

Simple step can save so much pain



Noel Whittaker

Failure to arrange enduring power of attorney may add financial woes to the heartbreak of losing a loved one.

IT'S a sad fact of life that far too many people wait until it rains to buy an umbrella.

Even though the importance of appointing an enduring power of attorney is generally accepted, most Australians never get around to it. As a result, they often find themselves trying to cope with frustrating situations because a loved one has suffered an illness such as dementia, and they have to deal with bureaucrats every time they need to make a financial decision.

But it's not just older people who become mentally or physically incapacitated – there are countless cases of young people finding themselves in a coma after an accident.

This is why the most important job on your to-do list for this week

should be to give a reliable person an enduring power of attorney.

The cost is minimal because, unless your affairs are complex, all you have to do is buy the appropriate form from your local stationery shop, or download it from the internet and then make sure it is properly signed and witnessed. Naturally, the person to whom you are giving the responsibility of acting for you should be consulted first.

That's simple enough on the face of it, but anybody considering becoming an attorney needs to be aware that financial affairs are becoming increasingly complex and making the wrong decision as attorney, or omitting to make a decision,

could cause a severe financial loss.

Hyacinth is the perfect example. She is 75 and is close to losing the capacity to handle her affairs. Her main asset apart from her home is the \$750,000 in superannuation that was left to her by her late husband.

The family is aware that she needs to appoint an attorney but her three children live interstate, have high-pressure jobs and aren't keen to take on the role.

They decide to ask neighbour Jack to become the attorney. He seems perfect for the job as he is scrupulously honest and is well versed in finance, being an ex-bank manager and now treasurer

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of the local bowls club. He is happy to help out – after all, it couldn't involve much more than paying the bills and arranging trades people when necessary.

So far so good, but then Hyacinth dies and when the superannuation is split between the three children they are horrified to discover that \$123,750 is lost in tax because the money has been left to non-dependants.

One of them consults their financial adviser who responds, "The attorney could have saved you all this money – all he had to do is withdraw it tax free before she died and deposit the whole \$750,000 in her bank account."

Imagine how Jack felt when the children confronted him about his failure to do it.

Or think about the 35-year-old who has had a terrible accident, is in a coma and not expected to live for more than a month. He has no dependants so his superannuation will almost certainly go to his parents, where it would lose 16.5 per cent tax. A better alternative would be for his attorney to request the super fund to cash in the benefit tax free on the grounds that he is suffering a terminal medical condition.

In both the above examples, failure to act has the potential to put the attorney at the wrong end of a negligence suit. Whether such a claim would succeed would depend on a wide range of factors but the case studies highlight the

possible risks that could be suffered by anyone accepting a power of attorney if

they act imprudently, improperly or without advice.

The message here is not to discourage anybody who is considering becoming an attorney. But if you do accept such a position, it is absolutely imperative that you seek professional advice in every aspect.

Failure to do so may be costly for everybody – including yourself.

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 noel.whittaker@whittakermacnaught.com.au



Q In a recent article you discussed taking advantage of the US dollar, however, I am still unclear on how I can increase wealth by applying for a travel card and loading it with American dollars, other than of course using it to travel? I am sure you meant more than travel when you advised this exercise. Have I missed something?

A The article was not really about creating wealth but prepaying for your holidays and shopping. A person who buys US dollars now is taking the view that the present strength of our dollar against the US dollar is short-lived and that we will

eventually start to lose ground against the American currency. If they are correct they will save money when our dollar drops because they will have bought the currency when it was cheaper.

Q My current income is from income protection insurance due to illness and has no deductions either for tax or super. I am now retired and have reached the age where I might withdraw money from super tax free up to a limit of \$160,000. Is it possible to withdraw a sum of money, and if some is surplus to requirements, deposit it back into super and still claim a tax deduction on that sum of money, providing all

other eligibility requirements are fulfilled?

A Provided you have reached preservation age and have retired, you can withdraw money from super whenever you wish and provided you are under 65 you can make contributions to super as long as you stay within the limits. If no employer is contributing to super for you, which appears to be the case here, you can also claim a tax deduction. Just be aware that deductible contributions incur a 15 per cent contributions tax.

Send your questions to noel.whittaker@whittakermacnaught.com.au

Mobile providers face music on unwanted calls

By LESLEY PARKER

TWO out of three mobile phone customers – in particular, parents – want to be able to better control spending on premium services such as ringtones, quizzes and games, according to a survey by the industry regulator.

The Australian Communications and Media Authority research also found four out of 10 people had received an unrequested premium SMS or MMS message in the past three months and nearly a third had difficulty stopping the unwanted service. On top of that, most had difficulty obtaining a refund.

The survey comes as the authority concludes public

hearings in its Reconnecting the Customer inquiry into telecommunications companies' customer service, after substantial rises in complaints in recent years.

And a day after the authority's research was released, the regulator issued two "direction to comply" orders, one to Optus and the other to Storacall Technology, because of premium SMS ads. Shortly afterwards, the Nine Network and AO Australia Online Pty Ltd were also pinged for breaches.

A direction to comply is the strongest action available to the regulator for a breach of the industry code.

The authority found an ad for Storacall's TexTalk subscription

service breached the code by not clearly stating it was a subscription, rather than a one-off service, and by not including a help-line number. Optus was found in breach of the code because an ad for the SMS Cosmo Optus Store Locator service didn't have highly visible pricing information. It didn't include a help-line number either.

Nine was reprimanded for not advising of a help-line for two competitions, while Australia Online "breached numerous provisions of the code", including failing to advertise the correct price and not telling people they were signing up for a subscription, not a one-off purchase.

The chairman of the authority, Chris Chapman, said when

announcing the orders: "industry is very aware that the ACMA is actively monitoring compliance with the Mobile Premium Services Code and will protect consumers' rights to receive accurate information about the prices, terms and conditions of these services."

It seems to be having some impact. The authority says complaints about premium services fell 90 per cent in the two years between September 2008 and September this year.

The authority has also been "encouraging" mobile-phone carriers to come up with ways for customers to have more control over how much they spend on premium services.

Its survey indicates a quarter of

Australians used at least one mobile premium service in the year to April. Usage is highest among people 18 to 34.

According to the survey, about 70 per cent of people have a self-imposed limit on their premium service spending, just 23 per cent had a limit imposed by their provider and about 11 per cent used a prepaid phone service to cap their spending. Prepaid services were popular with parents.

Parents said they'd like to limit a child's spending on premium services to \$13 to \$14 a month if they were aged eight to 14, or \$21 for older teenagers.

It's estimated that a third of children aged five to 14 have their own mobile phone.

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