



Illustration by Fang Keong

ESTATE PLANNING

Till Death Do Us Part

MAKING SURE YOUR LOVED ONES ARE PROVIDED FOR WHEN YOU ARE GONE

Have you made a will? If not, why not? Careful estate planning can help you minimise estate duties, take care of medical expenses and ensure that your loved ones are provided for after you are gone. And making a will is only part of the story, as *James Huan* explains.

Financial planning is about bringing together your different investments with specific goals and responsibilities in mind. But what happens if we don't live long enough to see our children go to college, or long enough to enjoy our retirement? Our responsibilities do not end when we die. Estate planning is all about making sure that our loved ones are provided for in the event that something unfortunate should happen, and there is a lot more to it than simply drawing up a will.

WHAT WILL HAPPEN WHEN WE DIE?

During our lifetime we accumulate four basic types of assets. 'Business assets' might come in the form of a sole proprietorship, a share in a partnership, or shares in a private limited company. Our 'personal assets' include money in the bank, investments, stamp collections and the Mercedes out in the car park. The third asset type is the insurance that is paid out upon death, which can often mean we are worth more dead than we ever were when alive. And last but not least come our Central Provident Fund assets, which can form a sizeable proportion of what we own.

But what will happen to all these things when we die? Our assets should, ideally, be passed on to our loved ones quickly and efficiently, but the reality can be more complicated. The process can be messy and prolonged: not all your assets will be passed on to loved ones, and the assets that are might not be passed to the friends or relatives that you had in mind.

Let us imagine that when we die all our assets flow into a 'funnel' that we will call the 'estate'. The idea is for our assets to flow down through the funnel to our intended beneficiaries, but before that can happen a good deal of money may be 'siphoned off'. Why? Well, even the dead have to pay their taxes.

Estate duties, often dubbed 'death taxes', will vary according to how you structure your assets. There are various exemptions that come into play before estate duty has to be paid, and these can be fairly generous, but you might be surprised at the amount of estate duty that needs to be paid, particularly once your insurance policies have been settled.

The administration of an estate will inevitably incur expenses, such as the probate fees that come with applying to the courts for the necessary legal papers. There are also legal and accounting fees to be paid in the process of putting your estate in proper order for due administration and distribution.

Any outstanding debts such as personal loans and credit card bills will also have to be paid before your estate reaches your beneficiaries. Take note that if you've given any personal guarantees, such guarantees

Make sure that your investments work for you, and make sure that they will eventually work for your loved ones as well.



are not automatically discharged and your estate continues to be liable until a replacement guarantor is found and your estate properly discharged. Any such guarantee called on your estate in the meantime will reduce the size of your estate accordingly, so if, prior to passing away, you own a struggling business, your estate could also suffer the liquidation losses that may be incurred in winding up your business.

Medical expenses could also drain your estate's assets, especially if the medical crisis suffered before death is a prolonged one. This is one area that many people fail to properly plan for, which is made all the more worrying by the pronouncement made by the Health Ministry back in 2000 that local healthcare costs could treble over the next 30 years or so. And that could turn out to be a conservative estimate, as improvements in medical technology keep pushing back the boundaries of life expectancy.

So now the question is, will you be able to leave a worthwhile amount behind for your loved ones? And even then, will they be able to carry on living according to the same standards that they are used to? And will the correct people receive our legacy as we intend?

WHERE THERE'S A WILL, THERE'S A WAY?

Hopefully it is clear by now that estate planning does not just mean writing a will, which seems to be the first thing that springs to mind when most people talk about estate planning. In fact, there are three main areas to look at. The first is asset preservation, which means looking at ways to minimise the sort of leakage that we have already discussed. You need to estimate the amount of estate duty that is likely to be paid upon your death, and then work out if actions taken to reduce that duty are worth it.

One option is to set up a 'trust', which is basically an arrangement through which you, the owner of your assets, transfer the legal ownership of those assets to a trustee to hold and then use for the benefit of your beneficiaries. A trust is a good way to keep assets within the family, while at the same time helping to lower estate duty. There are, however, pros and cons to such an arrangement.

Where insurance is concerned, you can set up what is known as a 'statutory trust' or a 'Section 73 trust', which is created automatically when an insurance policy is specifically stated to be for the benefit of your spouse or children. In other words, it

means nominating your spouse or children as the beneficiary of your policy.

Such policies may be considered separately and not aggregated together with your total estate when it comes to computing the amount of estate duty payable. It does, however, mean that you effectively lose control of the policy, so you should consider the situation very carefully. Did you know that many policyholders create Section 73 trusts without even realising it, as nominating one's spouse or children as beneficiaries is a natural thing to do? Make sure you review your policies and see that they fit appropriately into your estate plan.

And as far as medical expenses are concerned, suffice to say that we should all have appropriate medical plans in place to reduce unnecessary risks. Insurance plans need to be structured in such a way as to offer protection against the expenses of medical needs during our lifetime and immediately prior to death. If not, our assets may begin to dwindle, particularly if death is preceded by a long period of illness. Try your best to protect your legacy.

WEALTH CREATION

It goes without saying that in order to pass wealth on to your loved ones you need to have created and accumulated it in the first place. Ask yourself a simple question: "If I were to pass away today, would I leave behind sufficient cash and assets to provide for my estate expenses as well as my goals and responsibilities for my loved ones?"

The questions do not end there. Will there be sufficient income for your dependents to carry on with the same lifestyle without having to downgrade? Will you be able to leave behind sufficient assets for your children to pursue a tertiary education when the time comes?

You may have noticed that the questions above mention cash and assets, and there is a good reason for this. After you're gone, your family will need cash to meet their short-term needs, which will include paying estate duties. What many people fail to realise is that if it is not properly structured, our cash can be frozen until estate duties are paid, but if that is the case then how will those duties be paid? Make sure sufficient cash is readily accessible, and consider all the emotional stress that your family will be going through – do they really want to be left grappling with all these unnecessary issues?



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WEALTH DISTRIBUTION

Now it's time to consider how your wealth will be distributed, and this is where your will comes in. The will is just one stage of an overall estate plan, and though you may not realise it, like it or not all of us already have a will in place. If you have written one yourself then that will come into effect when you die, but if not then your estate will be dealt with

according to the Intestate Successions Act, which is like a government will.

If you pass on without setting down your wishes in a will of your own, there is a line of relatives or family members who can inherit your property by way of priority. At the top of this list will be your closest family members, in other words your spouse or children. After that, the list gradually broadens in scope to include parents, grandparents, siblings, uncles, aunts, and even nephews and nieces. And in the unlikely event that you have no relatives at all, your assets will go to the government.

So, if you are not inclined to have the government decide on your behalf how your assets are to be distributed, then make sure you write a proper will. In fact, everyone should have one, because it is not just a question of who will receive what. Having a will helps to ensure that assets find their way to beneficiaries quickly and efficiently. In your will you can set out who will attend to your estate (the 'executors') and, if they are minors, who will become your children's legal guardian. If these issues are addressed then there is no need to settle the matters in court, and that will save time and money.

Make sure, then, that you have briefed your executors on their expected roles and responsibilities, so that if something unfortunate does occur they are emotionally and physically ready to attend to your estate. Delays are often caused by unwilling or unprepared executors, so by getting them prepared you will at least know if your choice is ready and willing to help. If not, then you have a chance to find someone more appropriate before it is too late. You don't want your assets to be stuck simply because the executors of your will are unable or unwilling to attend to your estate.

It is also well worth keeping an up-to-date list of your assets, for a very simple reason – it is difficult enough for a person to work out the extent of their own assets while alive, so imagine how difficult it could be for your executors after you are gone. Through no fault of their own, your executors might not be able to track down all that you own, leaving

Ask yourself, “If I were to pass away today, would I leave behind enough for my loved ones?”

ESSENTIAL ACTION

- Write a will. It will help ensure your assets are distributed quickly, efficiently and correctly
- Consider setting up a trust to keep assets within the family and reduce estate duties
- Make sure your family will have enough cash to meet their short-term needs, including estate duties
- Review your insurance policies. Make sure they fit into your estate plan
- Make sure your executors are willing and able to do their job properly
- Keep an up-to-date list of your assets – some could be difficult to track down when you're gone

some assets unclaimed, particularly if they are registered overseas.

Having a proper estate plan that is well thought through is very important, especially for your loved ones and beneficiaries, who can experience a great deal of hassle and distress if left to attend to an estate lacking a plan. And in case you are thinking that you haven't heard many stories about such potentially trying ordeals, consider how many close family members would feel comfortable discussing such things. The problems people experience are very real indeed.

Your family does not have to go through the same thing. As you continue to invest and plan for yourself, make sure that you have considered how to provide for your loved ones, how to minimise tax duties, and how to administer your estate. There are good reasons why you invest your hard-earned money, so make sure that those reasons are fulfilled regardless of situation or circumstance. While making sure that your investments work for you, make sure that they will eventually work for your loved ones as well. **si**

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