

## • Different types of Wills

### What You Need to Look For

#### Did you know there are different types of Wills?

Most people don't realise they can choose from two different types of Wills.

All Wills should be tailored to the Willmaker's needs but at the start of that process we believe it's important you understand what type of Will you need.

Many lawyers give people a Will without testamentary trusts without even asking them if that's what they want or need. For some these will be appropriate. However, for others, they may like to consider a Will with testamentary trusts that gives their beneficiaries greater advantages.

#### Why would you choose a Will without testamentary trusts? Some reasons...

- If you are leaving your beneficiaries a limited amount of money.
- If you are not concerned about family law issues among your beneficiaries
- If your beneficiaries will never be at risk of bankruptcy
- If you won't have any superannuation death benefits to leave anyone.

#### Why would you choose a Will with testamentary trusts? Some reasons...

- If your beneficiaries are at risk of being sued, and their assets (and the inheritance!) are at risk.
- If you are concerned about a possible marriage or relationship break-up, where their assets (including the inheritance) could be vulnerable.
- If your beneficiaries include young



children who could use tax benefits.

- If you want to set the age at which your beneficiaries get control their inheritance beyond 18.

- If you need to provide for someone who can't manage their money.

- If you prefer to provide a house for someone to live in rather than giving them the property outright.

#### How do Wills with testamentary trusts work?

They usually enable an adult beneficiary (age of your choice) to take their inheritance and put it in a testamentary trust that they control.

They can manage the inheritance as they see fit but importantly it offers a range of benefits they won't have if they take the inheritance in their own name.

#### What are the some of the benefits of testamentary trusts?

##### Asset protection

When assets are held in your own name and you are sued for example, a bankruptcy trustee can seize your assets to pay what you owe. If those assets are held in a testamentary trust (a discretionary one), the bankruptcy trustee has no right to touch those assets. The inheritance is safe.

##### Control the inheritance – at what age?

Most of our clients are concerned when they realise that if they have a Will without beneficiary testamentary trusts their children will get their inheritance when they are 18. That is way too young according to most of our clients! So, they choose a Will with testamentary trusts which allows them to decide the age of control. Most choose 25 but it's a matter for you.

#### Family Law

If your child is going through a relationship or marriage break-up the Family Law Court will consider the assets owned and contributed by both parties. If your child is subjected to this process, it will be far easier for the court to identify what your child has contributed when the inheritance is being kept separate in a testamentary trust. It won't necessarily be safe from a Family Law Court order but it will certainly help the Court identify exactly what the inheritance from you contributed to the relationship. That will be taken into account in determining the outcome.

#### Tax Breaks

The Tax Act allows for income earned by children from testamentary trusts to be taxed without penalty. This is different to a normal family trust for example, where children pay penalty tax. With a testamentary trust, income can be split amongst beneficiaries with consequent tax savings. This may help your beneficiaries considerably.

If you have special requirements, for example a child with mental or physical health issues, then these Wills become even more essential.

#### Free Will Review

Would you like to know whether your Will contains testamentary trusts that offer these benefits?

Email a copy of your current Will and we will provide you with a written report, free of charge.

#### You decide. What's right for you?

For more information on types of Wills please call us for an obligation free chat on **03 8621 9000** or send us an email [info@irongrouplawyers.com](mailto:info@irongrouplawyers.com).