



WHICH ASSETS CAN YOU GIFT IN YOUR WILL?

Do you personally own the assets you use, invest, occupy or control?

It is important to identify which assets you own personally so that you know which assets can form part of your Estate (and therefore be given away under the terms of your Will). You should also be aware of how other assets in which you have an interest Will be treated in the event of your death.

ESTATE ASSETS AND NON-ESTATE ASSETS

Assets owned by you personally are Estate assets and you can specify in your Will to whom those assets should be gifted through your Estate. Non-Estate assets are assets that cannot be gifted in your Will. This may be because you are not the legal owner of the assets (even though you have control over them during your lifetime) or because you own them jointly with another party.

(TENANCY IN COMMON AND JOINT TENANCY)

When two or more people own an asset either as joint tenants or tenants in common, each person owns a share of the entire property. This means that portions or fragments of the assets are not owned by one single individual but Instead are held and shared as a whole amongst the joint parties.

Assets owned by you and another person in joint names (i.e., as joint tenants) are non-Estate assets. For either party to have access to the asset, Joint tenants must obtain equal shares of the property with the same deed (legally binding property ownership document), at the same time.

For Tenants in Common, all areas of the property are owned equally by the group. The co-tenants may however have a different share of ownership interests. For example, Sarah and Debbie may each own 25% of a property, while Layla owns 50%.

IMPLICATION OF OWNING ASSETS AS EITHER TENANTS IN COMMON OR JOINT TENANT

As joint tenants, Full ownership of assets held as joint tenants Will automatically pass to the surviving tenant upon the death of the joint owner.

As a tenant in common, assets owned by you and another person as tenants-in-common are Estate assets and are not affected by the law of survivorship. Your share or interest may be gifted or otherwise dealt with in your Will in the same manner as assets owned in your sole name.

LIFE INSURANCE

Generally, the proceeds of a life insurance policy which is owned personally are paid to the owner of the policy (his or her Estate) or to any nominated beneficiary upon death. It is only where the life insurance proceeds are paid to the Estate that they are dealt with via your Will.