

# Intestacy

By Susan Winter, Tax Consultant

Are you old enough to vote, to get married and to drink alcohol, but not responsible enough to make a Will?

Shockingly the answer is 'yes' for many people; yet the reasons why you should make a Will are plentiful. Many people die without a valid Will because they don't want to consider their own mortality; however, making a Will won't accelerate your death, neither will it be time consuming or expensive.

It is a common misconception to think the laws of intestacy will adequately distribute your assets to your family. Indeed the Law sets out what happens if you die without a Will but whether these provisions are adequate to meet your wishes is a different matter. There is a strict pecking order for deciding who gets what and this is reliant on what family you leave behind.

If you die leaving a spouse and children; your spouse will receive the first £250,000 of your estate along with the income generated from half the remainder. The children will get half the remainder outright when they reach 18 and the other half after the spouse dies.

If you die leaving only children then they will inherit everything when they are 18.

If you die leaving a spouse, no children but other relatives; your spouse will receive the first £400,000 of your estate along with half of the remainder outright, the other half will pass to your next closest relatives in a specific order of priority. If you have neither a spouse nor children, your next closest relatives will inherit everything and if you have no surviving relatives then your entire estate will pass to the Crown!

The law does provide certainty as to who will inherit; however, it also creates countless problems.

If each spouse has children from a former marriage the entire estate could end up only benefiting one spouse's children.

Children will inherit at the age of 18 which is very young to receive what could be substantial sums of money or business interests, most Wills increase the age of inheritance to 21 or 25.

You should consider who to appoint as guardians for your children, these important provisions are not covered by the intestacy rules and should be included in your Will.

Without a Will, assets worth more than your Nil Rate Band could pass to people other than your spouse; resulting in an unnecessary Inheritance Tax liability.

Assets could pass to elderly parents which can be particularly damaging for Inheritance Tax planning as assets may fall to be taxed on their death and then again in subsequent generations!

The further down the family pecking order that assets pass, the less likely it is that the deceased's wishes are being carried out.

In short, by not having a Will you may be leaving your family with a Tax burden, an emotional wrangle over the distribution of your assets and most definitely a financial headache.

You can write your own Will or employ the services of a Will writer or Solicitor. My advice would always be to seek both Legal and Tax professional help as you cannot put right a mistake from the grave.

For further information on how Armstrong Watson can help you, call freephone 0800 195 2161 or email [moneymatters@armstrongwatson.co.uk](mailto:moneymatters@armstrongwatson.co.uk)