More Than Just a Will:

What Do I Need to Do to Secure My Legacy and My Family's Financial Future?

An Exclusive SLF Lawyers x The Hopkins Group Event

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Food & Dietary Requirement:

Vegetarian & gluten free options available

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Got a Question:

Live Q&A QR code, pen and notepad available, ask us

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Take-Away Pack:

Under your chair – something to remember us by! ☺

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Recycling:

General waste, recycle, organic & other

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Your Presenters & Q&A Panellists for Tonight are...

Philip Drew | SLF Lawyers
Senior Associate

James Patterson | The Hopkins Group (THG)
Accounting Partner & Head of Accounting – Business

Michael Williams | The Hopkins Group (THG)
Managing Director & Authorised Representative

In Tonight's Seminar, We'll Cover the Following Key Topics...

1. A Complete Overview of an Effective Will and the Legacy Securement Creation Process

2. The Difference Between Estate Planning and Will

3. The Different Role of a Lawyer, a Financial Planner and an Accountant in the Process of Creating an Effective Will and Legacy Securement Framework

4. The Difference Between a Standard Will and a Testamentary Trust

5. Why Combining legal, financial, and accounting advice is so important

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If You Have a Question for the Live Q&A at the End of the Presentation

A copy of this QR code is also available in your take-away pack.

Legal Considerations:

Type of Wills, Asset Protection, Superannuation & Power of Attorney

Presented by SLF Lawyers | Philip Drew, Senior Associate

What is a Will?

A will is...

A legal document that details how you restate will be distributed after your death.

Your estate comprises:

the property that you leave when you die, including property, personal chattels, assets, and liabilities.

A Will is Only Valid When it is...

- In Writing
- Has an Executor
- Has a Beneficiary
- Signed by the Will-Maker and Two(2) Witnesses on Each Page

No Will?

If you do not have a valid will in place, your estate will be distributed according to the rules of intestacy.

These statutory provisions prescribe a fixed order of inheritance, irrespective of your personal wishes or intentions.

No control. Beneficiaries may be individuals you do not want.

Standard vs. Testamentary Trust Wills

Testamentary Trust Will...

Is a will that establishes one or more trusts upon your death, allowing your assets to be held and protected for beneficiaries.

You appoint trustees in your will, who are responsible for managing the trust and deciding how and when assets are distributed.

Standard Will...

Is a straightforward will that distributes assets to the beneficiaries directly.

Beneficiaries' inheritance is in their own name.

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Benefits of Testamentary Trust Wills

Taxation Flexibility

Vulnerable Beneficiaries

A Special Disability Trust Will is designed to protect beneficiaries with a disability as you can set aside assets that will be managed for their benefit and needs.

Asset Protection

Can protect inherited assets from potential claims against the beneficiaries.

For example, this includes protection from creditors, bankruptcy, and family law claims (such as divorce settlements), helping to safeguard and preserve the inheritance for beneficiaries.

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Asset Protection

Testamentary trusts can offer protection of inherited assets from risks that may affect beneficiaries.

Role of the Trustee and Appointor:

The Trustee controls how and when trust assets are distributed
The Appointor has the power to appoint or remove the trustee

Matrimonial Separations:

Assets held in a testamentary trust may be treated as separate from personal property in family law proceedings.

Bankruptcy:

Trust assets are not owned personally by the beneficiary and may be protected from creditors.

Superannuation

Superannuation monies do not automatically form part of a deceased's estate.

It usually lapses after 3 years and must be renewed to be valid (unless it is a non-lapsing nomination).

If the nomination is valid, the trustee is bound by law to follow it. If it is invalid, the trustee has discretion over who receives the superannuation death benefit.

You must provide a Binding Death Nomination to your superannuation fund which is a written document that sets out how you wish your remaining superannuation balance to be distributed after your death

Power of Attorney

Enduring Power of Attorney

Appoint someone to make financial and/or personal decisions on your behalf

Without one, loved ones must apply to VCAT to be appointed, risking delays, costs, and the wrong person being appointed.

Medical Treatment Decision Makers

Appoint someone to make medical decisions on your behalf if you lose capacity.

You can only appoint one primary decision-maker and alternatives.

They must make the decision they reasonably believe you would have made if the person had decision-making capacity.

Tax & Accounting Considerations:

Tax Consequences of Death

Presented by The Hopkins Group | James Patterson, Accounting Partner & Head of Accounting - Business

Estate Planning - Introduction

"A process undertaken to clearly understand all personal and financial aspects of an individual's life.

Strategies and Advice across legal, taxation and financial advice to ensure assets are passed in the best way possible based on the wishes of the individual and their beneficiaries

Preparation of a Will that accommodates for the above and allow for implementation by the executors "

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Common Questions & Thoughts ...

"What makes this so important?"

"Whose job is this anyway? Accountant? Lawyer? Financial Planner?"

" Planning for all this will be the dead of me!"

Basic Will Limitations

Will Maker

Lawyer

Will

Limitations of a “standard will” preparation:

- Little ability to provide value added advice;
- Trusts do not form part of your will;
- Superannuation does not form part of your will;
- No tax minimisation for beneficiaries
- Simple Will does not equal to a simple estate administration

Type B – Estate Planning

Will Maker

Lawyer

Accountant

Financial Planner

Estate Plan

Will

What are things that can create complexities around the estate planning process?

- Superannuation
- Insurances
- Business and investment structures
- Blended families
- Disabled or high-risk beneficiaries
- Business Partners
- High Net Worth Individuals
- Income Producing Assets
- Anticipated disputes and claims on the estate

The Tax Consequences of Death – Main Residence

Impact of Death on Main Residence

- Pre CGT dwellings
- Post CGT dwellings

Other Things To Think About

- Complications arise with the “2-year rule” or the “main residence” rule
- When is a dwelling the deceased’s main residence?

Main Residence – Summary of Key Tax Outcomes

Asset in Deceased's Hands	Cost Base for LPR/ Beneficiary	Acquisition Date for LPR/ Beneficiary	Start of 12-Month Period for 50% CGT Discount
A. Deceased held an asset (or interest therein) other than as a joint tenant			
1. Any post-CGT asset other than those covered at 2	The deceased's cost base	Deceased's date of death	From the deceased's acquisition date
2. A post-CGT dwelling that was the deceased's main residence just before date and not being used to produce income	Market value at the date of death		
3. Any asset acquired pre-CGT by the deceased			Deceased's date of death
B. Deceased held an interest in an asset as a joint tenant			
4. A pre-CGT interest in an asset held by the deceased as a joint tenant	Market value at the date of death	Deceased's date of death	From the deceased's acquisition date
5. A post-CGT interest in an asset held by the deceased as a joint tenant	The deceased's cost base		

The Tax Consequences of Death – Other CGT Assets

Quick reference:

Pre-CGT assets – acquired at market value as at DOD

Post-CGT assets – acquired at the deceased's cost base

50% CGT Discount on sale post death:

- Pre-CGT assets entitlement to the 50% CGT discount based on having acquired the asset on the deceased's Date of Death
- Post-CGT assets entitlement to the 50% CGT discount, based on having acquired the asset when the deceased acquired the asset

The Tax Consequences of Death - Superannuation

<u>Increasingly integral and must form part of the estate plan!</u>

Does not automatically form part of the estate and therefore not necessarily dealt with through the will!

SIS dependant (Who can be paid the super) can be confused with Tax dependent.

For example, a child of any age is a SIS dependent, but to be a tax dependent, a child must be aged less than 18 years. A payment to an adult child attracts tax!

Superannuation – Summary of Key Tax Outcomes

<table>
<tr><th>Age of Deceased</th><th>Death Benefit</th><th>Age of Recipient</th><th>Taxed Element</th><th>Untaxed Element</th></tr>
<tr><td colspan="5">Tax on taxable component – death benefit paid to a death benefits (tax) dependent</td></tr>
<tr><td>Any age</td><td>Lump sum</td><td rowspan="2">Any age</td><td rowspan="3">0%</td><td>0%</td></tr>
<tr><td>Age 60+</td><td rowspan="3">Income stream</td><td rowspan="2">Marginal rates less 10% offset</td></tr>
<tr><td rowspan="2">Under 60</td><td>Age 60+</td></tr>
<tr><td>Under 60</td><td>Marginal rates less 15% offset</td><td>Marginal rates</td></tr>
<tr><td colspan="5">Tax on taxable component - death benefit paid to a non-death benefits (tax) dependent</td></tr>
<tr><td>Any age</td><td>Lump sum</td><td>Any age</td><td>Maximum 15%</td><td>Maximum 30%</td></tr>
</table>

Testamentary Trusts – The Tax Benefits

Testamentary trusts offer significant tax planning opportunities...

All the normal benefits of trusts! (Income splitting, streaming, asset protection) PLUS... There are additional benefits!

Tax benefits for distribution to minors

Tax benefits if income unable to be distributed

Minors do not typically have normal tax rates for income from trusts. This is different for distributions from testamentary trusts, where minors can be taxed at marginal adult rates a

The concessions are available for grandchildren, nieces, nephews. In fact, there is no requirement for there to be any particular relationship between the minor and the deceased's full marginal tax rates like their parents;

Other Legal Entities

Trusts:
- Do not form part of the Assets under the Will
- Please see Trust Deed for more information

Companies:
- Definition. Separate legal entity. 25 or 30% tax rate
- Ownership may pass under the Will
- Assets within the company do not pass to beneficiaries directly

Businesses:
- Will the business continue or be sold?
- Buy-sell agreements?
- Shareholder agreements?
- Small business CGT concessions after death?

Other things that can complicate the CGT consequences of death

No clear cost base history or records maintained by the deceased

Administrative issues creating delays

Delays due to challenges to the estate

Division 7a loans by the deceased to their company

LPR sells as asset directly to a beneficiary

Business assets at a profit after death, or business partners

Inherited property gets re-developed by the beneficiary

Estate Planning Considerations:

Estate Planning Process, Estate Assets & Intergenerational Wealth Transfer

Presented by The Hopkins Group | Michael Williams, Managing Director & Authorised Representative

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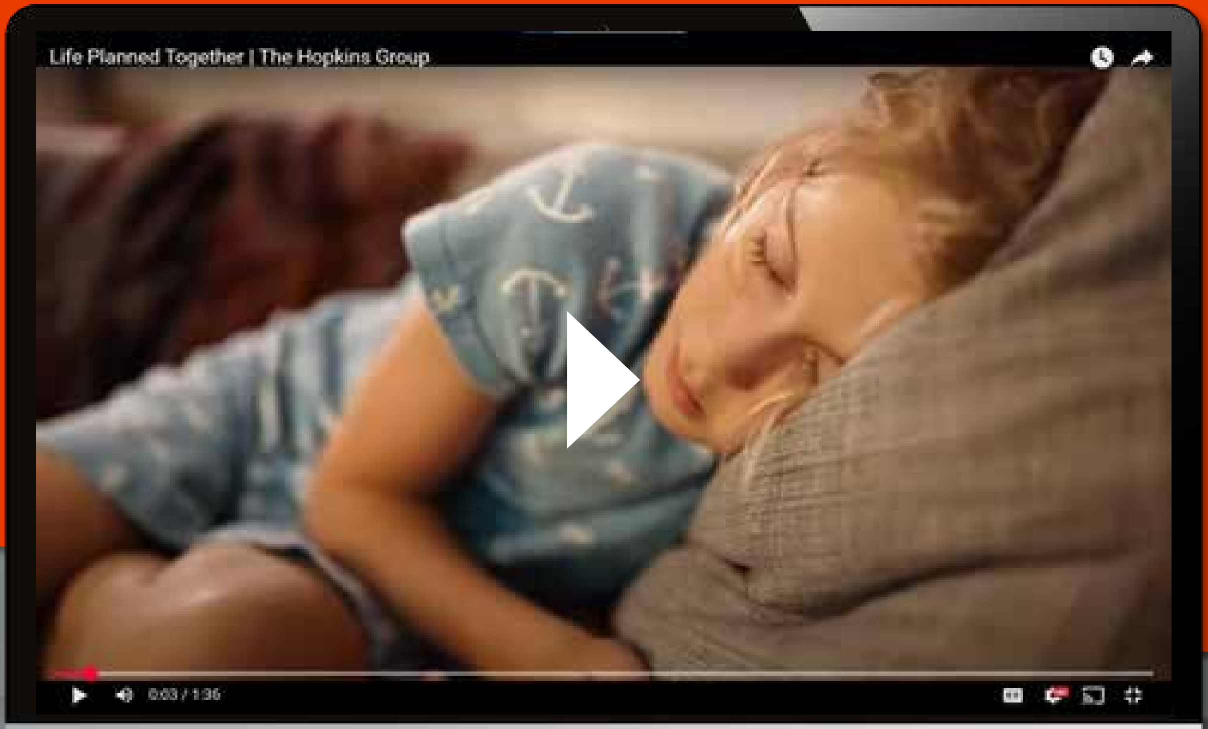
The Purpose That Drives Us



https://www.youtube.com/watch?v=wXfSN1WHTj8&feature=youtu.be

Our purpose is to motivate and assist individuals to be financially well, and to become financially independent.

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Will & Estate Planning: An Introduction

"Why do we call it a Will & Estate Planning process – More Than Just a Will?"

"What assets are dealt with by your will

"What actions do you need to take whilst alive"

Intergenerational Wealth Transfer

Blended Family & usual situation

More Than Just a Will

What Are Objective Whilst You Are Alive vs Deceased

Asset Protection

Intergenerational Wealth Transfer

Complicated Situation such as: Blended families, Special Needs *etc*

Average Life Expectancy

Estate Assets

Estate Assets

Assets owned solely or as a prescribed share:

- Example – individual bank account
- Shares in a trading, company or corporate trustee
- These assets are dealt with by the will
- Property
    - Owned 100%
    - Tenants in common

Assets that don't form part of your will:

- Jointly owned assets
    - Joint bank accounts
    - Joint tenancy property
- Investment bonds
- Insurance payments
- Superannuation assets
- Digital Assets (Crypto currency, Frequency flyer points, reward points)
- Overseas assets

Intergenerational Wealth Transfer

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- Can you afford to help out kids/grandkids
- Gifts are allowed in Australia
- Age pension consequences
- Capital gain tax + stamp duty consequences
- Equalisation clauses

Blended Family & Usual Situation

Insurance & investment bonds

Life interest in properties

Capital preservation trust

Special disability trust

Question & Answers (Q&A)

Pre-Logged Questions. All names are redacted for privacy purposes.

Question by A:

“Understanding implications with SMSF”

Question by M:

"Like to know more the Trust in relation to ones holding and will"

Question by J:

"What's the benefit of establishing a family trust?"

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Question by H:

"Making a will for property in the UK?"

Question by S:

“Prenuptial agreements - are they upheld by the law? Are they worth doing? Who is best to do them?”

Live Q&A Questions

Questions Asked by you Throughout the Seminar

Ready For Your Next Step?

Or simply want more information?

Request a Call-back Today with Us by Scanning the QR Code Below: