

The two certainties of life

By Phillip Win (Director and Senior Financial Planner, Profile Financial Services)

It's a common saying that there are only two certainties in life - death and taxes. I will be covering both in this article!

For those that know me and have read my previous columns, I am very passionate about the need to have a plan in place - both for your business and for your personal financial affairs. To date, articles have centred on building (wealth accumulation) and securing (risk protection) your finances. However, there is another key component that any comprehensive plan needs to address.....how do you wish your wealth to be distributed?

I often use the analogy of the wedding to illustrate the importance of planning ahead for a major event.

Now, I can only speak from personal experience, but my travels and conversations suggest that my own experience is not unique. My (now) wife, Kate, spent in the order of 12 months planning our wedding, a single day event that went for about 3-4 hours. The wedding plans did not stop with the ceremony, but continued with the cars and reception and honeymoon. The planning would have been pointless if we had left the church (in our case) to find a vacant parking plot and no car to transport us to the reception. All of the planning paid off - at least that was the feedback from family, friends and most importantly, Kate!

So what is with all the wedding talk? Well, we all need to apply at least as much rigor and planning to the day when we are no longer around, as we do for the day we get married.

If you are anything like me, you would not wish to be told by a government department that does not know you (or your family) how your estate should be distributed. However, this is what happens to many people. There are laws that govern how your estate will be distributed in the event that you die intestate (that is, without a valid will). I am sure that you have either experienced this yourself or know somebody close to you who has had to not only deal with the loss of a loved one, but also with a government department which may be just trying to do its job - but can make everything so much worse. To avoid this situation, a financial plan *must* include provisions for what you wish to do with your wealth in the event that you die. Morbid as it may sound, it is a reality.

I am often told that making a will is easy - I give mine to you, and you give yours to me. Simple, isn't it? These are called "give" wills. However in the case of a "give will," it is possible that you or your spouse could inadvertently disinherit your children. We are

aware of a recent case of spouses with “give wills” where the wife died first, leaving everything to her husband. Unfortunately the husband’s business went bankrupt shortly afterwards, and all the wife’s assets were forfeit as well as the husband’s – no assets remained, from either spouse, for the children. It is possible to avoid situations like this with proper estate planning advice.

Another common pitfall of poor planning is the contested will. A surprisingly long list of people have the right to contest a will, and many do. Did you know that the cost to contest an estate is generally met by the estate itself? This proves a no-loss position for people who can demonstrate a “need” and form a broad class of persons that could be deemed by the courts as having been dependant on you in some way at the time of your death. We have all heard stories of entire estates being eroded by litigation – with the lawyers in the end being the only beneficiaries. Good advice up front can help ensure you make appropriate provisions, minimising the chance of your will being contested down the track.

There is another type of will that you can implement that effectively “contracts” both you and your spouse to do whatever you **both** agree to do in the event of your deaths. It can only be changed if you both agree. A “normal” will can be changed by the testator (person writing the will) at any time.

The implementation of a valid will is only part of an effective estate plan. Your plan should also include provisions that cover events such as your physical or mental incapacity. This ensures that financial and lifestyle decisions can continue to be made by someone with your best interests at heart.

The document required to ensure financial decisions can be made on your behalf is an **Enduring Power of Attorney**. The document to make lifestyle and healthcare decisions is an **Enduring Guardianship**. You need both documents, as well as a valid will, before your estate planning can be considered complete. The benefit of having *enduring* documents is that they continue to be effective in the event that you lose mental capacity (ie you are in a coma). (You can obtain a general Power of Attorney template from your newsagent, but these are commonly used to grant *temporary* authority for a person that you trust to, say, pay bills for you while you are away.) It is vital that the person you appoint as your attorney or guardian be someone that you trust absolutely. Remember, they can act as if they were you. I am sure that you have heard of stories where people have abused this privilege and sold houses and committed people to nursing homes. Do not take this decision lightly!

Estate Planning is an often-forgotten poor cousin to wealth and security but is a vital part of any comprehensive financial plan. A good plan protects us in situations where we cannot make decisions for ourselves. And for those of us lucky enough to have loved ones, we owe them a responsibility to ensure they are looked after and given all possible support to help them in their own lives when we are no longer around. It can be tough to talk and think about – but, like insurance, it’s one of those things that as responsible adults we must just get around to, and get done!

As financial planners, we work very closely with our clients’ chosen solicitors to ensure that their wishes are properly reflected in their estate plan. (We also have a panel of solicitors who specialise in this area, for clients whose lawyer does not deal in estate

planning matters.) There are also significant tax planning strategies that can be incorporated into your estate plan to ensure that funds are distributed to the right people in a tax efficient way.

Don't wait until it may be too late – to set up your estate plan, or review your existing arrangements, contact us on (02) 9683 6422 to set up a no-obligation discussion with one of our planners.

About Profile Financial Services

Profile is an independently-owned boutique financial planning firm with offices in the Sydney CBD and North Parramatta. We have operated for over 20 years, and specialise in serving the wealth creation and protection needs of professionals and small business owners. Many of our clients are dentists, and we run regular education seminars on financial planning specifically for dentists. To find out about upcoming seminars, or to book an obligation-free meeting with a Profile planner, call Aine Love on 02 9683 6422 or email aine@profileservices.com.au

Website : www.profileservices.com.au