



In this world nothing can be said to be certain, except death and taxes” Benjamin Franklin.

A good accountant can certainly help prevent or make more palatable “the taxes”. Unfortunately we cannot prevent the other. “Death is a great leveller” (proverb). It does not spare anyone. It is something for all of us to look forward to! “Death never takes a wise man by surprise, he is always ready to go” Jean d la Fontaine (1621 – 1695).

Is your estate planning in order? It is critical every one of all ages knows what will happen to their affairs on their death or incapacity.

Do you have a will?

It is frightening how many people with significant assets don’t even have a will. If you don’t have a will your estate will be subject to intestacy laws. This means you will have no control over how your estate is managed and distributed. The Public Trustee will administer your estate and charge a commission like fee to do so. If your estate is significant then it could have a hefty fee to pay.

This is not desirable. If you don’t have a will get into a solicitor and get one done immediately. Even if you don’t know exactly what your wishes are or you want

Is your Estate Planning in order?

to take time to think about what you want to do, I recommend you get a basic will done first so as to get your estate out of the hands of the Public Trustee. You should then promptly seek professional advice to do your estate planning properly.

Do you have an enduring power of attorney (EPOA)?

Something more frightening than dying without a will (let’s face it, it won’t be your problem anyway!) is to become permanently incapacitated without an enduring power of attorney. If you don’t have one and cannot act for yourself then the Public Trustee would act for you. This would place enormous stress on your family. Most people would rather a family member or someone they know and trust was making decisions on their behalf. If you don’t have one, go to a solicitor and

Do you have an enduring power of attorney (EPOA)?

get one quickly. You need one regardless of your age and regardless of your wealth. If you do have an EPOA, are the people you have appointed as attorneys still appropriate? You should review this if your attorney is aged and not capable of acting for you, or it would put a lot of undue stress on them to do so. If you have appointed a professional, are they still in business? Are your attorneys still alive?

If you do have a will is it still valid and appropriate?

Every time your circumstances or the circumstances of your beneficiaries change you should check to make sure you still have a valid will to carry out your wishes. Eg births, deaths, marriages, marriage breakdowns and divorce. Also if you sell an asset such as a farm or investment property check that your will is still appropriate.

If you have left a particular asset to someone and no longer own it on death unintended consequences may result.

Do you know what assets are covered by your will and what assets are not?

Estate planning is no longer simply getting your wills done and putting in place Enduring Powers of Attorney. It is common these days for people to have accumulated a significant portion of their wealth in

trusts, companies and superannuation funds. Under such arrangements you may “control” the assets but you don’t actually “own” them and therefore cannot “will” them. It is important that your planning takes into account the handing over of control of your assets.

Property when owned jointly is either held as tenants in common or as joint tenants. Property held as joint tenants passes to the survivor/s on death. It is not covered by your will. You therefore need to be careful when planning who you want property to go to.

Is your Estate Planning Tax Effective?

Many readers would remember the days of death duties and the significant burden they could put on a family’s business. We often get asked if they will return. Who knows! We hope not. However there can be detrimental tax consequences if you get your estate planning wrong. It is important to seek advice to ensure your death doesn’t trigger unwanted tax burdens and that your plans provide flexible tax effective outcomes for your beneficiaries. Are your affairs in order like the wise man? Whilst it is not a nice subject to talk about, it is important that you do.

This advice is general in nature and readers should seek professional advice regarding their personal circumstances.

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