

Who'll get your worldly wealth, your heirs or the taxman?

George Poulos (not his real name) had spent his working life building a fortune. He had worked long hours in his small business.

A conservative investor, he preferred income-producing real estate. Like any wise and just father, he wanted to treat his two sons equally - and he was keen to avoid family squabbles over who got what. So, in his will George gave each of his sons a property. Both properties were well located and of about the same value.

But things did not work out as George intended.

One property had been bought before 1985 (when capital gains tax came in) and the other property George had bought just after that year. Both properties had increased greatly in value over the years.

Although nominally they were of the same value when George died, one property carried a heavy capital gains tax liability while the other was tax free. George had unwittingly sown the seeds of a family feud.

There was no way of redistributing the tax liability except with the consent of the son who had gained the advantage. And until the properties were sold there was no way of knowing just how valuable the advantage would prove to be.

A TRAP REVEALED

George's case shows how estate planning is now an increasingly important part of financial planning. We need to think about how our assets can be left to our chosen beneficiaries in a tax effective way. It's not only money that matters.

There are no death duties now but the possibility of them being reintroduced cannot be safely ignored. As the Federal Government struggles to balance the national budget there are those who will look favourably on reviving death duties as a tax on wealth.

YOUR WILL - IT'S IMPORTANT TO YOU

Having a property drawn up will is fundamental to your objective of passing on your assets intact to your family. Despite its importance, many people simply don't get around to making a will - or fail to keep their present will up-to-date.

And relative to their importance, wills are inexpensive. It's often the case that an experienced lawyer can help you spot potential problems in your business or personal affairs in the course of a consultation about making a will.

The tax implications in estate planning are enough for you to reject any notion of doing it yourself.

DON'T DIE INTESTATE

If you die without a will (intestacy), a formula decided by Parliament says how your estate will be divided. For example, the estate of a father who leaves a widow and small children is divided among them in fixed shares - an outcome that most married couples would certainly not want (preferring instead to leave all

ESTATE PLANNING TO AVOID TAX

Capital Gains Tax (CGT.) is here to stay. With the exception of a few tax-exempt items (the family home and

motorcar) everything you own may be caught by the tax. And to make matters worse the liability can be inherited. The rules are complicated and touch everyone. Even antiques and collectables are caught in the CGT net.

One way to reduce your risk is to keep good records. For example, the date of purchase can be critical. Was the asset acquired before or after CGT came in? When does the allowance for inflation run from? What was the original purchase price? What capital improvements have been made to the asset so that the

GIFTS CAN GO WRONG

You can, of course, give away assets other than through your will. But you need first to think about your own needs and recognise that money given away freely cannot be called back. What if a child should become divorced or die? You need to balance generosity against the phenomenon that, sometimes, gifts create resentment and discord in families, especially if one child is advantaged over another. There is an old saying "You do not get undressed to die".

Anyone unfortunate enough to be holding capital losses needs advice about how the benefit of these losses can be used up so that they are not lost on death. There are strategies for offsetting the losses against capital gains provided the right action is taken at the right time.

A ROLE FOR THE FAMILY TRUST

Another tool in the estate planner's kit is the family discretionary trust. It is probably the best means of providing to the equitable distribution of income and assets within fragmented and reconstituted families.

A trust administered by an independent but compassionate (and well-instructed) trustee can provide security and an accustomed lifestyle for a widow while preserving capital for the children of a former marriage. This can avoid what would otherwise be a hit-and-miss sharing of family wealth.

The task of confronting hard questions about who gets what can sometimes become so burdensome that nothing is done at all, and it is left to the court and lawyers to work out a fair division often at great expense and with permanent damage to the relationships within the family.

Wise decisions about making your will and planning your estate for the benefit and protection of your family come from wise advice. Consult an experienced and knowledgeable lawyer. It's a worthwhile investment in peace of mind. The "do-it-yourself" will forms that you can buy at your local newsagency are nothing less than a menace. It is far wiser to seek good legal advice from a solicitor who can tailor your will to meet your specific needs.

Steer clear too of free offers from Trustee Companies who promise to prepare your will free of charge.

There is always a catch - your heirs will pay dearly for the company to act as executor of your estate. The Trustee company has first call on your assets at the surprisingly handsome rate of around 4 to 5%. As the saying goes, there is no such thing as a free lunch. Of course, Trustee companies have their role to play - but usually only in large and complex estates or where the independence or longevity of the executor is crucial.

GET STARTED NOW

A major transfer of wealth is set to take place in Australia over the next decade as the savings of one generation flow through to the next. The personal wealth that will change hands has been estimated at about \$140 billion. A share of this will end up in the government coffers through capital gains tax and the possible reintroduction of death duties. Estate planning through wills, gifts and trusts can help preserve assets - as well as avoid the risk of family disputes.