

Estate Planning and Rural Assets...

By Brendon Murray, Director, Bentleys

When dealing with rural assets there are numerous benefits to having an effective estate plan. Following the recent price increases of rural holdings this has now become a very prominent issue affecting many country families.

Brendon Murray, Brisbane based Director of accounting firm Bentleys, explains why he works closely with his clients to ensure all assets are dealt with effectively for Estate Planning.

"It is extremely important to focus the estate plan on securing the future of the rural enterprise" explains Brendon.

"An important benefit of a well executed estate plan is the minimisation of income tax on the transfer of assets. This improves the future viability of the rural venture".

Brendon advises that the main outcomes to work towards when attempting to plan for the succession of your assets are:

- Providing a fair and equitable split of assets between family members;
- Ensuring the operation remains viable after the transfer; and
- Looking after the well-being of a remaining spouse or dependents.

When Estate Planning, there are several factors to bear in mind.

Firstly, it is important to understand that the transfer of assets under your Will only relates to assets held in your personal name. This means that any assets held by a trust or company will remain unaffected by your passing. This is an important consideration to keep in mind when purchasing a property that you envisage will be passed down in your estate.

Also you should be aware that recent changes to the capital gains tax legislation and stamp duty concessions on the transfer of rural property mean that in many cases an effective restructure can now occur without significant transaction costs. Therefore, it may be worthwhile investigating the reorganization of your property assets at the time of Estate Planning.

A second matter you need to be aware of is the rulings specific to primary production enterprises such as deferred livestock profits and Farm Management Deposits.

Both these tax specific provisions will be taxable on the death of the taxpayer. This can have dire consequences for the estate's assets.

As a part of the review of your Estate Planning, it might be opportune to also look into restructure of your business affairs, especially if you currently have these kinds of assets or tax provisions held in a person's individual name.

It's also important to be aware of means by which you can allow for those family members who are not involved in the rural enterprise. Off-farm assets such as shares, non-rural property and superannuation are all commonly used avenues to provide for this, and are an equitable method through which assets can be distributed.



If your estate can provide those beneficiaries with their off-farm assets, without having to sell or divest any part of the rural enterprise, then this will further ensure that the operation remains in a viable state for the beneficiaries who will continue the enterprise.

Superannuation can also be worked to great advantage in Estate Planning - in particular, with regards to Farm Management Deposits. Through turning these Deposits into superannuation contributions, the tax triggered by the withdrawal of the Farm Management Deposit is offset by the tax benefit created through the superannuation contribution. This asset can then be incorporated into the estate for equitable distribution.

The Estate Planning process can be challenging, and should be handled with respect and consideration for both the testator and all family members. In particular, all who are affected by the distribution of assets, especially those whose livelihood depend entirely on the property, should be involved in the process.

A team approach involving your accountant, solicitor and other family members is the best way to ensure that issues have been dealt with in a timely manner - and will ease the burden on your family after you pass away and will result in far less contesting of Wills.

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