

Estate planning, structuring and business succession planning

The private client team at McMahon Clarke Legal acts for private clients and small to medium business enterprises (SMEs) in the following areas:

- Estate planning.
- Charitable trusts.
- Structuring.
- Business succession planning.
- Estate administration.
- Estate litigation.

Working with professional advisers

Our focus is on understanding the personal circumstances of each client and then developing strategies to ensure the distribution and protection of family wealth in a practical and tax efficient manner. For this reason, where appropriate, we prefer to work with the client's professional advisers such as their accountant and financial adviser. We realise that for an estate planning strategy to be effective and meet expectations, it must fit with the professional adviser's overall strategy for the client.

Estate planning

Our work in this area includes the following:

- Review of existing Wills—we do not believe in re-writing a client's Will if their current Will is adequate having regard to their circumstances.
- Preparation of Wills—including Wills with a variety of testamentary trust options including—
 - trusts that protect against bankruptcy or loss of capacity, and
 - superannuation proceeds trusts to preserve tax benefits associated with superannuation.
- Preparation of enduring powers of attorney in all states and territories, including instructions for their release.
- Preparation of binding and non-binding death benefit nominations in respect of superannuation funds.
- Review of existing trust deeds and company constitutions to ensure they are suitable having regard to the client's estate planning strategy and where necessary preparation of appropriate amending documents.
- Preparation of loan agreements.
- Providing advice on all aspects of estate planning, including asset protection, taxation advice and superannuation.
- Establishment of child maintenance trusts.
- Establishment of post death testamentary trusts.

Charitable trusts

We have experience in establishing charitable trusts (including prescribed private funds) and where appropriate, applying to the Australian Tax Office for tax exempt status.

Business succession planning and structuring advice

We provide advice on the establishment of appropriate structures and review of existing structures. Our work in this area includes the following:

- Establishment of family discretionary trusts, unit trusts and hybrid trusts including variation of existing trust deeds and changing the trustee.
- Trust splitting and trust cloning.
- Incorporation of private companies and public companies (including drafting constitutions, preparing company registers and registering the entity with the Australian Securities & Investments Commission) and updating existing constitutions.
- Preparation of service agreements, for example between service companies and trusts.
- Preparation of business succession agreements and buy-sell agreements.
- Preparation of shareholders agreements, unitholders agreements, and partnership agreements.
- Sale of business agreements and transactions.
- Division 7A loan agreements for companies and trusts.
- Advice on business succession planning including family business succession planning and farming succession planning.

Estate administration

Estate administration can be a complex task. We are able to assist executors in all aspects of estate administration including the following:

- Advising executors and trustees of their duties.
- Reviewing the validity of the deceased's Will and advising whether a grant of representation is necessary.
- Meeting with family members to explain the estate administration process and the distribution of assets under the Will.
- Obtaining an appropriate grant of representation (including grant of probate).
- Notifying relevant organisations (including banks and shares registries) and arranging for the distribution of assets.
- Preparation of appropriate estate accounts documenting distributions to beneficiaries.

Estate and commercial disputes

Our litigation team has experience in acting for both beneficiaries and executors in claims against deceased estates, including providing advice on the prospects of a successful claim being made against the estate. They also have extensive expertise in advising clients on commercial disputes.

**McMahon Clarke Legal specialises in estate planning and wealth management for private clients.
We work with you to develop an estate plan that takes into account your personal circumstances.**

For more information contact a member of our private client team on 07 3831 8999 or info@mcmahonclarke.com