

# Estate Planning

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Acorn Lawyers Monthly Estate Planning Update



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#### Estate Planning Offers

Do you fancy a coffee? I am always interested in catching up with referrers new & old to discuss the estate planning requirements of your clients and how Acorn Lawyers can be of assistance. I will even buy the coffee!

I hope you will consider attending one of our free seminars detailed in our accompanying email. If your firm can bring together 7+ of your directors and professional staff, I enjoy presenting to small groups and I offer seminars in your boardroom that I have previously prepared or other topics on request.

We wish you a prosperous 2015.



## Working Together – The role of the financial planner, accountant and lawyer in Estate Planning

### Estate Planning Teamwork

Estate planning is much more than simply drafting a Will. It involves more than drafting Binding Death Benefit Nominations, Powers of Attorney and Appointments of Enduring Guardian. Estate planning involves reviewing a client's asset portfolio and structures with their accountant and financial planner to define their desired outcomes on death and how these can be best achieved considering tax minimisation and asset protection.

Sadly, it has been suggested that up to 60% of Australians do not have a Will, let alone an estate plan. Especially for wealthy clients, the lawyer alone cannot put an estate plan into place. Collaboration with the accountant and financial planner is required to identify assets and structures, desired outcomes of the client and a strategy to achieve their final wishes.

### The Trusted Advisors Role

Estate planning is a recognised competency of being a Certified Financial Planner. It has been argued that financial planners who are not actively involved in estate planning may not be satisfying the Best Interests Duty. We encourage all financial planners to review their client's Wills at least every 3-5 years. If your client's circumstances change or their investments are altered, you should consider whether their Will also needs to be updated.

Many accountants today are taking a more active role in estate planning. Accountants are generally well versed with their client's structures and they play an important role in ensuring these structures are also designed to facilitate the client's intended dispositions on their death. All accountants should ensure business succession plans are in place and trust powers should be carefully reviewed. Binding Death Benefit Nominations may need to be reviewed every 3 years to remain valid.

### Recent Case Study

A leading Wollongong financial planner called me recently after meeting new clients (Ian & Penny) to review Ian's father's (Mark's) Will. He said: "I am no lawyer, but this 1 page Will looks poor to me." I met with the planner, Ian and Penny to discuss. Together we identified Mark's assets (in excess of \$3million) and his complex intended distributions that included a life estate and capital protected trust that was

not properly articulated in the Will. In fact, later research uncovered that he never owned one of his intended gifts! Ian then informed us that his accountant was investigating \$1million invested overseas that was not properly declared. What a mess! After discussions with the accountant, we conducted some extensive research into Mark's other foreign assets and the applicable foreign laws of succession. Some extensive drafting saw his one page Will converted into a new 49 page Testamentary Trust Will with a special disability trust for his daughter and a capital protected trust for his other son. The financial planner was right and a collaborative effort achieved his wishes. The entire family was present and thanked us when I visited the Sydney home to sign the Will.

### Duty of care – Referring Clients

I recently read an interesting article highlighting a possibly duty on lawyers to refer their clients to a good financial planner. While most of our work is referred to us by our valued referral partners, we recognise the importance of good accounting and financial planning advice and are actively looking to refer to our referrers where possible.

Legal work should not be considered a one-off transaction. Acorn Lawyers are proud to build strong ongoing relationships with our clients. While we do not always have the opportunity to refer work, our client focus ensures we build and strengthen your client's relationship with you.

### Personal Injury – Value Adding

Acorn Lawyers is presently representing 13 claimants for claims against a Wollongong GP in medical negligence for injury, loss and damages sustained in skin cancer treatment. The GP essentially held himself out as a plastic surgeon, performing procedures beyond his training. A link to a story by ABC Illawarra can be found at: <http://www.abc.net.au/news/2014-12-29/skin-cancer-dr/5987604?section=nsw>

As trusted advisors, you can value add to your services by identifying client issues other than estate planning! Clients are often unaware of their legal rights. We recently had a switched on financial planner refer a personal injury claim to us. Now that is adding value! Keep in mind that claims may exist even for very old injuries as time limitations may not commence until the client knows they have a valid claim!

- Lindsay Stoddart, Director