

Q&A: Preparing Your Will

At QWP, we specialise in working with our clients in the planning and preparation of their wills, trusts, and estates.

In this Q&A, we hope to provide you with brief answers to some common questions that you may have on this topic. This is particularly in light of the risks to health and well-being that the COVID-19 pandemic has brought about, which has caused many to take stock of their succession planning and how they intend to distribute their assets after they pass on.

If you would like more information on any of the matters below, please feel free to contact us.

Q: Why do you need a will?

A: Having a will gives you the certainty that your assets and possessions will be distributed according to your intentions after you pass on. This also allows you to make adequate arrangements for your loved ones and those who depend on you.

Q: What happens to my assets if I pass on without having a will?

A: Without a valid will, your assets will be distributed according to intestacy laws, which provide for default “rules” of distributing your assets. You will not be able to have a say in how your assets will be distributed. By way of example:

- If you are not survived by any children or parents, then your spouse will get all of your assets.
- If you are survived by your spouse and your children, then your spouse gets half of your assets, and your children will get the other half, to be distributed equally amongst themselves. Your parents will not get any assets.
- If you have no children, and are survived by your spouse and parents, then your spouse gets half of your assets, and your parents will get the other half.
- If you are not survived by any dependents as prescribed under Intestacy laws (e.g. spouse, children, parents, siblings, uncles and aunts etc.), then the Government will receive all of your assets.

Further, the process for administering your estate after you pass on will usually be costlier and more time consuming if you do not have a valid will, since it will entail a different process.

Q: Can wills only be prepared by lawyers?

A: No. Although it is possible to prepare a will without professional assistance, we recommend engaging the assistance of a trusted and competent lawyer to prepare your will. This will ensure that it truly reflects your intentions, meets the formal requirements prescribed by law, and has legal effect. As wills are bespoke instruments that are personalised and intended to provide clarity on your intentions after you pass on, they should be carefully crafted, checked, and explained to you by a lawyer.

Q: How much does the preparation of a will cost?

A: As each will is bespoke, our fees for the preparation of a will depends entirely on its complexity (e.g. how you want your assets to be distributed, how much assets you have, or where your assets are located). Please contact us if you would like a free fee-quote or to arrange for a consultation.

Q: What can I do in my will?

With proper preparation and advice, you can specify the distribution of your assets in almost any way you deem fit. Some possible options are as follows:

- You can specify the specific assets and proportion that each beneficiary will get. For example, you can bequeath your car to Person A, your house to Person B, and split the monies in your bank accounts between Person C and a charity of your choice in any proportion you deem fit.
- You can specify the time at which the assets are to be distributed. For example, you can provide that Person A gets \$10,000 when he/she reaches 21 years old, \$20,000 when he/she reaches 26 years old, and \$30,000 when he/she reaches 31 years old.

- You can specify how your property should be used. For example, you can specify that your house should not be sold and instead be used by any of your family members to reside rent free.
- You can appoint a guardian to hold your assets on trust for the benefit of your children, until they are of age.

Q: What assets cannot be covered by my will?

A: Generally, the following cannot be included under a will:

- Any money in your Central Provident Fund (“CPF”) account. You must make a CPF nomination and provide for the specific proportion of your CPF money that a nominee will receive. Otherwise, your CPF money will be distributed in accordance with Intestacy laws.
- Property held in joint tenancy. Upon your death, your share in the property passes directly to the surviving joint tenant(s).
- Money in joint bank accounts. Money held in joint bank accounts will usually pass to the surviving joint account holder, unless it can be shown that the deceased did not intend to benefit the other joint account holder.
- If you had purchased an Insurance Policy and had nominated a beneficiary or beneficiaries, in certain instances you would not be able to include the proceeds of this policy in your will. For example, if your policy was purchased before 2009 and you had nominated your spouse or children, your will cannot override your nomination. Even if you had purchased a policy after 2009, you should check with your agent of a nomination under S49L of the Insurance Act.
- If you are a Muslim, separate laws apply and in short you may only will 2/3 of your assets. You should check with lawyers in this regard.

Q: Why should I update my will? How do I do this?

A: If you already have a will, you may want to consider updating your will if any circumstances have changed, or if you want to change your distribution of assets. In addition, you might also want to add beneficiaries (e.g. new grandchildren), or deal with new assets that were not covered under the previous will. In general, you may want to consider this in the following situations:

- Marriage – since any will made prior to marriage is revoked (unless expressed to be made in contemplation of marriage). The same applies for a second or subsequent marriage;
- Divorce;
- The birth of a child or grandchild; or
- The acquisition of property or other high value assets.

Your will can be updated by either:

- Making a fresh will that will supersede the previous will; or
- By making a codicil, which is a document containing amendments to the will, usually attached to the will.

Q. Can my will in Singapore cover my assets overseas?

A: In a globalised world, it is possible that many have assets abroad. If your assets abroad are in a Commonwealth country, your will can be resealed in that country meaning the Court in that country can “confirm” the Singapore Court Order. You need proper planning as this exercise can be costly. This exercise in Hong Kong for example can cost in excess of S\$5,000 and in Malaysia, in excess of S\$3,000. You will also need to be aware that different countries have different laws on wills and it is therefore prudent to plan your assets carefully. Consulting a lawyer in such an event is highly recommended.

We hope that the above is useful to you. If you require any clarification or further guidance in respect of the above, please do not hesitate to reach out to us and we would be more than happy to help.

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