



Estate  
Planning

# Wealth Protection

Wealth Protection is about protecting what matters most and to many Australian's this is their family and more importantly, their children.

Protecting your wealth by making sure suitable strategies and mechanisms are available at your time of need is crucial to create piece of mind in respect to your finances.



Wealth Protection at its core focuses on establishing a series of “strategies and mechanisms” that provide a tailored solution to the questions of how your personal situation is able to overcome and protect you, your family, your business and your estate from any adverse impacts associated with a medical event or premature death.

Our focus at Fintor when creating a robust Wealth Protection plan is to consider the personal circumstances and importantly, the wishes that can only be explained by the person seeking the advice. Understanding these unique personal characteristics dictates what is suitable, but importantly flexible.

Establishing a suitable Wealth Protection strategy can be an emotional process. Our advice will seek to discover and implement answers and solutions to questions like:

If you are to pass, do you wish to exclude or reduce the potential inheritance received by a particular family member?

Do you trust your Partner and/ or your children to make a medical, financial, or personal decision on your behalf?

More importantly, whom do you believe is best able to make an appropriate decision?



Answers to important financial questions such as:

What happens financially if I die?

How do I make sure my kids receive my wealth?

How can the tax implications associated with my death be minimised?

How do I protect my surviving spouse and children from divorce, family disputes, debtors, bankruptcy's and business dealings?

These questions can all be deliberated and solved using the most optimal protection Australian law affords to safeguard your legacy and the assets you bequeath to your loved ones!



Importantly, Wealth Protection also considers the funding mechanisms available to you and what financial impact would be incurred in any unforeseen event occurred. Our advice seeks to establish robust protection to cater for the following circumstances:

- ✓ If you were to die or become disabled
- ✓ Have the need to undergo extensive treatment for cancer or suffer the catastrophic long term consequences of a major heart attack or stroke
- ✓ Due to a medical event you are unable to earn an income from employment activities
- ✓ The need to reduce your employment activities due to your spouse suffering a major illness.

Our advice will even consider your ability to overcome short term periods without income and will provide advice on a tailored solution that is both cost effective, but will importantly meet your financial needs now and into the future.

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# Estate Planning

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## The importance of Estate Planning

Estate planning protects your wealth as you go through everyday life as much as it protects it when you pass away. For this reason it is one of the most important tools when considering a Wealth Protection strategy.

An effective estate plan includes tax effective Wills to protect your estate and the interests of your beneficiaries in the event of your death.

Jointly held assets, trust assets and superannuation are not necessarily dealt with by the terms of the Will. These types of considerations are usually referred to as 'non-estate' assets for estate planning purposes and need to be accounted for.

Therefore, it is extremely important to contemplate and implement a comprehensive Estate Plan to ensure all assets are protected and transferred according to your wishes. Deliberation should also take place on how to transfer assets in an effective manner for taxation purposes.

## Your Will

Your Will is the document that directs how your estate is to be distributed amongst your nominated beneficiaries.

A Will does not cover all assets owned by a person, so special care should be taken to ensure the ownership and control of all your assets including 'non-estate' assets, pass to beneficiaries in the way you intend.

## The Executor

When a loved one has passed away, his or her estate needs to be "administered". This task is carried out by the person's "legal personal representative".

This legal representative is appointed in the deceased Will and is named the "executor".

The nominated executor in the Will can take on the role of the legal personal representative if he or she wants too and for this reason a second choice of person should be elected, just in case.

# Dying Intestate

Importantly if you die without a valid Will the law decides who gets your assets. This is called 'dying intestate'. The rules applied by the law also vary from each state.

Under Victorian intestate provisions, if a person dies intestate the following summary of how the assets are bequeathed is as follows:

- ❗ One partner and no children - the partner receives the whole of the estate of the deceased.
- ❗ One partner and child/ren of that relationship - the partner will benefit from the whole of the estate
- ❗ One partner and children born of a different relationship - the partner will receive all the personal chattels, the 1st \$451,909 and 50% of the balance with the remaining 50% amongst the children.
- ❗ Multiple partners (complex) - complex provisions dealing with this situation.
- ❗ No partners - the estate is divided equally amongst children and if a child of the deceased has already passed away, that deceased child's children take equally.
- ❗ No partners nor children - the estate is divided equally between parents of the deceased and if no parents then equally between siblings and if none there is a pattern of distribution thereafter "down the line".

[Our Advice will help your estate avoid intestate laws!](#)

## Children & Estate Planning

So you've been blessed with a child or a family and all the ups and downs that come with this life changing experience. A child's innocence and reliance on you as a parent is unparalleled. Their reliance on you does not change for years to come, in some cases it lasts a lifetime!

[So ask yourself, why would their reliance on you change in the event of your disablement or death?](#)

The answer, it doesn't! In actual fact their reliance on you increases, because without that loving parent, the job of raising that child becomes significantly more difficult. The difficulties are felt by both the child and the surviving parent or family member tasked with this life changing event and the care of the child.

Everyone knows this situation would be extremely difficult, so this shouldn't come as a surprise. What might come as a shock is the process involved and the people that may be appointed for medical, financial and care taking needs of your child. The shock doesn't stop there, most people are unaware of a fact that will impact every child or minor when bequeathed a legacy.



# Minors Tax

When a child under the age of 18, a minor, receives an inheritance, the inheritance will normally be held in trust until they are 18 years of age. The original lump sum of money is normally not taxed and is received in full.

However, when a child under the age of 18 earns an income (Interest, Rent, Dividends) from assets given to them in the will, this income is taxed differently compared to adults.

Income tax rates for minors:

Income between \$0.00 - \$416.00 are tax at 0.00%

Income between \$416.00 & \$1,307.00 are tax at 66.00%

Income over \$1,307.00 per annum are tax at 45.00%

If your estate was to earn \$40,000.00 per annum in income and pay these distributions to your child to look after their general well being, the following tax would apply to a minor when compared to an adult:

Income tax for a minor:

Income tax for a Adult

Tax Paid \$18,000.

Tax Paid \$4,547

Net income \$22,000

Net income \$35,453

**The difference in taxation between an adult and a minor when earning \$40,000 per annum is \$17,453**

**Our advice can eliminate your child having to pay Minors Yax!**



# The Intracies of a well thoughtout Estate Plan

## Enduring Power of Attonerny

There are different types of attorneys to perform different roles and each have different decision making capabilities. The types of Attorneys available in Victoria are:

- ✓ Medical
- ✓ Financial
- ✓ Personal

By granting Enduring Power of Attorney ensures that a person you trust is appointed to operate your financial, medical and personal affairs if you are incapacitated and unable to make a concious decission.

## Legal, Divorce & Family Dispute Protection

The ability to protect your estate from family disputes and divorce can be significantly improved by certain provisions being included in an estate plan. These provisions provide the most optimal protection Australian law affords to safeguard your legacy and the assets you bequeath.

If properly structured and ongoing advice is received on how and when the estate is distributed long-term, any legal dispute would have difficulty accessing the monies held within the provision of the will. The recommendations made will consider a combination of the aspects below to protect your legacy's financial position. All advice provided will require you to seek professional legal advice to implement the strategies recommended.

The aspects of your estate plan will consider:

- ✓ Testamentary Trusts
- ✓ Single Pot Or Individual Trusts
- ✓ Super Beneficiary Nomination
- ✓ Trustee Type - Corporate OR individual
- ✓ Asset Ownership
- ✓ Asset to be kept OR liquidated
- ✓ Property Titles
- ✓ Age Restrictions
- ✓ Apointers - independant or a beneficiary
- ✓ Minors Tax
- ✓ Business Buy/ Sell Agreements

**Our advice can provide your estate with the most optimal protection available to stop your partner or childrens' future spouse taking your hard earned money!**



# Superannuation

Generally, superannuation is an asset excluded from your Will. Any benefit payable upon death is distributed by the superannuation trustee in accordance with the Trust Deed. The trust deed usually gives the trustee the discretion to decide who should receive your superannuation entitlements.

Most superannuation providers have three superannuation “will” types called “beneficiary options”, these are called:

- ✓ Non-Binding Beneficiary
- ✓ Non-Lapsing Binding Beneficiary
- ✓ Binding Beneficiary

A non-binding beneficiary acts as a suggestion to the superannuation trustee and can be contested. This option also increases the time that is taken for the monies held under superannuation to be paid to your beneficiary's.

Binding nominations need to be updated every three years, unless a non-lapsing binding nomination is selected. A binding nomination means that the money is provided to the SIS dependants you elect without question.

## Who can be nominated as a super beneficiary

The form of the benefit payment, and who it is paid to, will depend on the governing rules of your fund and the relevant requirements of the Superannuation Industry (Supervision) Regulations 1994 (SISR).

You can nominate the following persons as beneficiary's within a super:

- ✓ A child of the deceased any age
- ✓ a person in an interdependency relationship with the deceased
- ✓ A spouse or de facto spouse

## Will the money be taxed?

Different tax treatment can apply depending on whether your super is paid as a lump sum, income stream or mixture of both, and if your beneficiary or beneficiaries are classified as 'tax dependants'.

Lump-sum super benefits paid upon your death to tax dependants directly, or via your legal personal representative, are not taxed, whereas super benefits paid to non-tax dependants may be.



# Case Study Matt & Kate

Matt and Kate, having sort Cashflow Management advice could see how quickly their savings would be depleted in the event of either person suffering an illness, disability, or Death. Their expenditure of \$70,400.00 could be reduced slightly, but the loan payments would remain at \$3,121 p/m or \$37,452.00 per year. The total expenses of \$107,852.00 or \$8,978.00 per month would erode their current cash and liquid assets totalling \$54,653.00 in just over 6 months.



No provision for medical expenses or other costs are accounted for and these could be reasonably assumed if either were to suffer a serious illness, disability or death.

## **Matt and Kate ask for help and guidance on how to protect their situation.**

Fintor start the process by identifying the strengths and weakness' of Matt and Kates ability to protect their wellbeing and financial situation. We suggest that Matt and Kate consider starting their Wealth Protection strategy by firstly creating solid a foundation from which their protection can rely upon. Wel also explain that this foundation will be the corner stone in protecting their two children Claire and Walter aged 3 and 1 if the worst should occur.

The process would then move toward analysing their need for each cover, the sums insured and the benefits and features to suit their occupations. Consideration over the couple's savings goals and objectives would be taken into account when applying a budget and deciding which covers, features and benefits are truly important to them.



## Creating the Foundation to Protect

Matt and Kate, being a young couple have never put too much thought into Wills and Powers of attorney as they are both young and their belief is that it is very unlikely that both would pass leaving their children with no parents.

Fintor agree that this situation is highly unlikely, but explain that a situation where one parent remains after the others tragic death is quite common. Additionally, the wealth you build today will eventually pass to the surviving spouse and subsequently to your children, if this is what you wish.

Establishing suitable protection mechanisms within their estate plan would allow the surviving spouse and their children to enter into new relationships, knowing a significant portion of the wealth is optimally protected to the extent Australian law allows. Importantly, both parents would have peace of mind that if a future de-facto or marital break down was to occur that their wealth and legacy would mostly pass to Claire and Walter, their children

RSM Fiancial suggests the following course of action:

### Will & Estate Plan

Seek professional legal advice and help to establish a Last Will and Testament to avoid intestate laws and ensure any future spouse would not receive the first \$451,909 and 50% of their remaining wealth. The suggestion to appoint a first and second preference for the executor role and multiple preferred guardians for the care of their children is also made. Fintor also advise Kate and Matt on suitable restrictions and the ownership of assets to protect against poor decisions and taxation

### ASSET PROTECTION

Seek legal guidance on including a provision for a testamentary trust to enhance the protection of their children and legacy. Fintor request that the legal professional presiding over the documentation is a lawyer who specialises in estate planning. The reason is that the recommendations towards single or multiple trusts, their trustee structure, appointors, restrictions, and the assets to be maintained or liquidating need to be understood as the recommendations all combine to securely protect Matt and Kates wishes and legacy

### POWER OF ATTORNEY

Fintor suggest that Matt and Kate both consider appointing each other as Enduring Power of Attorney for medical, financial, and personal reasons. The suggestion is made that each person appoint a second person whom they trust to make these decisions. By making these appointments Matt and Kate will have the peace of mind that should they not be able to make a conscious decision that a person they trust is elected to do so

**WARNING:** the above suggestions are for illustrative purposes only and should not be considered personal advice. Suggestions above are NOT suitable for many Australians, please seek advice before making any decision.



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**GET IN TOUCH!**

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