


Getting the executor decision for your Will right when putting your estate plan in place

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The role of an executor is a crucial one to consider when putting your estate plan in place. In appointing someone as the executor of your will you are giving them the keys to all you own and control.

That's big.

You therefore need to appoint someone you trust implicitly to undertake this role. You need to appoint a trusted ally.

To ensure you appoint the right executor, let's take a look at the most common mistakes people make in choosing their executor.

The role as an executor can be cumbersome and demanding, so it is important to chat with your executor regarding your intention to appoint them as your executor of your will and ask if they would be willing to accept the role.

Failing to have this discussion could result in them refusing to undertake the role upon your death, which may result in someone who you would not have chosen administering your estate.

By having an informed chat with your executor it provides you with an opportunity to convey any specific wishes you may have and as well as providing them with an overview of your affairs.

You can tell them where important documents are kept, discuss your asset structure and important information pertaining to your business operations. The more information you are able to communicate to your executor the better equipped they will be to perform the role as your executor.

Appointing someone for the compelling reason you think it is the “fair and right thing to do” can often be detrimental.

Appointing your eldest child as your executor solely because they happen to be the eldest, but terrible with time management, organisational skills and financial literacy would be a very catastrophic choice of executor.

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The role of an executor is a responsible one, in which the executor owes a strong fiduciary duty to the beneficiaries.

Accordingly, it is paramount you appoint the best person to the role, a person you trust, a person who has integrity and honesty, a person who is receptive to obtaining the appropriate financial, legal and accounting advice and who fully comprehends the importance and significance of the role of an executor.

In appointing your executor, it is important to consider where they are located. I have seen wills where elderly executors have been appointed who permanently reside overseas and are unfamiliar with the Australian jurisdiction and the probate and estate administration requirements.

Often, they are also reluctant to travel to Australia to attend to the probate and estate administration obligations pertaining to their role, which can create complications.

The role of an executor often requires them to be present to sign documents and to oversee the distribution of assets, particularly where the estate is complex.

Some people will choose to appoint multiple executors, but are remiss in not giving consideration to the relationship between the appointed executors and whether they could work well together.

If you appoint your three children as your executors and two of them do not get along, it's likely to be a tedious experience for all. If they don't get along while you are alive, it is highly likely

they won't get along when you are no longer here, particularly if you were the glue that held them together.

Alternatively, you may consider appointing a friend and family member who have never met, to be your joint executor.

Your decision may be based on the assumption they both bring specific strengths and attributes to the role.

If you are contemplating appointing joint executors, give consideration to the following:

- Do they know each other?
- Will they work well together as joint executor?
- Is there any conflict between them?
- Will they implement your wishes and act in the best interests of the beneficiaries?

When appointing an executor, the person you appoint is the person you trust most, who you feel has the attributes and capacity to undertake this role in the best interest of you and the beneficiaries

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