

Newsagency will kits: they can cost more than you think

by Stephen Bourke

ESTATE PLANNING

Like anything in the DIY market—sometimes it works and sometimes it does not. If you do your own electrical or plumbing work, it may save you some money but only if it works.

The same applies to a \$30 will kit.

In late 2006, Australian racing legend Peter Brock died leaving three wills. The first will was a lawyer-made will. The second was a will kit which left the gift clauses blank and the third was another will kit that left a portion of his estate to the children and the remainder to his new partner but it was never completed.

The first will was valid but revoked by the second will. The third will was his latest will but it was unsigned. The question for the court was which will is valid.

After a year with thousands of dollars in litigation fees, the court found the second will kit was the valid one. That will revoked the first will. It gave nothing away because the gift clauses were left blank. In essence, although Peter Brock had drafted a will, the failure to include a properly drafted gift clause in the will meant that he died partially intestate in which case it was unclear as to who the beneficiaries would be of his estate.

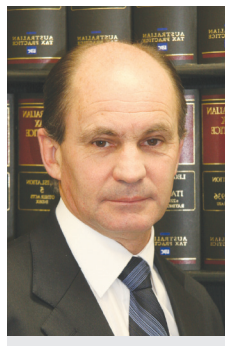
Planning your estate is one of those manana tasks—it is easier to put it off until tomorrow. And tomorrow never comes. Where you have a blended family (Peter Brock had one of these), the decisions are often magnified because of the complexity of the relationships between the different parts of the family. It is therefore preferable that the preparation of your estate plan be conducted in a collaborative and integrated manner.

The financial goals should be considered in conjunction with the legal obligations. Making or updating your will should not be a topic that is put in the too hard basket. Involving the beneficiaries will avoid expensive disputes about your will and estate.

It has been our experience that most family provision or estate disputes are caused by poorly written wills, especially will kits.

The simple fact is that a lawyer is trained to sniff out any potential problems. So make sure that your will and estate plan are as insulated as possible to prevent those problems occurring. The greatest single factor for Peter Brock in devising his will was the issue of his blended family.

Legal fees for tax advice on your will can be tax deductible. But think of legal fees as a type of insurance premium. No one likes to pay them but your family will certainly regret it if you do not.



Stephen Bourke is a director of the boutique firm, Certus Law, which specialises in superannuation, trusts and estate planning. Visit Certus Law at Level 5, 28 University Avenue, T: 6268 9090, www.certuslaw.com.au

Certus law

ESTATES | SUPER | COLLABORATIVE SOLUTIONS