



Wills & Inheritances

26th April 2004

Please Note: This not legal advice this is helpful commentary only.
Legal advice can be obtained by appointment from

Binchy Soicitors
Quay House
Clonmel

Telephone: 052 21411

You can email for a consultation/appointment at law@binchylaw.ie



Contents

1. What is a will
2. Why make a will
3. Do I need to see a Solicitor to make a will?
4. Can I change my will once I have made it?
5. Is it troublesome to make a will?
6. What are the tax implicatuions?
7. What is an Executor?
8. How much does it cost to make a will?

What is a will?

A will is a document whereby you decide how your assets (also referred to as your estate) should be distributed and to whom they should be distributed after your death. It only takes effect upon your death.

Why make a will?

If you do not, the law makes one for you. Precisely how your property will be distributed on your death, in the absence of a will, depends on your family circumstances. For example, if you are married with children and you die without a will, the law requires that your spouse should get two-thirds of your estate and your children should get one-third. If this is not suitable, or is not what you want, this could cause your family very practical difficulties after your death.

Do I need to see a Solicitor to make a will?

No, you don't, but you are strongly advised to do so. It is not expensive to make a will (see below) and not only are there legal requirements as to how a will should be made, by whom it should be witnessed and so on, but there are also other matters to be taken into account such as the legal entitlements of family members, taxation issues etc.

Can I change my will once I have made it?

Yes, you can change your will as often as you like. Indeed it is expected that most people will make a number of wills during the course of a lifetime, as their personal circumstances change. For example, you may require one kind of will if you are single, another if you are married, another if you have children, and another when the children are grown.

Is it troublesome to make a will?

No, not really. You simply make a preliminary appointment with your Solicitor to outline your family circumstances and to discuss your possible requirements. Your Solicitor will advise you as to how the law applies to your particular circumstances and the kind of will most suited to you. After that meeting, your Solicitor will draft a will and you will meet on at least one other occasion to discuss whether or not what has been drafted is suitable to your requirements. In most cases, this will be so, and you will then proceed to finalise and sign the will in accordance with legal requirements. It is important that you should at some stage furnish your Solicitor with a schedule of your assets, to include details of any property owned by you, money in bank accounts, shares, life assurance policies etc.

What are the tax implications?

The making of a will does not in itself give rise to any tax liabilities. The inheritance of assets following a death may however give rise to liability to a tax known as Capital Acquisitions Tax (known as CAT - it may also be payable on the making of a gift). Prudent planning may help to avoid or limit the amount of CAT payable.

The amount payable depends upon the degree of relationship that the beneficiary has to the Testator (the person who made the will), and whether or not the person taking the inheritance has ever previously received a gift or inheritance. Depending on the relationship that the beneficiary enjoys, he or she will have a tax free threshold as follows:

1. There is no tax payable on an inheritance taken by one spouse from another.
2. A son or daughter may inherit up to €456,438.00 without any liability to Capital Acquisitions Tax. However, previous gifts or inheritances stand to be aggregated for the purpose of computing any liability to tax and so this threshold will be reduced by any such gifts or inheritances.
3. A parent, brother, sister, niece, nephew or grandchild of the deceased may inherit up to €45,644.00 without liability to tax, subject to what is said above in relation to aggregation of previous gifts or inheritances.
4. A person who is not related in any of the above categories to the Testator, may take an inheritance of up to €22,822.00 without liability to tax, subject again to what is said above in relation to aggregation.

It should be noted that the above tax free thresholds are revised yearly and the above thresholds are for 2004.

What is an Executor?

The Executor is the person you appoint to administer your estate. The Executor does not have to accept the appointment so it is important that you should confer with an Executor and have his or her agreement that they will act if required to do so. You can appoint any number of Executors, but there would be rarely more than two or three appointed. It is also important that your Executors should know where your will is kept, as the failure to do so can sometimes cause problems and delay the administration of an estate.

How much does it cost to make a will?

A simple will will cost of the order of €75.00. A more complex will will cost more, depending on the amount of time and effort required to be spent on the matter by your Solicitor. This can be discussed with us at the preliminary consultation.