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Wills and Probate Dying Without a Will – The Consequences

Dying without a valid Will means that your estate may not be distributed as you would have wished, but will be distributed under the intestacy rules.

This could mean that people who you wanted to be a beneficiary may be left out altogether.

The intestacy rules dictate that where the deceased was married, the surviving spouse receives the first £250,000 along with personal chattels and a life interest in half the remainder of the estate. The rest of the estate gets passed to any surviving children in equal shares and if no children then to any grandchildren. In the event that there are no children or grandchildren alive at the date of death, the surviving spouse receives the first £450,000 with the rest passing to their parents, or brothers and sisters if no parents survive. Where there are no children, parents, brothers or sisters the spouse inherits the entire estate.

Where the deceased is not married but merely co-habiting, the intestacy rules do not provide for the surviving partner at all. In fact, the only way that a co-habitee would receive anything is if they owned assets jointly with the deceased. Instead, the deceased's estate would pass to any surviving children in equal shares and where there are no children, to their grandchildren and then to their parents, then brothers and sisters, if not then grandparents, then uncles and aunts and finally if no beneficiaries can be identified the estate would pass to the Crown.

Where an agreement cannot be reached with those benefiting under the intestacy rules, to gain any provision a co-habitee would have to apply to the court under the Inheritance (Provision for Family and Dependents) Act 1975. This option is only open to those partners who have been co-habiting for 2 years or more and is a time consuming and complicated process. When this route is chosen, the court takes into account the applicant's financial needs and the moral obligation of the deceased. This can all be avoided by leaving a Will, often saving large legal costs and bad feeling between loved ones.

Furthermore, dying intestate can lead to a larger inheritance tax bill being payable. There are many ways to reduce the inheritance tax bill by adequate planning and making a Will can ensure that you put measures in place to reduce the amount of tax payable. Please refer to our Guide to Inheritance Tax for further information regarding Inheritance Tax.

It is also important that you keep your Will under review as your circumstances change, to ensure that your wishes are expressed accurately.

Contact us on 01284 767766 for further information.