. Your Will should include instructions for the appointment of a guardian who can legally act on behalf of your children, as well as specific instructions for their upbringing.

This can prevent messy feuds down the track, especially in the case of blended families and where both parents pass away at the same time.

Another consideration where minor children are involved is tax management. Children under the age of 18 can be hit with tax rates up to 66 per cent on the income earned on investments if your Will is not structured correctly.



Strategic Planning Partners
ABN 65 057 800 405
AFS Licence No. 230887

www.sppgroup.com

SPP, the Gold Coast's leading financial advisory firm, has been delivering financial peace of mind to people for over 25 years, and we can help you too.

To make an appointment with one of our advisers please call **07 5554 1000** or visit **www.sppgroup.com**

Strategic Planning Partners ABN 65 057 800 405 AFS Licence No. 230887

Both the written and graphic content of this document is copyright to Strategic Planning Partners.

Nothing in this document may be reproduced in whole or part without our prior written authorisation. The information in this document is of a general nature and does not take into account your individual needs and objectives. Please do not act on any information within this document before seeking advice from a licensed financial adviser. While we believe that the information in this document is correct, no warranty of accuracy, reliability or completeness is given and, except for liability under statute which cannot be excluded, no liability for errors or omissions is accepted.