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Putting Wills in Place

Where There's A Will...

No one wants to think about what will happen when they die.

Rather than letting fate (in the form of the Statutory Intestacy Rules*) take its course, making a valid Will can ensure that your chosen beneficiaries benefit from your assets in the way in which you want.

It may be tempting to put-off making a Will but it is surely best to be prepared for the inevitable by putting a professionally drafted Will in place to protect the assets which you have spent your lifetime building-up. The Statutory Intestacy Rules are rigid and inflexible and relying on them may well mean that your assets pass to people that you do not wish to benefit, leaving your loved ones with nothing.

There are several considerations which you will need to think about when instructing us to prepare a Will on your behalf and the main ones are set out below:

Expressing your Funeral Wishes

You may have specific or even unusual wishes which you would like to be included within your Will. We can include your wishes within your Will if you want to ensure that they are followed. You do not need to include an expression of wishes if you do not want to.

Naming Executors

Your Executors are the people named in your Will who have the obligation of administering your estate in accordance with the terms of your Will. Although you only need to appoint one executor (up to a maximum of 4), we would normally suggest that two are appointed, even if one of these is named as an executor 'in substitution'. This allows for the possibility that one executor may themselves become unable or even unwilling to act as your Executor.

You may wish to appoint a professional Executor, such as a partner at Taylor Walton, for example, if you want an Executor who is completely independent and unconnected to you, and if your wishes are not straightforward.

Naming Guardians

If you have young children, you should consider the possibility that you (and your spouse or partner, if relevant) might die before your children attain the age of 18. A Guardian has the legal responsibility for bringing up your children when you are no longer around to do so and your Will gives you the opportunity to select someone who you would prefer to act in this way.

Dealing with the division of your Assets

You may wish to leave specific items or cash legacies to certain people, including gifts to charities, friends or relations. In addition you should leave the residue of your estate (this is everything which remains once any debts, funeral expenses, testamentary expenses and legacies have been paid) to one or more particular beneficiaries, often your spouse or partner on the first death and then children or other close relatives on the second death.

Trusts

You should note that if you leave a share of residue to someone and specify that that person must attain a fixed age; typically 21 or 25 then you will be creating a trust and will need to be aware of the tax and other implications of doing so. If potentially significant sums are involved then a trust may be a sensible option rather than leaving money outright to an 18 year old, and this is something we would be happy to discuss in more detail on an individual basis.

Trusts can also be appropriate if one of your intended beneficiaries has mental health problems, is going through marriage difficulties or has financial problems. There may be good reasons to include trust provisions within your Will as they offer a way of "sheltering" assets in difficult circumstances.

In addition, there are still positive inheritance tax-saving reasons for including trust provisions and this is something we would be happy to discuss with you.

Whatever you decide in relation to your assets and the division of your estate, Taylor Walton can provide you with technical advice and guidance, tailored to your personal circumstances and the assets which you possess. We will ensure that the issues which you should consider in making your Will are discussed with you. Seeking the expert advice which we can offer you will not only ensure that your Will is prepared validly and in line with your wishes, but it will also help you to minimise the portion of your estate that may be liable to Inheritance Tax at a significant 40%.

If an inheritance tax liability is likely, we can advise you of the steps which you can take to minimise this, not only through your Will but during your life-time. In addition, we can discuss the possibility of including trust provisions in your Will and if you have business or agricultural assets, we can provide you with advice as to how these assets can be dealt with in an inheritance tax-efficient way.

Please contact Taylor Walton if you are considering making a Will, if you would like to review a Will which you have made previously or if you would like some tax-planning advice.

* Please see article entitled 'The Intestacy Rules'