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Wills – Case Study One: No Will Resulting in Intestacy

The Facts

Mr Jones, at the time he died, was a father of three adult children from his first marriage, and a father of two toddlers from his second marriage and was still happily married to wife number two. Unfortunately his adult children did not get on with their father's new wife.

His estate (for simplicity - net of Inheritance Tax) comprised of the house that was in his sole name and valued at £600,000, bank accounts of £80,000 and a life assurance policy worth £50,000.

He died without having ever made a Will as he assumed that his assets would automatically go to his wife.

The Problem

Without a Will the intestacy laws govern the entire estate.

Under limits applying from February 2009, the Wife would receive the personal belongings and a lump sum of £250,000. She would then receive income from half of the estate and the other half would be divided between the children. The pots of the two children that are under age would go into trust, whilst the adult children would receive theirs outright.

The house would therefore need to be sold and the money distributed accordingly:

- Wife - £250,000
- Adult children - £48,000 each
- Minor children - £48,000 each, held in trust until they reach 18
- Remaining £240,000 – placed in trust and the income distributed to the Wife for her lifetime. The remaining capital then split between the children.

From the Wife's share she would need to provide a home for herself and her two children. She would be responsible for raising two small children with limited assets and income. She would not have access to her children's money as this is held in trust until they are 18. Many consider eighteen to be far too young to inherit a good deal of money, as it is likely that they will spend the money unwisely and frivolously.

It would be possible for the adult children to re-direct their inheritance to the Wife, however, as they do not get on then this is unlikely. The Wife could potentially bring a claim in the court against her husband's estate, which would be time consuming and expensive.

The Advice

By making a Will which accords with the legal requirements, you can ensure that your wishes are carried out and, if you take the advice of a suitably qualified professional, minimise any tax to be paid.

Risk Warning: The past is not necessarily a guide to future performance. The value of your investment and the income from it can fall as well as rise and is not guaranteed. You may not get back the full amount invested.

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