

Estate Planning

You have spent your whole adult life ensuring that you can provide financially for yourself and your family. What next? Estate planning is arranging in life what will happen to your assets after you die. However hard we try to ignore it or think otherwise we are all going to die, it is unfortunately just a matter of when.

It is therefore our individual responsibility to ensure that we have left our affairs in order as much as possible for our loved ones.

Will

The Will is the main document which will state how you want your assets to be distributed. Your Will is your expression of how you would like everything you have worked for your entire life to be distributed between your family, friends, churches and/or charities.

Your Will is your individual expression of love, generosity and appreciation for the most important people in your life and, as such, it is a very important document. It will also make it easier for your family and friends to know what you want to happen after your death.

When you make a Will you can choose the best person to legally administer your estate and its distribution. This does not have to be a family member, but it could be a close friend, business colleague or even a Trust Company. It also allows you to consider who would be the best person to potentially act as guardian for any minor children or other dependants you may have.

Every person makes their own Will. Just because your spouse has a Will does not mean your assets are covered too. The Will is the link to you and not your individual possessions. Your Will covers your future assets as well as your current ones.

No Will?

If you die without a will then you die Intestate and your estate will be governed by the Succession Act. There is a strict set of rules that states who can benefit from your estate, when they can

benefit from your estate, and who is responsible legally for arranging this distribution. The closest relations to you may not be the most suitable people to take on this role. They may be just 18, or parents who could be elderly and unable physically or mentally to undertake this role, or simply off island and practically cannot sign the necessary papers.

Some of the restrictions of dying without a will: No control over where your assets go; only blood relations will benefit; gifts are receivable at age 18.

Common Will Misconceptions

I don't have anything to leave

Your will is not just about assets you own right now, it will cover assets in the future, such as buying your home, making savings, inheriting assets.

I'm too young to think about dying

Unfortunately death can strike at any age and there is very little we can do about it. But if we plan then the worry can be relieved and we can concentrate on other aspects of our lives.

If I make a will then I will die soon afterwards

No-one has a crystal ball and nothing is definite. Estate planning should be viewed similar to an insurance policy. Everyone will have motor or house insurance, yet they do not think that they will have an accident or their house will be destroyed as soon as they take out the insurance! It is a layer of protection for your family that will ease the transition in times of high emotion and stress.

Once I make a will I can't change my mind

Your Will is totally personal to you and does not need to be disclosed to anyone. Your Will is only effective after you die. It can also be changed as often as you like up until the day you die, or the day you lack the mental ability to make a Will. It is recommended that you look at your Will every 3 to 5 years to check that it still covers your wishes, as your life may have changed considerably.

It takes a long time to create a will

Our Estates department can consult with you, prepare and get you to sign the Will generally within a week.

Helpful Definitions

- **Will** - legal document stating your last wishes
- **Testator** - the person who is making the will
- **Executors** - the individuals responsible for ensuring your will is followed
- **Beneficiaries** - individuals/charities/institutions that will receive a gift from your will
- **Estate** - total assets in your name at the date of your death
- **Guardians** - the people you want to legally look after any minors (under 18) that you have legal responsibility for
- **Legacy** - a gift from your estate to your beneficiary

Primary Family Homestead Exemption

The Primary Family Homestead exemption is a method of reducing the potential stamp duty payable by your estate, which is commonly known as Death Tax.

Property is extremely valuable in Bermuda, and whether you are the sole owner of a property or whether you own a property with others can impact your liability for stamp duty.

If you own more than two properties, or shares in two properties, then it is very important in your estate planning to choose which property is to receive this exemption. By not making the application you are potentially putting your estate at risk of paying thousands of dollars in stamp duty. This could result in having to sell the property to pay these government fees rather than gifting it to your beneficiaries.

The information given in this article is no substitute for actual legal advice. Before proceeding with your estate planning, it is prudent that you consult your attorney. Information is accurate as of date of publication: 31st January, 2011

Who Should I speak to?

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When choosing an attorney, friends and family are a great resource. They can often recommend experienced specialist attorneys as they will have consulted them before. A specialist attorney will be more experienced at dealing with any potential problems or delays in estate planning

You will always be in good hands with Trott and Duncan.

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