

Will planning and today's family

Family life has changed considerably in recent years and dealing with family matters such as will planning can be quite complicated, writes Karen Harwood of Rice Associates

Take as an example a child of a mother married three times, a father twice and a number of step children from the various relationships.

The mother owns a house jointly with her husband valued at £300,000. She has other assets in her name of £400,000. The stepfather has other assets of £100,000. The potential IHT payable on their joint estate is £60,000 and will become due on the second death. This liability is not inconsiderable and with planning could be reduced to nil.

However, this is not their main consideration when planning their wills. The mother wants her husband to be able to benefit from all of her assets but wants to ensure that her wealth ultimately passes to her three children. Similarly, the stepfather would like his children to inherit, so how should they plan their estates?

We might suggest that they both leave their share of the matrimonial home to each other. This will ensure that they each have control over their home for the remainder of their life. The stepfather's estate will pass to his children as the mother feels she has sufficient assets in her own right. Whereas the mother's residual estate will pass on to trust for the benefit of the stepfather during his life and her children will become entitled to the capital after his death.

The stepfather will receive the income arising on trust investments for life and will have access to trust capital at the discretion of the trustees. Choosing the trustees with care and preparing a letter to the trustees setting out the mother's wishes is very important.

The father and stepmother do not have wills. They jointly own a property worth £250,000 and have other joint assets of £150,000, so IHT is not applicable. The father is in poor health and his main concern is providing for his wife.

Without a will the intestacy rules will apply. These can be complicated and assets do not always pass in accordance with the deceased's wishes. However, in the father's situation the intestacy rules are unlikely to have any affect as all jointly owned assets will pass to the survivor provided the joint tenancy has not been severed.

But what happens when the step mother dies? Her entire estate will pass to her only daughter, as step children are not recognised under the intestacy rules. The stepmother wishes for her estate to pass to her grandchildren, so it is essential that she has a valid will to achieve this.

This family represents some of the issues facing modern families and the above examples show that there are many important issues to consider when drafting your will. With planning it should be possible to mitigate potential IHT liabilities and ensure that your assets actually pass in accordance with your wishes.

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