

When there's a will there's relative calm



Noel Whittaker

Without one, though, the surviving family members risk inequity at best and heavy financial burdens at worst.

LIFE seems to grow busier by the day.

This is why important issues like wills are often put on the backburner.

I was bemoaning this recently over a coffee with my legal friend, Brian Herd, who made a telling point: "People seem to begrudge the money and time involved in getting a will right, but they have no idea of the potential horrendous cost of doing nothing."

The following are just a few examples of the cost of neglect.

In these times of rising house prices and job insecurity, parents often help their children as they progress through life.

But, because of differing circumstances, it is rare for each child to receive the same dollar amount.

Consequently, when parents make a will that leaves all their assets to their children equally, some children will end up being better provided for than others.

To avoid any tension and potential litigation that could ensue, a good will should include a hotchpotch provision to enable the estate's proceeds to be adjusted in proportion to any benefits that are paid to the children during the parents' lifetime.

In our grandparents' day newlyweds usually bought their home in the name of the breadwinner – almost invariably the male.

This meant the house could be solely in the name of the husband when he died.

If there was no will, the laws of intestacy would apply.

These vary markedly from state to state, but as a general rule the spouse is entitled to a fixed sum with the balance being split between the surviving children.

If the home was the main asset of the estate, the widow could be forced out so the children could have their share.

Family trusts are another minefield because profits made by the trust are usually not paid to the beneficiaries in cash.

Instead, they can accrue in the books of the trust as a loan by the beneficiaries to the trust.

Unless the beneficiary has waived the repayment of the debt upon death in their will, the family could be put in the situation where the executor of the deceased takes legal action to recover money owing by the trust.

If the debt is big enough it could be sufficient to cause the winding up of the trust, which could have horrendous implications.

But it is not just the parents who can become creditors of the trust – it can also be children.

They were great for tax minimisation when they were low-earning uni students because the trust could distribute income to them that would be taxed at a lower rate.

Often, it is only when the parents die that the children find out how much they are owed by the trust.

Brian also talked about the reverse family scenario

where children are increasingly funding the move of their elderly parents into aged care.

There can be large sums involved – an accommodation bond can cost \$500,000 or more, but one of the prime motivations of the assistance may be to prevent the family home from being sold.

Usually just one of the children is in the position to make the financial assistance.

Too often, the will does not include compensation for the child who has offered the assistance and an almighty battle can ensue when both parents die and the children start fighting over the proceeds.

It is a fundamental business principle that successful people focus on the important and don't get distracted by the urgent.

Unfortunately, the important jobs are often boring and can easily be postponed to next week when "there will be more time available".

Of course, next week will be just as busy as this one and important jobs can stay neglected for years.

As the above case studies show, the cost of doing nothing is usually far greater than the effort that is required to get things right from the start.

Noel Whittaker is a director of Whittaker Macnaught Pty Ltd. His advice is general in nature and readers should seek their own professional advice before making any financial decisions. His email is noelwhit@gmail.com.



Q I am 53 and my husband is 52. I have recently inherited \$540,000 and my husband and I are rather confused as to how to invest this money – property, shares and/or superannuation. We have a combined income of \$70,000 before tax, own our home worth \$600,000 and have three investment homes worth \$1 million combined and a loan of \$480,000.

A Remember that superannuation is not an asset class like property or shares but merely a vehicle that lets you hold assets in a low-tax environment. I suggest you talk to an adviser about placing the bulk of the money into super and then

creating a diversified portfolio within that structure. Once you reach 60 you will be able to withdraw funds tax-free to reduce your investment debts but meanwhile they should be kept on an interest-only basis to maximise your tax benefits.

Q I would like to use the equity in my house to borrow \$50,000 to invest in shares. If the shares increase in value can I sell some, keeping at least the original \$50,000, and still claim all the interest on the loan as a tax deduction?

A Unfortunately it's not that simple – if you sell part of the assets

financed with borrowed money you will need to reduce the deductible portion of the loan proportionately.

Q I am over 60 and am considering taking out an allocated pension now and working part-time. I will be eligible for a UK pension at age 65. Will the ATO combine all or some of these and charge income tax?

A As you have reached the age of 60 your allocated pension will be tax-free – all your other income will be taxed at normal rates. If the other income is small your tax liability should be minimal.

Post GFC, super expectations are coming down

By JOHN COLLETT

AUSTRALIAN shares have been struggling to regain their lustre since the global financial crisis sent sharemarkets into a nosedive around the world.

After a short-lived rally post-crash – when the S&P/ASX 200 Index climbed above the 5000-point mark – the index has been languishing at about 4800 points. Worse still, it's hard to see the sharemarket regain its strength over the medium term. But why should that be seen as a problem for most people?

Anyone with a superannuation fund should be concerned because, more than any other super asset, Australian shares have the biggest

influence on our living standards in retirement.

Between 70 and 80 per cent of people have their super savings in a default option, or balanced fund, which diversifies its money across different asset classes such as Australian and international shares, property, fixed interest and cash.

While super fund managers have lowered their exposure to Australian shares since the GFC, their default options still have about 30 per cent of their money invested in Australian shares. An additional 20 per cent is invested in international shares.

So super funds' single biggest exposure is to Australian shares. But the sharemarket has been

trading sideways since the rally of 2009.

SuperRatings data also shows that, in the five years leading up to the GFC, balanced funds produced double-digit average annual returns. SuperRatings says for the year to March 31 balanced funds returned 5.4 per cent – just over 2 per cent above inflation.

This is far from the double-digit returns people came to expect until three years ago. However, it's unlikely super fund members will see those double-digit returns again in a hurry.

There are several reasons for thinking the returns from Australian shares are going to be lower over the next few years.

Chief economist at AMP Capital

Investors, Shane Oliver, says most sectors of the Australian economy – with the notable exception of mining – are in the doldrums.

In fact, Australian shares may well underperform international shares. The mining boom is mostly responsible for skewing the economy. Economists call it the "two-speed" economy – the booming resources sector and the rest of the economy. The Australian dollar is likely to remain high and that will continue to hurt key sectors of the economy such as higher education and tourism. The high Australian dollar makes our shares expensive for foreign investors to buy and reduces an important support for share prices. Oliver says another negative for

our sharemarket is that for consumers, "consumption is out and saving is in".

Tight-fisted consumers will constrain sharemarket returns. For anyone with a super fund, it is sensible to check on how your fund's option is invested and what the fund manager is saying about its likely performance. There is no uniform way of labelling investment options. Balanced options that are labelled as "moderate growth" and "conservative" may give the impression of being more secure than they really are. In the end, it probably means our expectations from our super funds are going to have to be lowered from the heady days before the GFC.

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