# Chapter 1

# Preparing for the Inevitable

### In This Chapter

- Recognising the advantages of ‘having a plan’
- Understanding the twin goals strategy
- Realising you have lots of people pulling for you
- Making sure you can adapt to changing circumstances
- Going for strategy launch



Are you a wise owl or a head-burying ostrich when it comes to the dreaded d-word?

If you’re an ostrich, you prefer not to think about the inevitable. Being an ostrich means trusting the fortunes of your loved ones to chance once you’ve gone, and having no control over what happens to your possessions and who should benefit from them. To an ostrich, death is five letters, one syllable, and a load of stigma.

If, however, you’re a wise owl, you take the time to think, question, and act in order to write a will, and take tax-saving steps to protect your loved ones when you’re gone.

I’m betting that as you’ve picked up this book you’ve had enough of the ostrich lifestyle and want to be a wise owl instead! So don’t be squeamish – this book has lots of examples of things that can happen when you’re no longer around, so grit your teeth and bear it! I’m going to be talking about your death – yes, yours – so no hiding behind the sofa; it’s time to look the grim reaper squarely in the scythe and make proper plans for the inevitable.

In this chapter, I look at the basics of what should make up a bang-on strategy to protect your loved ones and frustrate the tax-collector.

# Recognising the Advantages of Putting Your Estate in Order

A particular life event – a wedding, the birth of a child, or a health scare – can prompt you to start thinking about planning for the inevitable. Alternatively, you may just have a general feeling that it's time to stop putting off writing down your big plan.

Oddly, people spend days choosing everyday items such as cars, kitchens, or just the right colour scheme for the downstairs loo, but won't spend a few hours – and that's all it has to take – drawing up a will and getting their bits and pieces into tax-saving shape to save their loved ones a mountain of heartache.

Whether you're in your twenties and have just got your foot on the property ladder, or you're an octogenarian with a gaggle of grandchildren around you, making a will and tax planning have huge benefits. The benefits include:

- A will allows you to set out clearly who should get what from your *estate* (everything you own at the time of your death, from your home to your teapot).
- A will empowers you to appoint special people to deal with your estate and look after your loved ones when you've gone.
- A will enables you to give your property away in a tax-efficient way.
- Tax planning while alive can reduce inheritance tax when you die.


If your estate is worth more than £300,000 (2007/08 tax year) or £312,000 (2008/09 tax year) when you die, HM Revenue & Customs may impose an inheritance tax (IHT) charge (no, I don't know what the 'H' stands for either). Turn to Chapter 15 on ways around paying too much IHT.


If you do decide to make a will and have a spouse, ex-spouse, children, or other people who depend on you for their upkeep, you are required to look after them through your will. Failure to provide for these people could lead to your will being challenged in the courts. Chapter 4 has more.

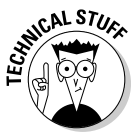
## Understanding what happens if you don't plan

Sorry to bring the tone down – this is a book about death and taxes, after all – but think about the situation if you were to die next week, tomorrow, or even right now! What state would your financial affairs be in? Most people would answer: A bit of a mess.

More than half the UK population dies without making a will, and an even higher percentage make no tax-saving plans during their lifetimes. The tax-collector loves these people because they leave their estates wide open for a tax grab. However, the family left behind is probably less pleased at the lack of forward planning.

What's more, the tax-collector doesn't hang around, but, in most cases, demands IHT before the deceased's assets can be sold. As a result, the deceased's nearest and dearest sometimes need to borrow money to pay the tax. Just a small planning step like buying a life insurance policy to cover any IHT bill can save loved ones a great deal of hassle and heartache at what is likely to be a very difficult time.

Making plans for the inevitable makes you, as Yogi Bear was fond of saying, 'smarter than the average bear'. Your plans may take the form of a full-blown will with lots of tax-saving steps built in, or you may simply decide to talk to those around you and sort out your paperwork, making it easier for those who have to cope when you're gone. The key is to do something!




If you die without making a will, you die *intestate*, which means your property is handed out to your nearest and dearest according to the strict laws of intestacy.

Intestacy laws are designed to ensure that the deceased's nearest relatives, the spouse in particular, receive the estate. These laws make a good backstop for most people, but by no means fit everyone's circumstances like a glove.

You'll find some sample wills at the back of this book that you can replicate when writing your own last will and testament. Now you have no excuses not to get cracking after you've read this book!


Although the tax system in all parts of the UK is nearly identical, Scotland has a very different legal system to England, Wales, and Northern Ireland. Laws governing making a will and the distribution of a deceased's assets can differ markedly in Scotland, particularly when someone dies intestate. Although I point out many of the differences, consult professional legal advice if you are in any doubt whatsoever.

## Counting your pennies

Bet you're richer than you think you are! Although it may not feel like it when the credit card bill lands on the doormat with an ominous thud every month, most people are far wealthier than they realise.

## Debts don't die with you!

When coming up with a figure for how much you're worth, don't forget to subtract any debts you have. Most people have some form of debt, often in the form of a mortgage. Your *creditors* (those you owe money to) have to be paid before any beneficiaries (those you want to give money to). Some people's debts outweigh their assets. If you find that you're in this position, consider taking out a life insurance policy to ensure that your nearest and dearest at least get something on your death.

Working out your debts and assets can be a lot more complex than simply sitting down and creating two columns on a sheet of paper. You may need to have your assets independently valued. As for debts, check out whether penalties exist if you were to die and the debt repaid early. Chapter 3 has more on valuing assets and debts.

For starters, more than two in three households are owner-occupied and a house is one big, big asset. Then look inside your four walls: Domestic appliances, TV, music centre, clothes, artwork, and, of course, a priceless copy of *Wills, Probate & Inheritance Tax For Dummies*. Insurers know from experience that people often underestimate their own worth.

Your home may only be the tip of the iceberg – don't forget your cars, cash held in savings accounts, shares, and pensions.

Also take into account that many employer pension schemes offer very generous 'death in service' benefits, and life insurance policy payouts can run into the hundreds of thousands of pounds!

To choose the right strategy for helping out your loved ones, you must first know what your estate is worth. Chapter 3 has more on working out your wealth.

TIP

How much you're worth in real money alters all the time, usually not by much but over time the changes can be quite major. Make monitoring your wealth an ongoing process, so you always have an idea of how much you have to give away to your loved ones.

You can use a will to achieve many different objectives or just one major goal, such as setting money aside for a child's university education. You'll probably find that as your knowledge grows during the reading of this book, you'll think of new and interesting ways to help your loved ones and beat HM Revenue & Customs (HMRC) at their own game. Go for it!

# Plotting Your Estate Strategy

A good estate strategy – through a will or tax planning – means that your loved ones win on lots of fronts. Good strategies have two main objectives:

- Doing right by beneficiaries – being aware of the needs of loved ones and what you can do to help.
- Doing wrong by the tax-collector – taking steps during your life or through your will to ensure that HMRC gets as little as possible of your pot of gold. The less the tax authorities take, the more your loved ones get.

Essentially, having a strategy is all about two things: Protection and control of your estate.

## Thinking about what your family needs

This is the central challenge of any will and estate strategy. Forget about saving tax for the moment and consider what each of your beneficiaries need now and in the future – and what you own that could help them.

TIP

Matching what's in your estate to your loved ones' needs is all about communication. As hard as it is to discuss your own demise, talk with your family about what will happen when you've gone and what help they may need.

The needs of your beneficiaries and your assets are unlikely to fit together perfectly. You need to appoint a good *executor* of your estate. Executors are the people you appoint in your will to make sure what you put down on paper makes it into reality by distributing your estate. Executors are usually close friends or family. Chapter 6 has the low-down on executors.

## Knowing your enemy: The tax inspector

HM Revenue & Customs is a huge organisation with millions of pounds of funding, thousands of tax inspectors, and is lawyered up to the eyeballs. In a head-on fight, the odds are that you won't win!

But the tax inspector lives by rules and you can use these rules to shield your estate from a post-death tax grab.

### The big inheritance tax trap

We Brits are far richer than we were a generation ago – we drive better cars, enjoy more exotic holidays, and, boy, can we shop. That's all very nice but a downside to being rich is inheritance tax.

Back in 1993 fewer than one in 25 estates were large enough to breach the IHT threshold (the magic figure above which IHT may be due), but experts estimate that this proportion has now risen to close to 1 in 12 estates. The main reason for this situation is a huge increase in the price of houses.

IHT, a tax that was once the scourge just of the rich, now has Mr and Mrs Normal in its sights!

At first glance, the rules aren't easy to understand – couched as they are in accountant and solicitor speak – but they boil down to a few simple winning moves you can make to cut tax. The chief ways you can save tax include:

TAX BUSTER

- **Make gifts to a spouse.** Any assets or gifts passing between spouses are tax-free, regardless of whether the transfer is on death or during life.
- **Make limited but regular gifts to others.** You're allowed to give away some of your assets during life and on your deathbed, cutting the IHT bill in the process. See Chapter 15 for more.
- **Put assets into trust.** This is when you pluck an asset out of your estate and hand its control to a group of people called *trustees*, who look after it for a beneficiary. Under certain circumstances the asset in trust becomes free of IHT.

  Trusts have lots of other uses other than saving tax. Chapter 17 has more.
- **Own tax-exempt assets.** Some businesses, agriculture, and woodland come with very tasty tax breaks.

All these tax-saving strategies are covered in greater detail throughout this book.

The family home is likely to be your biggest asset and hence the tastiest morsel for the tax-collector. See Chapter 5 for more on special tactics you can adopt to protect your home from HMRC and other dangers.

## Getting by with a little help from your friends (and family)

No one is an island. Your spouse, family, and friends can lend a helping hand with your big plans.

The main ways that your nearest and dearest can help include:

- Acting as executors or administrators of your estate
- Agreeing to be appointed guardians of your children
- Acting as trustees of any trust you set up
- Co-operating with your tax-saving steps such as gifting and putting assets into trust

TIP

When deciding which role a loved one should play in your estate planning, think hard about the skills they have. Some people are more suited to administrative work involved in being an executor or trustee; others have more experience of bringing up children. Talk to the friends and family you have in mind for particular tasks. Chapter 6 has more.

## Calling in the pros

Professionals can help you when you're writing your will:

- Solicitors can answer most will-related and trust enquiries.
- Accountants are useful if you have very complex financial affairs. They can advise on saving tax today and in the future.
- Independent financial advisers can help you choose investments and savings that are tax efficient.

Professionals can also multitask – some independent financial advisers and accountants are very good on trusts, where some solicitors may be uncomfortable with complex trusts.

REMEMBER

Question any professional you may employ about their expertise.

You can write a simple will with the help of this book. But use a professional when you're at the limits of your knowledge and to check over the plans you have in place. Circumstances when it's advisable to call on a professional include:

- Setting up a trust
- When the terms of a will are being challenged or a dispute between beneficiaries breaks out
- Setting up a joint, mutual, or mirror will (this is when two people – usually a married couple – legally tie their wills together; head to Chapter 2 for more on these types of will

### Estate strategy: It's a time thing

Time is probably your biggest ally in estate strategy. Most people don't know when the grim reaper will come knocking, but generally the younger you start to make estate plans, the more effective they'll be.

For example, many tax-saving ploys require a gradual approach. Small financial moves made as life rolls by – such as making exempt gifts and transferring property to loved ones – can eventually lead to check-mating the tax-collector on death.

WARNING!

Agencies are springing up offering to write your will for you. Be aware that the legal background of the people who draw up the will may be negligible. Often these services are cheaper than using a solicitor – but in life you tend to get what you pay for!

## Being adaptable

To be a true success in making sure that those closest to you are looked after when you're gone isn't just a matter of writing a will and leaving it gathering dust year in, year out. Life stands still for no one. Your circumstances change, as do those of the people around you.

Review your plans when any of the following circumstances occur:

- A beneficiary dies
- Your marital status changes
- Your financial circumstances alter substantially
- Someone enters your life who you want to make provision for – perhaps a grandchild or new partner

TIP

You can help prevent disruption to your plans by naming a substitute beneficiary who inherits the gift should the first beneficiary die.

# Gearing Up for the Probate Challenge

Planning for the inevitable doesn't just mean putting in place a strategy for your own demise – it also means being prepared to cope with the death of someone close to you.

A loved one may name you as executor of their will, or, if they don't have a will, you may decide that you ought to act as their *estate administrator* (the person appointed by the courts when there is no will) on their death.

The process of dealing with someone else's estate is called *probate* or *administration* and the ins and outs of the process are examined in Part III.

Taking an estate through probate is no easy feat – even relatively simple estates can take months to wind up. If you act as an executor, be prepared to do some or all of the following:

- Obtain the death certificate and perhaps arrange the funeral.
- Calculate and pay any inheritance tax.
- Locate the deceased's assets and debts.
- Deal with financial and other institutions holding the deceased's assets, or to whom the deceased owed money.
- Sell the deceased's assets to pay bills, tax, or beneficiaries.
- Gather in the deceased's assets and distribute the estate to the beneficiaries.
- Go to a solicitor should you need legal advice on what you're doing.

WARNING!

The role of executor or administrator is not to be taken lightly. Make a mess of the job and you'll have to deal with dire consequences: The deceased's relatives can win legal damages from a negligent executor.

If you've been asked to act as executor, ask the person making the will where you'll find their will and other important documents in the event of their death.

# Launching Your Strategy: The Checklist

Your best chance of making sure your loved ones are looked after and the tax-collector frustrated at every turn is to be systematic about your estate strategy. However small or large your fortune, or your estate strategy ambitions, you need to do the following:

1. **Decide on and be clear about your goals.** Think about what you want to achieve, who needs your help, and what scenarios you want your loved ones to avoid when you've gone.
2. **Work out what you have to offer.** What will you be worth to your loved ones? What financial problems and debts might you leave behind and how can you arrange for them to be solved on your death? Decide what your beneficiaries need to see them through life and, hopefully, ease the pain of your parting.

3. **Get advice when you need to.** If you have complex financial affairs, you may well need legal and financial advice. Even if you write your own will, you might want a solicitor to read it through for you.
4. **See your plans through.** *Thinking* about what you've got and what you want to achieve is all very well, but without making that will or drawing up that trust it's just one more brick in the road of good intentions. And we all know where that leads. Once you're kick-started into action, dot the i's and cross the t's.
5. **Keep an eye on your plans.** As a rule of thumb, review your will once a year. When you do review your plans, go through Steps 1 to 4 again.