



A GUIDE TO PROTECTING YOUR WEALTH AND YOUR FAMILY'S FUTURE

Entrepreneur's Guide to Wills and Probate



INTRODUCTION

Having your affairs in order is vital for any business owner.

Whether you're starting out or have a well-established business, every entrepreneur benefits from having a valid and up-to-date will. Planning ahead provides your loved ones with security and stability during their time of need, and ensures your desires for your business are fulfilled after your death.

As a business owner myself, I understand the difficulties you can face when finalising a will, especially when taking your business assets into account. We've witnessed entrepreneurs struggle through legal procedures, stumble over terminology and lose out on ways they can legally set up their estate to benefit their loved ones.

It is for this reason we developed a guide to make the whole process of producing a will easier for entrepreneurs.

HERE'S WHAT YOU CAN EXPECT TO GAIN FROM THIS GUIDE:

- + How to have a say over your business, after your death
- + How to avoid the mistakes most entrepreneurs make in their wills
- + The key moments when you should update your will
- + An understanding of what inheritance tax is and how it can affect your loved ones
- + How to check if you are liable to inheritance tax
- + The best way to avoid falling into the inheritance tax trap



HOW TO HAVE A SAY OVER YOUR BUSINESS, AFTER YOUR DEATH

As a business owner - regardless of whether you're a sole trader or in a partnership - it's important to factor in what could happen to the business in the event of your death.

Despite the taboo surrounding a person's time coming to an end, it is worth planning for the inevitable in the same way you would plan in your business.

Forward planning and putting a legal will in place is the best way to ensure your desires are fulfilled after your death and you can have a final say in what happens to your business.

A will is a legal document that enables you to determine how your estate is distributed after your death. In your will, you are required to cite an Executor. This is the person you trust to carry out your wishes as mentioned in your will and their duties include:

Applying and obtaining a Grant of Probate / Letters of Administration
(which one they obtain depends on whether or not you have a valid will)
Registering the death and arranging the funeral
Identifying and valuing your assets
Identifying any debts or claims against your estate
Calculating and paying Inheritance Tax

Your will itself encapsulates everything you wish to take place after your death, from the flowers at your funeral to the distribution of your wealth. It's your final opportunity to have a say over what happens to your assets.

Despite this, over 60% of adults across the UK have not written a will. Failure to have a professional will in place means your business and personal assets will fall under intestacy rules and be handled according to the state, regardless of your wishes. To make matters worse, the loved ones you leave behind have no control over your assets.

This will have immeasurable implications for your loved ones, negatively impacting them at the hardest point in their lives. Furthermore, not having a will means you've lost your only chance to control the future of the company you built.

To ensure you have a final say in how your business continues after your death, you **need** to have a will in place. Not only will this make the lives of your loved ones easier after your death, it'll also help you to:

AVOID UNNECESSARY INHERITANCE TAX

If your business is added to the overall value of your estate, your inheritance tax (IHT) liability will be considerable for your beneficiaries.

Inheritance tax planning is an area to carefully consider when planning your will. It's possible to pass your business into a trust to ensure more money goes towards your loved ones rather than taxed. If they weren't expecting this tax to be taken from your estate, you could be leaving your grieving family in a situation of distress and instability.

Having a legal will in place upon your death means you're placing your beneficiaries in a better situation than if you simply leave your estate to be dealt with by state laws.

AVOID YOUR BUSINESS BECOMING SUBJECT TO INTESTACY RULES

Intestacy rules apply when you die without a will or with one which is invalid or outdated. Dying intestate means the distribution of your estate is placed in control of the state, meaning you and your family have no say in what happens to your assets.

Furthermore, only your spouse or close relatives can be beneficiaries under intestate policies, meaning you're unable to pass on anything to close friends or charities you supported through your lifetime.

Having a will means your wishes are taken into account and ensure your loved ones are more likely to obtain your assets earlier.

In short, having a will benefits all parties involved. It allows your final wishes to be fulfilled and provides your family with security in their time of need. As a business owner, your will is an essential document, impacting the future of your company and your loved ones.

SO, WE'VE ESTABLISHED JUST HOW IMPORTANT YOUR WILL IS, BUT WHAT ELSE SHOULD BE INCLUDED?

As mentioned earlier, citing an Executor for your will is crucial. This person is responsible for several essential undertakings after your death, so it is important to choose them wisely. They are also the person in charge of obtaining the 'Grant of Probate' for your will - the legal right to fulfill the wishes outlined in your will. Without a probate, your wishes may not be completed.

The Executor of your will should be someone you trust deeply, perhaps a close relative or family friend. If however, you don't wish for your executor to be someone you know, you can opt for a third party executor - this is usually for a fee. In general, it is best to choose someone who is in good health, and will likely be around after your death. If your executor dies before you do, you need to edit your will immediately.

THE IMPORTANCE OF CREATING A 'DEATH' FILE

A 'death' file is the place where you all your important information is stored. It needs to include your bank details, passwords, important documents, safe codes and any personal details an executor may need to finalise your wishes. Go into detail as this will be important information for your loved ones after your death, especially when preparing and dividing your estate. You should even include passwords to social media here, and your wishes for how you want your accounts to be treated after your death (for example, turned into memorial sites or simply deactivated).

Due to the importance of this document, it's good to start early and regularly update it, rather than wait until later on in life when you may forget essential information. Furthermore, if you plan your will with a legal professional, this information can be stored with them in a secure environment, giving you peace of mind your documents are safe.



HOW TO AVOID THE MISTAKES MOST ENTREPRENEURS MAKE IN THEIR WILLS

When you're busy running your own business, estate planning is often the last thing on your mind.

But, as an entrepreneur, your will is one of the most important documents in and for your business. It has the power to determine the future of your legacy and ensures your business and wealth are passed onto the right people if the worst were to happen to you.

However, if there are any errors in your will, a case could arise where your will becomes invalid, resulting in your death being interstate and the government dealing with your assets. Therefore, it's crucial for your will to be error-free.



To ensure there are no errors in your will, take a look through these common mistakes and the ways to avoid them:

+ MISTAKE #1 - LEAVING OUT CERTAIN ASSETS

The reason you have a will in the first place is to ensure you have control over how your assets are divided up after death. It is important to include specific assets, no matter how minor they may seem.

+ SOLUTION #1

The best way to overcome this is to start estate planning as soon as possible. When your business is successfully thriving and accumulating a substantial amount of wealth, it can be difficult to value your assets. Start your will early and review your will whenever a significant change has been made to your estate. This way you'll be sure every asset is accounted for, as you can simply revise your will when new assets accumulate.

+ MISTAKE #2 - FORGETTING TO UPDATE CHANGES

Perhaps you had a will written up and it's been a few years since you've looked at it. Even just a few years may be enough time for your circumstances to change significantly - like getting married, divorced or having a child.

Getting married, for example, renders your will invalid meaning if you were to die unexpectedly, your death will be interstate and the government will distribute your assets.

+ SOLUTION #2

Set a yearly reminder to review and revise any elements of your will that need to change due to altering circumstances. Be sure to edit your will at any milestone in your life. For more information about the most important times to edit your will, look at our article covering [‘The 5 Times You Need To Update Your Will’](#)



MISTAKE #3 - NOT SEEKING LEGAL ADVICE

Your will is one of the most important documents you should possess - in relation to your business and personal life. Although we appreciate why many take a DIY approach or use a value option, to guarantee your will is done properly it is worth spending time and money on.

If your will is declared invalid, due to small DIY errors, with your loved ones may receive far less than you would have anticipated.



SOLUTION #3

For this mistake, the best solution is to spend your money wisely and on the things that matter the most. Make a conscious decision to set aside a dedicated time to seek advice from the solicitors you know and trust. By doing this, you can find peace in knowing your family will be looked after if the worst were to happen to you.



MISTAKE #4 - BEING TOO SPECIFIC

This is when it can get confusing. Isn't the whole point of a will to pass down specific assets? Yes it is but if you're too focused on the specific details, your will may be outdated by the time of your death.

For example, if you wish to leave your car to your eldest child, instead of using the specific model of car, stick with a more general description of the asset, such as 'the car in my name.' If you end up upgrading your car over the years and forget to update your will, the executor can dispute the claim.



SOLUTION #4

This one's quite simple. When writing your will, make sure to include all of your assets - everything from your house to your jewellery to the money hid away in your sock draw. BUT, don't state specific model numbers or product details, just in case these change before your death.

The best way to make sure every asset in your will is accurate but not too specific is to seek advice, and we will make the necessary edits to your will to ensure it is error-free.

+ MISTAKE #5 - BEING TOO VAGUE

Although you don't want to be in a situation where your will is rendered invalid due to being too specific, you also don't want confusion over your wishes. Although it can be difficult to assign all your assets to other people, being too vague could leave your wishes being unfulfilled, as people aren't clear as to what you'd truly want.

+ SOLUTION #5

To overcome this, steer clear of ambiguous language or terminology. Lay out your wishes clearly and be bold in the actions you wish to be fulfilled after your death.

To ensure your will isn't too vague or too specific, be sure to speak to a professional so you're certain your will is valid, accurate, and would be accepted by the law. This is not the time to leave matters up to interpretation. Be specific to avoid the court stepping in and deciding on your behalf.

+ MISTAKE #6 - FAILING TO PROVIDE A REASON FOR LEAVING OUT A DEPENDENT

If you plan to leave a dependent out of your will, you need to explain exactly why you've made this decision and where your estate will go instead. Failing to do so could result in the person challenging your decision.

If you choose to leave your estate to an animal charity, an estranged family member or business partner, your loved ones could contest your decision and take it court, meaning that your wishes may not be fulfilled.

+ SOLUTION #6

Ensure your will outlines exactly what you want and why. Be descriptive and informative regarding your choices.

Remember, this is your last chance to have your say, so make sure it counts.

The best way to make your will count is to seek the advice of a professional, as they will be able to review your documents and make the necessary legal changes to ensure your will is legitimate.



MISTAKE #7 - FORGETTING TO FACTOR IN DEBTS

Assuming your debts die with you is one way to cause a legal nightmare for your heirs.

Your debts don't become someone else's responsibility after your death but they are recoverable from the estate you leave behind. Your estate will not be split up between beneficiaries until every debt you owe is settled.

Not factoring in your debts can leave your family with an unexpected shock after your death, as the amount they inherit may be far less than you both thought.



SOLUTION #7

When writing your will, factor in every single debt you may have acquired under both your personal name and business accounts. Don't leave anything unwritten - even if it seems like the smallest IOU to a friend. If it's included in your will, you'll know for sure that this will be dealt with after your death.



WHEN SHOULD YOU UPDATE YOUR WILL?

Owning a business comes with an abundance of responsibilities, and updating your will is one of them.

Although everyone should have an up-to-date will, it's vital for business owners to prepare for the unforeseen future by revising your will at every milestone.

As an entrepreneur and business owner, your assets are likely to be far more valuable compared to others. That is why having a valid and current will is essential - to ensure your well-earned assets go to the people or organisations you intended them to go to.

As mentioned earlier, if you die without a will or with one that's classified as invalid, it's handed to the law to decide how your estate is distributed - through intestacy. Your family have no say in how your estate is distributed, they may receive less money and, of course, the whole process puts them through an unnecessary amount of stress and financial instability.

The best way to avoid this is to simply update your will regularly. Set aside a day each year to review and revise your will, and make sure it's updated whenever significant changes occur in your life. Here are some examples of key milestones when it's essential to update your will:

1) MARRIAGE / CIVIL PARTNERSHIP

Despite what most people think, not all of your assets automatically go to your partner after your death. For example, if you inherit a property just before you die, and don't cite it in your will, it won't necessarily be classed as a joint property, making it more difficult for your spouse to obtain the asset after your death.

Additionally, a will made prior to marriage is automatically rendered invalid once you've wed. This means that if you were to die before updating your will, you would technically have an intestate death.



2) DIVORCE

If your will isn't updated after a divorce, it could be the case your ex-partner receives a share of your business, as this is what was cited in your final valid will.

Although some choose to leave funds to former spouses (as part of a court settlement or child care), this needs to be specifically outlined in an updated version of your will, after noting that a divorce took place.

3) DEATH OR BIRTH OF AN HEIR

If a situation arises where you outlive someone named in your will, you need to revise your will to include a second party to distribute your assets. An update to your legal documents is even more critical if the deceased was your Power of Attorney or Executor. If you don't make the necessary changes, your preferences cannot be taken into account when distributing those specific assets, resulting in your belongings or funds not being divided how you wished.

On a similar note, if you have a child or a child is born into your family, you may wish to change your will to include them. A newborn brings to light a new potential heir to your business or estate, so be sure to revise your will accordingly.



4) REAL ESTATE PURCHASES

If you're married or have joint-ownership of a property, in the event of your death the house goes to your significant other. However, if unforeseen circumstances occur, such as your spouse dying first, you need to edit your will accordingly.

Further, if you buy or sell a house which isn't joint ownership, addressing this in your will is vital for when the distribution of your assets takes place.

5) MAJOR FINANCIAL ADJUSTMENTS

If your estate has substantially increased or decreased in value, revising your will is essential to ensure your wishes are lawfully addressed if something were to happen to you. This can include a rise or fall in your stock value, the sale of a major asset, the founding of a new business and any other financial impactful change in your life.



WHAT EXACTLY IS INHERITANCE TAX AND HOW CAN IT AFFECT YOUR LOVED ONES?

Inheritance tax (IHT) is the tax placed on your valuable assets in the event of your death, after any debts have been paid back. These valued assets are known as your 'estate', and cover both personal and business related assets. On the whole, the majority of people are unaware of the full worth of their estate.

Some of these assets could include:

- + Furniture
- + Shares
- + Pensions
- + Personal items
- + Cash in the bank
- + Property
- + Businesses you own
- + Vehicles

If the value of your assets reach above £325,000, your estate is then liable to owe inheritance tax after your death.

HOW MUCH IS INHERITANCE TAX?

Inheritance tax works like this:

If your estate is valued above the nil rate band (NRB) of £325,000, the portion above this threshold is taxed at the rate of 40%.

If your estate is worth £645,000 and your IHT threshold is £325,000, you will be charged tax on the excess £320,000. You're looking close to being charged £80,000 in tax. We're sure you agree, £80,000 is a substantial amount of money to give over to HMRC.

HOW DOES INHERITANCE TAX AFFECT YOUR LOVED ONES?

After any debts you possessed are paid off, inheritance tax will be placed on any of your assets in the surplus of the £325,000 nil rate band. This means that 40% of your assets value will be given to the government, and not to your loved ones.

Most people believe they won't be subject to inheritance tax, as they assume it only impacts the extremely wealthy. However, with the effects of inflation and investment growth, as many as 800,000 homes in Britain are now worth at least a million

pounds. This means more people are likely to fall into the inheritance tax (IHT) net and they may not even know it.

THE IMPACT IT HAS ON YOUR FAMILY

If your family weren't expecting to be affected by inheritance tax, it would come as quite a shock after your death. If they weren't prepared for this level of taxation, financial insecurity and instability is likely to take place for your loved ones in their time of bereavement. Furthermore, if the equity your loved ones obtain is far less than expected due to tax, they may not be able to fulfill your wishes if they deem them too costly.

The simplest way to overcome these struggles and implications for your loved ones is to start planning and valuing your estate early on. It's far easier to collect the information required for this at the beginning of your business venture, and then make the necessary changes throughout your career.

However if you're in the later stages of your career and haven't started estate valuing, it's still possible to plan for the future of your loved ones by speaking to legal advisors and starting the process now.



HOW TO CHECK IF YOU'RE LIABLE FOR INHERITANCE TAX

When drawing up your will, it's vital you factor in the value of your estate, as this will make it easier to determine the amount of inheritance tax placed on your assets.

HAVE YOU VALUED YOUR ESTATE?

It's easy to get lost in a mountain of paperwork during this process. However, you need to start somewhere. The best way to predict the direction of your estate is to sit down and work out if you're above or below the threshold of £325,000.

+ FIND OUT IF YOUR ESTATE IS LIABLE TO INHERITANCE TAX BY:

- Listing out all your assets and working out their value
- Taking into account any debts and liabilities
- Organising records such as an estate agent valuation and any other documents related to your property and land.

If your valued assets minus your debts amount to more than £325,000, the surplus will be taxed at 40%. Knowing this early on in life can be highly beneficial, as you can start optimising your annual tax exemptions to reduce the amount of tax placed on your estate. (More on this in the section below).

It's important to note that when calculating the value of your estate, any transfers made out as gifts within seven years prior to your death will still be included as part of your estate. This means that they are liable to being taxed under the 'seven year rule'.

WHAT IS THE SEVEN YEAR RULE?

The seven year rule is the law applied to gifts over £3,000, also known as 'potentially exempt transfers' (PET). Essentially, you can gift people unlimited amounts of your estate (whether it's personal or business related) and these gifts will be tax-free if you live longer than seven years after the PET was given.

If however, you die within the seven year period, a specific percentage of tax will be placed on this gift depending on how soon you die after giving the gift. This is referred to as 'taper relief'.

The specifics are as followed:

YEARS BETWEEN GIFT AND DEATH	TAX PAID
LESS THAN 3	40%
3 TO 4	32%
4 TO 5	24%
5 TO 6	16%
6 TO 7	8%
7 OR MORE	0%

This is one of the key reasons why starting estate planning early on in life is highly beneficial. The earlier you start gifting people, the more likely you are to live through the 'seven year rule' and increase your tax-free exemptions. Therefore your estate will be valued less on paper, resulting in a decrease in inheritance tax placed on your assets.

THE BEST WAY TO AVOID INHERITANCE TAX

As the saying goes, nothing in this world is certain, except death and taxes. Although this is true, there is a definite (and legal) way you can avoid the latter.

Inheritance tax (IHT) commands one of the highest tax rates in the UK, with assets in excess of £325,000 being taxed at a huge 40%. In the 2017-18 tax year, IHT receipts totalled £5.2 billion - an increase of 8% (£388 million) compared to 2016-17 [[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731610/Inheritance Tax National Statistics Commentary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731610/Inheritance_Tax_National_Statistics_Commentary.pdf)].

With these numbers set to rise again in the following year, it's critical for you as a business owner to know how to prepare your estate for if the worst were to happen.

The most effective way to avoid inheritance tax legally is to optimise your annual tax exemptions. Every year, you're given an allowance of £3,000 to 'gift' to others tax free (among other gifts).

What is unknown to many people is that if you haven't used your allowance in the previous tax year, it gets rolled over to the next, but only for one year – giving you a total allowance of £6,000. By using this annual tax exemption, you can slowly devalue your estate on paper, resulting in it falling under the IHT threshold.

In addition, you're able to 'gift' people tax free in other ways. If you're married or in a civil partnership, you can gift your whole estate to your spouse tax-free after your death.

THROUGHOUT YOUR LIFE, THERE ARE CERTAIN GIFTS WHICH CAN BE CLASSIFIED AS TAX-FREE:

- Wedding or civil ceremony gifts
- Gifts to spouses or civil partners
- Charitable or political donations
- Gifts under £250 are all classified

These gifts won't be assessed as part of your estate. These do, however, have some restrictions.

The amount you can gift to someone (tax free) as a wedding or civil ceremony gift depends on your relation to them:

RELATION TO YOU	MAXIMUM TAX-FREE GIFT
CHILD	£5,000
GRANDCHILD / GREAT-GRANDCHILD	£2,500
FRIEND OR OTHER RELATIVES	£1,000

Furthermore, the small gifts of up to £250 can only be classed as tax-free if you haven't used another tax exemption on the same person.

So, by utilising these tax exemptions, you'll be able to change the value of your estate to move it under or close to the inheritance tax threshold, maximising the amount of equity you can pass on to your loved ones.

READY TO START YOUR WILL?

When you first sit down to start your will surrounded by questions and endless paperwork, it's natural to feel overwhelmed.

At Carter Bond Wills & Probate, we do things differently. We're happy to do home visits and work on weekends, to make sure you have the helping hand you need when it best suits your lifestyle. Your will is one of the most important documents for you, your business and your loved ones.

Let us help you protect your wealth by ensuring your wishes are fulfilled and your loved ones benefit from the estate you've worked so hard to build.

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[Protect your wealth and secure your family's future now by...](#)

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Wills & Probate