

## ESTATE PLANNING

**Effective estate planning is an essential exercise in protecting and maintaining wealth through the generations, and in ensuring that assets and the control of assets pass on to the desired beneficiaries in the most financially and tax efficient way possible.**

Many people do not realise that assets held in family trusts or in superannuation, do not necessarily form part of their estate, nor do they realise that different assets may well have different taxation consequences to different beneficiaries. On this basis estate planning involves much more than just having an effective Will in place.

An estate plan should be formulated with a holistic approach, taking into consideration such matters as the value of the assets, the legal ownership, business structures, growth potential, liquidity, whether the assets have been used as security for debts, what assets should be passed on to which individuals and at what point in the life cycle, whether any insurances are in place, and whether any contingent tax liabilities attach to particular assets.

In addition, pharmacy owners generally require greater consideration with regard to their estate plans simply because the Health Practitioner Regulation National Law (NSW) only allows the executor of an estate to retain an interest in the pharmacy for a period of 6 months (or longer if approved by the Pharmacy Council) and the interest can only be sold to another pharmacist. This can create significant difficulties for an executor/spouse and is something that should be addressed by the pharmacist long before the need arises to ensure the estate receives fair value for the business. **(Refer factsheet on Business Succession).**

Special attention must also be paid to assets held in a trust. This is because such assets do not form part of the estate of the deceased & therefore if the intention is that specific people are to benefit from the trust assets, then arrangements need to be put in place to ensure the intended beneficiaries effectively control the trust. This is a complicated area & specialist advice should be sought.

Another area requiring specialist advice is superannuation. This is one of the more common vehicles for building tax effective wealth, and as a result superannuation may be the most significant asset of the estate outside of the pharmacy and the family home. Careful planning is required to ensure that superannuation benefits upon death go to the intended recipient and in the most tax effective manner.

Another strategy used as a means of managing the control of assets and income after death, is the use of a testamentary trust. This is essentially a trust set up within the Will, which only comes into effect upon the death of the Will-maker and if properly established it may provide increased protection of assets where a beneficiary may become bankrupt, suffers a marriage breakdown, or has personal issues or dependencies preventing them from effectively being able to manage their money.

Second and subsequent marriages and blended families require even greater consideration and may involve instigating strategies such as binding financial agreements and mutual Wills.

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