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Private Client

Making a Will

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Why Make a Will Now?

Married Persons

If you are married and die without making a Will, leaving a spouse and children, your spouse inherits two thirds of all you own (called your "Estate") and your children inherit the remaining one third. If the family home is in your sole name, your children could ask for one third of its value, leaving financial problems for your surviving spouse.

Single Persons

If you die unmarried and have no dependents, you will probably want to benefit your parents (if alive) or your brothers and sisters. When making a Will, you can nominate as many next-of-kin as you like and leave specific amounts in a legacy to each beneficiary. By structuring your Will carefully, you could save your next-of-kin substantial Inheritance Tax.

Guardians

If you and your spouse were unfortunate enough to be killed in an accident leaving children under the age of 18, your relatives would have to apply to Court to have guardians appointed for your children. This can be avoided by naming a Guardian in your Will.

Trustees

You may not wish your children to receive money directly but may wish to put a sum of money in trust for them until they reach the age of 18 or later. You cannot do this unless you have made a Will and appoint Trustees.

Executors

In every Will, an Executor has to be appointed to carry out the wishes in your Will. The Executor must pay all the debts and liabilities which arise up to the date of death and which arise during the administration of your Estate.

Legal Separation/Divorce

If you are separated from your spouse by making a Will you can minimize the legal entitlement of your spouse and help reduce legal problems at a later stage. If you are divorced, then the terms of the Court Order will determine whether your former spouse can challenge your Will.

Discretionary Trusts

If you have a child with a learning disability, the Trustees hold a specific fund or share of your estate with power to distribute same, at their discretion, when required by the child. You should also specify

how any undistributed part of the fund will be divided on the death of the child. Discretionary Trusts can also be used if a beneficiary has a drink or gambling problem or is not responsible when it comes to money.

Wills and Tax

Inheritance Tax

A wife can inherit a husband's entire estate, free of tax and vice versa.

In any other case, the amount of tax payable depends on the relationship of the beneficiary to the deceased. A beneficiary who is a son, daughter or parent can inherit €250,000 tax free. A sister, brother, nephew, niece, grandchild or great-grandchild can inherit €33,500 tax free. Any other beneficiary can only receive €16,750 tax free. Also, any previous gifts or inheritances received after 5th December 1991 may be taken into account when assessing your tax liability. The rate of inheritance tax is at 20%.

Wills and Tax Planning

By making a Will, you can distribute your assets to several members of your family to minimize the overall Inheritance Tax liability. You can also leave your Estate in Trust under your Will which could avoid or postpone a liability to Inheritance Tax. There are also life policies which can be used to pay Inheritance Tax. In addition, there are special Inheritance Tax Reliefs for agricultural property, a family business and where a home is inherited in certain circumstances. Certain Government stocks can also be used to pay inheritance tax.

Why I should see my solicitor now?

Your Solicitor can explain all the above matters in detail and can draft your Will in such a way as to save thousands of euro in Inheritance Tax. In addition, you Solicitor can explain the succession rights which your spouse and children have.

The legal and financial cost to your next-of-kin can be enormous if you have not made a Will. A properly prepared Will is the best investment you are likely to make.