

Where there's a Will

["It is the duty of a Muslim who has anything to bequest not to let two nights pass without including it in his Will \(wasiyya\)" \(Sahih al-Bukhari\).](#)

As Benjamin Franklin famously said, "Two things in life are inevitable, death and taxes." It's impossible to avoid the first of these, but by making a Will you can help minimise the second.

A Will is an extremely straightforward and inexpensive document to arrange. However, very few people have taken this important step. According to the Probate office, 69% of the UK population do not have a valid Will. Among the Asian population, 95% do not have a valid Will. According to Shari'ah, one of the most important duties in a Muslim's life is to write a Will!

If you die without a Will, (referred to as dying intestate), your estate will be divided according to the rules known as the intestacy rules. The person who is entitled to your estate will depend on which of your relatives are alive after your death.

This can create problems. For example, the surviving spouse will only inherit the first £125,000 of the estate; from the remaining, half will be given to the children (if they have any) in equal shares, and half will be invested in a life interest trust, from which the surviving spouse will only be entitled to the interest for the remainder of their life. If there are no children in the marriage, then £200,000 will be given to the surviving spouse. From the remainder of the estate, half will go to the deceased spouse's parents, if they are alive. If there are no parents, then to brothers and sisters; if there are none, then other blood relatives.

Many Muslim brothers and sisters have been through the Nikah ceremony, but have not had a civil marriage, in this situation you do not have automatic rights to each other's assets irrespective of how long you have been together or whether you have children. For example, if the assets are in one person's name, and this person dies, the surviving spouse will not inherit anything. The assets will pass to the children; if there are no children, then to parents; if they are not alive, then to brothers and sisters in equal shares. If there are no brothers and sisters, then assets will go to other blood relatives. If you have no relatives, your estate passes directly to the Government. By making a will you can leave your assets to whoever you want, including friends, family or charitable organisations.

Children under 18 years

Even if you have no money or property in the world, but have children under the age of 18 years, you must make a will. If both parents have died, leaving behind children under 18 years, children will not automatically be allowed to be looked after by close relatives. This process can take up to 6 to 9 months. But if you have written a will and nominated guardians, in case a tragedy strikes, you can be sure that your children will not go through the trauma of having to live with foster caregivers while the assessments are taking place.

Inheritance Tax

Most people are aware that the Chancellor, Alistair Darling, in his Pre Budget Report on Tuesday 9th October 2007, announced changes to the way Inheritance Tax (IHT) is charged in relation to married couples. What are these changes, and what do they mean? The Nil Rate band has not changed; it is still £312K per person. Before, if you were a married couple and you owned the property as Joint Tenants, if one of you died, the surviving spouse would inherit the whole estate. The beneficiaries would only get a inheritance exemption on the first £312K, remaining estate value was charged at 40% Inheritance Tax.

Now, the changes mean that if you are a married couple, the surviving spouse can claim the exemption limit on the person who has died, ending up with a total of £624K free of tax. However, this is not as easy as it sounds. The Inland Revenue has issued many complicated guidelines on how to make this claim, which is likely to be a very costly process too.

Most experts, including The Society of Will Writers, are suggesting that people should still include inheritance effective provisions in their Will. As well as making sure the inheritance tax exemption limit is doubled, such a mechanism also ensures that there is protection from future potential Nursing Home costs. If you have not done a civil marriage, there are no changes, surviving partner will still have to pay inheritance tax on assets over £312K at a rate of 40%. Effective planning in your wills, however, can ensure that unmarried couples can still double their inheritance tax allowance.

Making your will

A search on the internet shows plenty of websites that allow you to make a will for less than £20 and you can also get DIY kits from stationery suppliers. However, you should only ever consider this if your will is very straightforward.

The Law Society does not recommend DIY wills. There are various legal formalities you must take to ensure your will is valid, and without the help of an expert, there is a real risk you could make a mistake. Wills can be made by solicitors and specialist will companies. However, very few of these are capable of writing Shari'ah compliant wills, but here at Abacus Will Writers, we actually specialise in Shari'ah compliant wills. You should review your will at least every five years and after any major life changes such as marriage, separation or divorce, having a child or moving house. This will allow you to update your will, to reflect any changes in circumstances.

Conclusion

It is clear that there is still a very active role for Wills and Wills with Trusts. However, the days of a tailor-made approach to tax and estate planning are now with us, along with carefully and individually crafted Wills with carefully selected Will trusts, tailored to meet each client's circumstances. And the best people to deliver this service are Abacus Will Writers UK Ltd, who are full members of the Society of Will Writers.

Don't let time be the last thing you regret wasting

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