

Is It Better To Add My Child To My Property Now Or Gift It In A Will?



Both options are always available to you as succession planning options.

The answer will depend on the value of the property, your spending power and what you are seeking to achieve. It is always open to you to do a Will whether using the Will Form from a local pharmacy or one prepared by your Attorney-at-Law on your instructions.

You can then gift your assets including real estate in the Will. It will then be left to your executor guided by an attorney to settle death duties associated with your estate so that the property for example can be transferred to your beneficiary.

Where no specific account is identified in your Will to cover the expenses of the estate including legal fees and the estate has no income (eg. rent) typically the beneficiaries have to find money to pay the expenses. Where they cannot find these funds there may be no alternative but to sell an asset in the estate to cover the expenses of the estate. This is always a last resort.

In that event the balance remaining from the sale of an asset would then be paid to the beneficiary(ies). Where there are several assets, a decision will have to be made by the executor which asset is to be sold. The priority then is to ensure that the sale does not prejudice one beneficiary alone.

Adding the name of an intended beneficiary is infinitely simpler where you own one piece of real estate. This is called an inter vivos (in life) gift. Transfer Tax at 2% would be payable on the value of the interest being transferred so for example if you are adding 1 person to the title you would pay 2% of the half value of the property plus legal fees.

When added to the title both persons on title would own the land as joint tenants in which event on death of any owner the survivor would own the land.

On death the survivor would pay death duties at 2% of the value of the property over the threshold amount of \$10m (Transfer Tax on death only applies to properties valued more than \$10m) and once the death is noted on title the survivor would be the sole owner of the property.

Having walked through the options these are the answers summarised:

1. If you have the means, you can add the beneficiary to the title(s) knowing that where the half value of the property will not be more than 10m, no Transfer Tax on death will be payable.

2. Where you have no means to add names to your titles simply do a Will for your Executor and the beneficiaries to sort it out.

While parents desire to avoid the expense and hassle for their children especially you can now make an informed decision whether to make a Will or add your intended beneficiary to your title.