

A woman with long, wavy hair, wearing a white knit beanie and a pink quilted jacket, is seen from behind, holding a baby. They are standing in a field of tall grass or corn, looking out over a landscape at sunset. The sun is low on the horizon, creating a warm, golden glow. A thin white diagonal line runs from the top right towards the center. A large, solid yellow triangle is in the bottom right corner.

Creating a Legacy

Ensuring your wishes are carried out

ALTERIS FINANCIAL
GROUP

What could go wrong?

Inadequate planning can have far-reaching implications, impacting not only your assets but also your loved ones and their future. We have highlighted the potential risks and challenges that can arise from insufficient preparation with information and real-life examples, so that you can take steps to protect your assets, ensure your wishes are honoured, and provide for your loved ones in the best way possible.

Intestacy: What Happens Without a Will or Estate Plan?

When someone passes away without a valid will or estate plan, their assets fall into the realm of intestacy. Intestacy laws vary by jurisdiction, but in general, the court will distribute the assets according to predetermined rules. This can lead to unintended beneficiaries receiving a portion of the estate, or even the state taking control if no eligible heirs are found. By not having a will or estate plan, you relinquish control over who inherits your assets.

Probate Nightmares: Costly Delays and Public Proceedings

Inadequate estate planning can lead to lengthy and expensive probate proceedings. Probate is the legal process of validating a will, settling debts, and distributing assets. Without a comprehensive estate plan, your estate may be subjected to probate, causing delays and increased costs. Furthermore, probate proceedings are a matter of public record, potentially exposing sensitive family and financial information to scrutiny.

Family Conflicts: Protecting Relationships

Insufficient planning often leads to family conflicts and discord. When there is ambiguity or a lack of clear instructions in an estate plan, disputes may arise among beneficiaries. Arguments over asset distribution, personal belongings, and even guardianship of minor children can strain relationships and tear families apart. By taking the time to create a well-thought-out estate plan, you can minimise the potential for conflicts and preserve family harmony.

Creating a Legacy

Unintended Beneficiaries: Clarifying Your Intentions

Without an explicit estate plan, the court will distribute assets based on intestacy laws or default provisions. This can result in unintended beneficiaries receiving a share of your estate. Loved ones who you may have wanted to provide for could be left with nothing, while distant relatives or estranged individuals may inherit a portion of your assets. Clearly documenting your wishes in an estate plan ensures that your intentions are fulfilled.

Estate Taxes and Wealth Preservation: Maximising Your Legacy

Inadequate estate planning can lead to higher estate taxes and a diminished legacy. Failing to employ tax-saving strategies can significantly reduce the amount of wealth that you pass on to your heirs. With proper planning, you can minimise estate taxes through techniques such as gifting, trusts, and charitable giving. By implementing these strategies, you can preserve more of your wealth and leave a lasting legacy for future generations.



Example:

Incomplete Documentation and Legal Battles

John, a successful entrepreneur, passed away unexpectedly without a properly executed will or comprehensive estate plan. He had accumulated significant wealth, including various properties, investments, and business assets. Unfortunately, his failure to document his wishes and intentions left his family in a state of confusion and turmoil.

Lost Assets and Unclear Beneficiaries

Since John did not have a will or trust in place, the distribution of his assets fell under the jurisdiction of intestacy laws. These laws determine how assets are divided among heirs when there is no clear guidance from the deceased. The lack of clarity regarding beneficiaries and their respective shares led to confusion and disputes among family members.

Contentious Legal Battles

John's family members, including his children from a previous marriage and his current spouse, found themselves in a complex legal battle over the division of assets. Without explicit instructions in a will or trust, disagreements arose regarding the rightful ownership of properties, business shares, and personal belongings. The absence of clear documentation heightened tensions, strained relationships, and resulted in costly and emotionally draining litigation.

Financial Losses and Delays

The lack of proper estate planning not only led to emotional turmoil but also resulted in significant financial losses and delays. The probate process, necessary to validate the distribution of assets in the absence of a will, consumed a considerable amount of time and resources. Legal fees, court expenses, and professional fees ate into the estate's value, reducing the amount available for distribution among the rightful heirs.

Example: Blended Families

Sarah and Michael, both widowed, found love again and decided to marry, creating a blended family. Sarah had two children from her previous marriage, and Michael had three. As they began the process of estate planning, they quickly realized the unique complexities they faced due to their blended family dynamics.

Fair Distribution among Biological and Stepchildren

One of the primary concerns for Sarah and Michael was ensuring a fair distribution of assets among their biological children and stepchildren. They wanted to avoid any potential conflicts or feelings of inequality among the children, while still providing for their respective needs.

Inheriting Assets from Previous Spouses

Sarah and Michael also had assets they inherited from their late spouses, including sentimental items and family heirlooms. They wanted to address how these assets would be handled in their estate plan, ensuring that their children and stepchildren understood the significance of these items and any conditions attached to them.

Establishing Guardianship and Care for Minor Children

Sarah and Michael had a young child together, and they needed to determine who would assume guardianship in the event of their simultaneous passing. They wanted to ensure that all children, biological and stepchildren alike, would be cared for by individuals they trusted and who had a close relationship with them.

Maintaining Family Harmony

One of the key objectives for Sarah and Michael was to maintain family harmony during the estate planning process. They recognized that discussions about inheritance and asset distribution could be sensitive and potentially lead to conflicts. They sought strategies to facilitate open communication, foster understanding, and minimize potential resentment among family members.

Example: Business Succession Planning

The Smith family owned a successful manufacturing company that had been passed down through multiple generations. However, when the patriarch, Mr. Smith, unexpectedly passed away without a comprehensive succession plan in place, the future of the business was thrown into uncertainty.

Disagreements and Family Conflict

In the absence of a clear plan, disagreements arose among family members regarding who would assume leadership positions and how the ownership shares would be distributed. Sibling rivalries, differing visions for the business, and personal conflicts intensified the challenges faced during the transition process. The lack of consensus and a shared understanding of the future direction of the company threatened its stability and value.

Financial Instability and Loss of Opportunities

The lack of a well-prepared succession plan resulted in financial instability and missed opportunities for the business. Without a designated successor or clear decision-making structure, important strategic decisions were delayed or made hastily, potentially impacting the company's growth and profitability. The uncertainty surrounding the business's leadership also made it difficult to secure financing and attract potential investors.

Loss of Business Value and Customer Confidence

The absence of a smooth transition plan led to a loss of business value and eroded customer confidence. The internal disputes and lack of a unified vision for the future of the company became evident to key stakeholders, including employees, clients, and suppliers. This instability and lack of clear leadership diminished the reputation and market position that the business had built over the years.

Example: Charitable Giving

The Johnson family, with a deep sense of social responsibility, incorporated charitable giving into their estate plan. They believed in supporting causes that aligned with their values and wanted to ensure their wealth would be used to make a difference even after they were gone.

Identifying Causes and Organisations

The Johnson family embarked on a journey to identify causes and charitable organisations that resonated with their passions and values. They researched various nonprofits, explored local community initiatives, and engaged in conversations with experts and philanthropic advisers. Through this process, they identified specific causes such as education, healthcare, and environmental conservation that they wished to support.

Establishing a Charitable Giving Strategy

To create a lasting impact, the Johnson family developed a comprehensive charitable giving strategy. They explored different methods of giving, including setting up a family foundation, establishing donor-advised funds, and making direct contributions to selected organisations. Together with their financial adviser and accountant, they considered factors such as tax advantages, administrative requirements, and the ability to involve future generations in philanthropic activities.

Collaboration with Charitable Organisations

The Johnson family actively engaged with the charitable organisations they supported. They formed meaningful relationships and collaborated on projects and initiatives that aligned with their philanthropic goals. By working closely with the organizations, they gained a deeper understanding of the impact their donations were making and the positive changes being implemented in the community.

The Lasting Impact

Through their philanthropic efforts, the Johnson family witnessed the positive outcomes of their donations, such as scholarships enabling underprivileged students to pursue education, medical facilities providing vital care to those in need, and environmental initiatives preserving natural resources. Their charitable giving became a powerful tool for effecting meaningful change and leaving a legacy of compassion and generosity.

Example: Preparing for the Unexpected

Meet Sarah and John, a married couple in their early 60s who have diligently planned for their retirement and future. They have a loving family, including two adult children, and have accumulated substantial assets over the years. Understanding the importance of incapacity planning, they took proactive steps to protect themselves and their loved ones.

Sarah's Unexpected Diagnosis

Sarah received a diagnosis of early-onset dementia, which gradually began to impact her ability to make decisions. As time went on, it became more and more difficult for her to handle important matters like her finances, medical choices, and everyday tasks. In light of these challenges, John took on extra responsibilities to support her, but they soon realised the need for formalised planning.

The Role of Power of Attorney

Having consulted with a lawyer specialising in estate planning, Sarah and John understood the significance of creating a power of attorney. They appointed their eldest daughter, Emily, as Sarah's power of attorney. This legal document granted Emily the authority to make financial decisions, pay bills, and handle other important matters on Sarah's behalf.



Creating a Legacy

Advance Care Directive and Enduring Power of Attorney

Sarah also completed an Advance Care Directive, designating John as her enduring power of attorney. In this role, John had the authority to make medical decisions in accordance with Sarah's wishes if she became unable to communicate them herself. The Advance Care Directive included Sarah's preferences for end-of-life care, specific medical treatments she desired, and any treatments she wished to avoid.

Communication and Support

Sarah and John recognised the importance of open communication with their children regarding Sarah's condition and their incapacity plan. They scheduled a family meeting to discuss the power of attorney, healthcare proxy, and living will, ensuring that their children understood their roles and responsibilities in supporting Sarah's needs.

Financial and Legal Protection

To safeguard their assets, Sarah and John established a revocable living trust. By transferring their assets into the trust, they ensured seamless management and protection of their financial affairs during Sarah's incapacity. The trust document named John as the trustee and provided clear instructions on how their assets should be managed and distributed if necessary.

Peace of Mind and Smooth Transitions

Sarah and John's proactive planning provided them and their family with peace of mind during a challenging time. Emily, as the appointed Power of Attorney, was able to handle financial matters smoothly, paying bills, and ensuring their financial obligations were met. John, as the healthcare agent, made informed medical decisions in line with Sarah's expressed wishes and consulted with healthcare professionals as needed.

By proactively addressing incapacity planning, Sarah and John had minimised potential disputes and ensured that their desires were respected. Their comprehensive plan allowed them to focus on Sarah's wellbeing and provided a roadmap for their loved ones to follow during this difficult period.

The Power of Collaboration

Collaboration between a financial planner and an estate planning lawyer offers numerous advantages when it comes to managing your assets, protecting your wealth, and planning for the future. By leveraging the expertise of both professionals, you can develop a comprehensive and effective strategy to ensure your wishes are carried out.

The Power of Collaboration

Let's explore the key benefits of collaboration between a financial planner and an estate planning lawyer.

Holistic Approach

A financial planner focuses on your overall financial wellbeing, helping you create a roadmap to achieve your goals. They analyse your income, expenses, investments, and retirement plans, and develop strategies to maximise your wealth, often working with an accountant on tax matters. An estate planning lawyer, on the other hand, specialises in legal matters related to estate planning, such as wills, trusts, and tax law. By collaborating, these professionals ensure that your financial and legal strategies work in harmony to protect and grow your assets.

Comprehensive Asset Protection

Working together, a financial planner and an estate planning lawyer can create a robust asset protection plan. The financial planner helps you identify potential risks and implements risk management strategies such as insurance coverage. Simultaneously, the estate planning lawyer structures your estate plan to shield your assets from creditors and legal claims, ensuring that your hard-earned wealth is preserved for you and your beneficiaries.

Tax Efficiency

Collaboration between a financial planner, an accountant, and an estate planning lawyer can result in significant tax savings. A financial planner, together with an accountant, can identify tax-efficient investment strategies and retirement planning options. Meanwhile, an estate planning lawyer can employ legal strategies such as trusts and gifting techniques to minimise estate and gift taxes. By coordinating these efforts, you can optimize your tax position and maximise the wealth you pass on to future generations.

Creating a Legacy

Seamless Wealth Transfer

One of the primary goals of estate planning is to ensure a smooth and efficient transfer of assets to your intended beneficiaries. A financial planner and an estate planning lawyer can work together to create an integrated plan that facilitates the seamless transfer of wealth. The financial planner assists with identifying and valuing your assets, while the estate planning lawyer ensures that your wills, trusts, and beneficiary designations accurately reflect your wishes. This collaboration minimizes the risk of discrepancies, legal challenges, and delays in the distribution of your assets.

Business Succession Planning

If you own a business, collaborating with a financial planner and an estate planning lawyer becomes even more crucial. A financial planner can assist with business valuation, financial forecasting, and retirement planning, while the estate planning lawyer can help you develop a comprehensive succession plan. This collaboration ensures a smooth transition of ownership and management, protecting the continuity and value of your business.

Ongoing Review and Adaptation

Both financial planning and estate planning require periodic review and adjustment to reflect changes in your life circumstances, financial goals, and applicable laws. When a financial planner and an estate planning lawyer collaborate, they can provide continuous support, ensuring that your plans remain up to date and relevant. They can work together to incorporate changes in your financial situation, family dynamics, or regulatory environment, allowing you to adapt your strategies as needed.



How to get in touch

With the guidance of our advisers, you can benefit from the peace of mind that comes with knowing your best interests are being taken care of. We're here to help answer any questions you may have and guide you through the complexities of your financial journey.



info@alteris.com.au

Sydney

+61 2 8078 0888

Level 11, 60 Carrington St
Sydney NSW 2000

Brisbane

+61 7 3012 8040

Level 3, 145 Eagle St
Brisbane QLD 4000

© 2023 Alteris Financial Group Pty Ltd ABN 59 133 479 115 holder of AFSL No. 402370. The information contained in this booklet is general in nature and does not take into account your personal circumstances. We recommend you consult a financial adviser whose advice will take into account your particular objectives, financial situation and individual needs.