

MinterEllison



LAWYERS



Estate planning

*Matthew Tripodi, Partner
Minter Ellison Lawyers*



What is Estate Planning?

- Not just a Will
- Complete consideration of personal & financial affairs
- 4 steps
 - Information gathering (accountant / FP)
 - Planning (accountant / FP)
 - Implementation
 - Monitoring & review (accountant / FP)



Why is estate planning important?

- Succession issues
 - pass ownership/control of assets
 - second, third, etc marriages
 - family 'issues' (problem children etc)
- Tax & superannuation issues
- Asset protection
 - implement / don't undo asset protection strategies



Who can do it?

- You? Any lawyer?
- Specialist estate planning lawyers
 - in conjunction with accountant / FP
- Knowledge of succession law, trusts, superannuation, taxation and commercial law essential
- Quality, unambiguous, easy to understand documentation



Main 'problem areas'

- Non-estate assets
 - Companies
 - Trusts
 - Superannuation
- Subsequent marriages/relationships



Superannuation & estate planning

- Almost every adult has a super interest
- Superannuation is a valuable asset
 - often includes insurance
- Growing proportion of wealth held through super, especially SMSFs
 - SMSF's largest sector of super industry
 - Average assets per SMSF is over \$700,000
 - Average Adelaide house price is \$355,000
- Super (and trusts) largely ignored in estate planning



Superannuation & estate planning

- Who can receive a benefit on death?
 - SIS Dependent
 - Spouse (including same-sex)
 - Child (irrespective of age)
 - Includes adopted, step and defacto's children
 - Interdependent
 - Legal personal representative (i.e. estate)
 - Any individual (but only if no LPR or dependant can be found after reasonable enquiries)



Superannuation & estate planning

- Compulsory cashing
 - One or more lump sums
 - One or more pensions
 - Children under 25 (lump sum at 25)
- Reversionary pensions
 - Automatic reversion to dependent
 - Children under 25
 - lump sum at 25 unless permanently disabled



Superannuation & estate planning

- Common issues
 - Best approach is to retain flexibility
 - Decide on death
 - Not always appropriate
 - Control of SMSF on death
 - Children from other relationships
 - Asset protection (creditors and family)
 - Binding nominations



Superannuation & estate planning

- Tax planning
 - SIS dependants v tax dependants
- Change to super directly affects estate plan whether intended or not
 - Need holistic approach
 - Co-operation between lawyer and accountant/FP essential
 - Client examples



Questions?



Contact details

Matthew Tripodi Partner

Minter Ellison

T 8233 5626

E matthew.tripodi@minterellison.com



