FINANCE UPDATES

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FINANCIAL PLANNING

THE IMPORTANCE OF DRAFTING A VALID WILL

Choosing how your estate is managed after you die.

Writing a will is one of the most important things you can do to protect your family's financial future.

It gives you choice and control over the way your estate will be handled after you die, allowing you to ensure your dependants are provided for and your home and possessions are distributed the way you intend.

It also allows you to leave instructions on any other wishes you may have, including appointing someone to handle your affairs after you die, making decisions about your funeral, and deciding on legal guardians for your children.

What's more, putting your wishes in writing on a legal document can make the process of administering your estate much easier and less stressful for your family and friends.

Despite these advantages, it's something that many people put off, with Macmillan Cancer Support suggesting that 63% of adults don't have a will – including 42% of people aged over 55.

Not writing a will means you're leaving it to the law to decide what happens to any property, money, investments and possessions you own after you die, and that may not be what you would have wanted.

DYING WITHOUT A WILL

If a person dies without a valid will, their estate will be administered according to the rules of intestacy.

These are a set of legal rules that determine which relatives inherit from the estate, and the amount they receive.

They don't take individual circumstances and your personal wishes into consideration when setting out who gets what.

In particular, there's a risk if you have dependants who are not blood relatives, such as adopted children, or if you are not married to your partner but would want them to benefit from your estate.

Here's how the rules of intestacy apply in England and Wales – if you need to know more about how the rules work in Scotland or Northern Ireland, contact us.

Partners

When someone dies intestate, their spouse or civil partner will generally be the first to inherit. The amount they receive may depend on whether the deceased person had any children, grandchildren, or great-grandchildren.

If there are no direct descendants, the deceased person's spouse or civil partner will inherit the whole of their estate.

If they did have a direct descendant, the partner will still inherit all of the personal property and belongings, plus the first £250,000 of the estate and half of whatever's left over.

Where couples jointly own a home, the way it's dealt with under intestacy will depend on whether the joint ownership was for the complete value of the property or whether each partner was entitled to a particular amount or share of the property value.

It's also important to note that these rules only apply where couples were married or in a civil partnership.

Cohabiting partners who were not married do not automatically inherit under intestacy rules. Neither do divorced couples.

Children

Children will inherit half of the value of the estate valued at more than £250,000 when they turn 18. If there is more than one child, the estate will be equally divided between them.

However, if there is no surviving spouse or civil partner, any children will inherit equal shares of the whole estate through intestacy rules.

Only biological or legally-adopted children have the right to inherit under intestacy, so step-children and foster children will not automatically receive an inheritance.

In circumstances where the deceased person's child died before them, the inheritance can go to the next direct descendants – either grandchildren or great-grandchildren.

Other relatives

Parents, siblings, nieces and nephews could also inherit the estate of someone who has died intestate, but this depends on several factors, including the value of the estate and which other living relatives are entitled to the inheritance.

No living relatives

If a person dies with no living relatives and no spouse or civil partner, their estate will pass to the Crown in what's known as *bona vacantia*, or 'vacant goods'.

PLANNING FOR INHERITANCE TAX

Another benefit of making a will is that it allows you to consider the way inheritance tax may apply to your estate, and to plan so that the value of your estate is protected as much as it can be.

According to the most recent inheritance tax statistics from HMRC, 4.6% of estates incurred an inheritance tax charge in 2016/17. While that's a low proportion of estates in the UK, it's been steadily increasing by 0.3 percentage points on average since 2009/10.

Under current rules, inheritance tax applies at a rate of 40% on the part of an estate that's not covered by the £325,000 inheritance nil-rate band or other exemptions.

Estates valued below the threshold will normally not be liable for inheritance tax. There's also no tax to pay where an estate is left to a spouse or civil partner or on a jointly-held property which automatically passes to the joint owner.

Property that's passed on to direct descendants may also qualify for an additional residence nil-rate band, which stands at £150,000 in 2019/20 and is due to rise to £175,000 in April 2020. This works on top of the existing band, and can also be transferred between spouses and civil partners.

You'll also need to consider gifts that you make in the seven years before you die, which may be liable for inheritance tax on a sliding rate.

And if your estate is worth more than £325,000 and you decide to leave 10% or more of the net value of your estate to charity in your will, the value of your estate may qualify for a reduced rate of inheritance tax at 36%.

Inheritance tax, however, could either change or be scrapped in next month's Spring Budget.

MAKING A WILL

When you're planning your will, think about your assets, how much your estate is worth, who you want to inherit it, who you will appoint as executor, and how inheritance tax will apply.

You can write your will yourself, but it's often best to get legal advice if you have a complicated estate, or simply to ensure there are no errors in the will that could lead to problems after your death.

To be legally valid, a will needs to be:

- made voluntarily, without pressure from another person
- made when you are of sound mind
- made in writing
- signed and dated by you in the presence of two witnesses
- signed by the two witnesses in your presence

Your witnesses cannot be people who are going to benefit from the will.

Talk to us about planning your estate.