

Wills & Probate Planning

Making Decisions Now, For Tomorrow.





What is Estate Planning and why is it important?



When is the right time to begin to consider estate planning?



The importance of a Will: reviewing your assets, choosing an Executor and designating beneficiaries.



What happens If you don't have a will?



What other steps can you take? - Planning for events during life.

What is Estate Planning?

- Estate planning is the process of anticipating and making arrangements, during a person's life, for the management and disposal of that person's estate in the event that the person becomes incapacitated, and/or after death.
- Estate planning is a gift you give to your loved ones and to yourself. In many ways, it is your legacy.

Estate Planning Includes both Personal and Corporate Planning and the Tools to approach both are different. However, the principle is the same.

-To design an independent plan or structure, which you implement, and which returns to you a piece of mind that you can continue to focus on being present to your day-to-day life as the long-term journey is covered.



Taking inventory of your assets



Creating a will and designating beneficiaries



Considering steps you can take for events during life



Wills

A will generally provides your instructions as to how your estate will be handled or divided amongst your beneficiaries. Generally, having a will in place avoids your estate going through an administration process that is governed by legislation.

Depending on your circumstances, the importance of having a will in place may be less/more urgent.

It is good practice to consider creating a will at any stage of life – you do not have to wait until you own a significant estate.

- The person making the Will ('testator') must have legal and mental capacity to make a Will;
- The Will must be in writing;
- Clear intention to dispose of Property;
- No undue influence or acts of Fraud; and
- Will must be signed by or on behalf of the testator in the presence of two witnesses and attested to by the two witnesses in the presence of the testator;
- Your will does not have to be registered, but it can be voluntarily lodged at the Probate Registry for safekeeping.

There are steps you can consider during life:

- Insurance Policies
- Financial Planning
- Make plans with your family members



Wills

When is the right time to consider estate planning: The Best time to plan your Estate, is NOW.

- The person named by the testator is responsible for collecting money, paying debts and correctly distributing the estate to those people entitled: the 'beneficiaries'.
- The Process is called 'administration of the estate' and part of that process may involve an application to the Court.
- A 'Grant of Probate' is the official court document issued by the Probate Registry that includes a copy of the Will.
- It is called a 'Grant of Letters of Administration' if there is no Will.
- Such a Grant is often required before banks will release large sums of money or before property can be sold. The Grant is considered legal authority to whomsoever funds are to be released.

Grants of Representation

- Application to Probate Registry of the Supreme Court of Judicature of Trinidad and Tobago must include;
 - An application for the grant made by an Attorney at Law (where the value of the estate exceeds a pre-set value)
 - An affidavit of the executors to include:
 - Name, Address, Occupation;
 - Name, Address and Occupation of testator at the time of death and date and place of death;
 - A description of the Will and other documents accompanying it;
 - The oath of the executor to administer the estate honestly and fairly;
 - A statement of the gross value of the estate;
 - Certified copy of the death certificate of the testator;
 - Original Will of testator;
 - Affidavit of an original witness to the Will;
 - Inventory of assets of the testator and value thereof at death.
- You must make an application for a Grant regardless of whether the deceased left a will or not. Your application will be advertised and provided no objection received the Grant will be issued.



Intestacy

- If the deceased died without a Will, there is a set legal formula for distributing assets to beneficiaries, which is called the ‘rules of intestacy’.
- The Legal Personal Representative (LPR) of the deceased must distribute the estate according to these rules in keeping with an application for “Letters of Administration”
- The Role of Executor or LPR is one that involves considerable work and time depending on the estate.
- If an Executor or LPR refuses the role, the law provides procedures for beneficiaries to assume the role.

Order of Priority:

Who is entitled to a grant of letters of administration?

- The surviving spouse (including a co-habitant)
- The children
- The grandchildren
- The great grandchildren or other lineal descendants
- Parents
- Siblings

*(The spouse includes a co-habitant – its important to note that a cohabitant cannot apply for the grant, but they can benefit)

Other Steps You can Take:

- Insurance Policies such as Critical Life/ Critical Illness
- Financial Planning- consider placing others onto your bank account/ issuing authorization notices
- Have “the talk” with your family/ loved ones
- Don’t be afraid to seek advice/ ask probing questions

Questions