

November 2014 Newsletter

Where there's a Will...

Recent research suggests that almost 9 out of 10 people under the age of 35 do not have a Will, and neither do two-thirds of those between the ages of 35 and 54. What happens to the assets of these people on their death will therefore be determined not by their own wishes but by the laws of Intestacy, even though 92% of people have a firm idea of where they would like their money to go.

The Inheritance and Trustees' Powers Act 2014 came into force in England and Wales on 1 October 2014 and is designed to bring the intestacy laws into line with the realities of modern family life.

Until now, when an individual died without a Will, leaving a surviving spouse or civil partner but no children, the spouse or partner would have received the first £450,000 of the estate and half the remainder, with the other half split between the deceased's blood relations.

If the deceased was married and had children, the surviving spouse or partner would have received £250,000, and the remainder of the estate would have gone to the children, subject to the right of the surviving spouse to receive income for life from half of the remainder.

Under the new rules, if there are no children, the spouse or civil partner will receive the entire estate; and if there are children, the surviving spouse will receive the first £250,000 of the estate and half of the remainder (not just the income from it), with the other half going to the children.

Surviving spouses and civil partners will also continue to receive the "personal chattels" of the deceased, which is now re-defined to include assets held other than for business or investment purposes.

The bottom line is that spouses will inherit a larger share of estates, at the expense of children. Also, children from a previous marriage will not be provided for unless their parents make a Will.

When an unmarried person dies intestate, their entire estate will pass to their nearest blood relatives, starting with children and grandchildren. It follows that no provision is made under the rules of intestacy for partners of cohabitants in unmarried relationships.

If additional reasons were required for writing a Will, it could be pointed out that it is often significantly more expensive to administer an intestate estate than one for which a valid Will is in place.

Will writing is not regulated and there are many amateur Will writers offering their services. However, the best way to ensure that you have a sound Will which is tax-efficient and accurately reflects your own specific wishes is to consult a solicitor, who will have the advantage not only of being properly qualified, but also being insured.

Finally, It is important to keep Wills under periodic review. Wills are legally revoked on marriage, and a testator's views may change as to the people he or she wishes to benefit.

Financial planning in old age

As life spans increase, so also does the incidence of dementia, which makes it impossible for sufferers to look after their own personal and financial affairs.

The recommended precaution is to execute a Lasting Power of Attorney ('LPA'), which enables nominated persons - usually family, friends or advisers - to take decisions regarding either

money matters or healthcare matters in the event of the person who gives the Power becoming unable through illness or accident to conduct their own affairs.

In the absence of an LPA, a representative of the person who lacks capacity would have to apply to the Court of Protection to be appointed as its "Deputy", to take decisions on behalf of the person affected or to apply to the Court for permission to do so. However, this process is protracted and expensive, and it is far better to execute an LPA before the medical condition sets in.

The difficulty which arises is that in the interests of protecting the interests of the donor of the Power, the Attorney's ability to act is strictly limited. There is no problem with the Attorney paying bills and other routine outgoings and even selling the donor's home. However, the ability to undertake any financial or tax planning which might, for example, involve gifting assets to children or other family members, would be very severely curtailed.

Application could be made to the Court of Protection, but its concern will be to preserve the assets of the donor, in case they might be needed, rather than to assist arrangements which might save tax for family members.

Two messages are clear. First, to execute an LPA while still competent; and secondly, to undertake any financial planning before the LPA comes into effect.

For more information please contact:

Ipswich: 01473 267000
Fitzroy House, Crown Street, Ipswich, Suffolk, IP1 3LG



Neil G Hewitt
CFP, APFS, AIFP
Chartered Financial Planner
Email: Neil.hewitt@scruttonbland.co.uk



James Wright
BA(Hons), DipPFS
Independent Financial Adviser
Email: James.wright@scruttonbland.co.uk

Colchester: 01206 838400
820 The Crescent, Colchester Business Park, Colchester, Essex, CO4 9YQ



Gary Riches
ACII, APFS, AIFP, CFP
Chartered & Certified Financial Planner
Email: Gary.riches@scruttonbland.co.uk



Grant Buchanan
Dip PFS, Cert CII (MP&ER)
Independent Financial Adviser
Email: Grant.buchanan@scruttonbland.co.uk

The information contained in this InfoByte is for guidance purposes only and represents an outline of the relevant provisions. No action should be undertaken on the basis of the information contained within this InfoByte without first obtaining specific professional advice. No responsibility for any loss arising to any person acting or refraining from action as a result of the information contained within this InfoByte will be accepted by Scrutton Bland Limited