

Protecting your family's future



By MELISA SLOAN

OVER THE NEXT 20 years, it is expected that an astounding \$3.5 trillion will be transferred through bequest.

That is a scary figure.

It prompts us to reflect on our own personal circumstances and ensure that we have made the appropriate provision in our own Will about where we would like our wealth to go when we die.

For many people, that wealth transfer consists of leaving it to the next generation, particularly their children.

This raises additional questions about the manner in which you leave your wealth to your children.

Are you leaving it to them in their own name, or are you leaving it to them in a testamentary trust, which will provide them with asset protection and tax effectiveness?

There seem to be so many little aspects that you need to tick off; however, if done properly, with a well-drafted Will and Estate Plan, the transfer of your wealth to the next generation could reap enormous benefits for your loved ones.

What is a Testamentary Trust?

Testamentary Trusts have continued to gain prominence as they are deemed the most tax-effective and asset-protective way to leave an inheritance to your children and future generations, given that they have a perpetuity period of 80 years, and are often referred to as

bloodline trusts.

For many people, they have worked hard to create their wealth and the last thing that they want to see happen is the next generation lose all or part of that wealth due to a matrimonial or relationship breakdown, or the failure of their business, or due to a child working in a high-risk occupation and getting sued.

Having a Testamentary Trust in place protects the assets that you are leaving to your children.

You may make provision in your Will for your children to have total control over the assets in their own Testamentary Trust and have the flexibility to do as they wish with these assets — purchase property, buy a car, purchase shares, or use funds to go on a holiday.

All assets would be purchased in the name of their Testamentary Trust to distinguish them from any assets that they hold in their own name.

Why is this important?

If your child's marriage breaks down or if their business goes bust, the assets in the Testamentary Trust are clearly identified as Trust assets and will remain in the family.

If your child has received their inheritance in their own name and their business failed or they went bankrupt, creditors and other associated parties could seek recourse as these assets are held by your children in their own individual name.

Testamentary Trusts are also a fantastic vehicle in which to leave an inheritance to children who cannot control their own inheritance, either



as a result of an addiction, disability or inability to manage money.

Getting your Super sorted

Superannuation for many people is one of their biggest assets.

Surprisingly, many people think superannuation is part of their Will.

It's not.

In order to direct where you would like your superannuation to be paid at the time of your death, you need to provide a direction to the trustee of your superannuation fund as to where you would like your superannuation to be paid at the time of your death.

A Binding Death Nomination or Non Binding Death Nomination allows you to stipulate where you would like your superannuation to be paid upon your death, and you

can find Binding Death Nomination or Non Binding Death Nomination forms to complete on your superannuation fund's website or by contacting your super fund directly.

When determining who to leave your superannuation to, you should consider whether they are deemed to be a "dependant" for superannuation purposes.

Superannuation paid to dependants is paid tax-free; however, if superannuation is paid to a non-dependant, it can be taxed at 17 per cent, depending on the composition of your superannuation fund.

Given that your superannuation can be one of your significant assets, it is important to obtain the appropriate tax advice to ensure that the transfer of your superannuation is as tax-effective

as possible and to make an informed decision in respect to who you would like to leave your superannuation to at the time of your death.

Given the significant transfer of wealth over the coming years, now is an ideal time to review your own circumstances to ascertain if your Will and Estate Planning documents are reflective of your current wishes and equip you and your family in the best manner possible for the wealth that you will leave to your loved ones upon your death.

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For more information or advice, visit madisonsloanlawyers.com.au.