

Family pain the price of unsigned will



Noel Whittaker

Procrastination left a brother facing tens of thousands of dollars in legal fees as one problem soon led to another.

LAST week I discussed the problems that can be caused by a badly drawn will.

Today I will relate a story from a friend, whom I shall call Harry, who has spent an horrendous 12 months trying to rectify the affairs of his brother who died without a will.

The brother, who was a 56-year-old bachelor, lived in New Zealand and was the ultimate procrastinator.

He never got around to joining his voluntary employer superannuation scheme, never got around to signing his will even though the document had been sitting on his desk for months.

Nor did he ever get around to taking out travel insurance when he travelled to Brazil.

The absence of travel insurance is of significance here, because when he was in Brazil he died suddenly of a heart attack.

It fell on my friend to arrange for transport of the body back home to New Zealand where his father was living in a nursing home, but there was just one problem – transporting the body home was going to cost \$30,000.

This amount could be substantially reduced if the body was cremated and the ashes flown home, but under Brazilian law, cremation is prohibited unless the will specifically provides for it.

As there was no will Harry had to make a special application to the Brazilian authorities through New Zealand solicitors.

This was no easy matter because a police report had to be obtained.

Also, as the report was in

Portuguese it had to be translated for the benefit of the lawyers in New Zealand.

All this time the body was lying in the morgue in Brazil.

Finally after four months, and \$15,000 in fees, approval was given for the body to be cremated so the ashes could be sent home.

The brother's only asset was a \$600,000 house with a \$250,000 mortgage, so the total value of the estate would be around \$300,000 once the house had been sold and his various credit card bills paid off.

Now came the next problem. Under New Zealand law, the entire estate of a single person goes to their

A will could have saved tens of thousands of dollars and immeasurable angst.

parents if they die without a will, which means the entire estate was supposed to be paid to his father.

He was in the early stages of dementia and was paying very low fees in a state-sponsored nursing home.

A sudden bequest of \$250,000 could render him ineligible for this type of accommodation, and he certainly was not capable of dealing with the sum himself. He had given no enduring power of attorney to anybody.

Harry's next job was to apply to the New Zealand court for permission to administer the estate.

This involved a New Zealand High Court barrister, an Australian lawyer, plus an additional lawyer for the father to avoid any suggestion

of conflict of interest.

You can imagine the layers of fees that were incurred when all of this was going on.

Finally, after 12 months of frustration, Harry tells me that matters are about to be resolved, and the proceeds are to be split between the father and the surviving children. Harry is well off himself and did not embark on the task of setting things right for the sake of the money – he was merely doing his duty as the eldest brother. But as he points out, tens of thousands of dollars, and immeasurable angst, would have been saved if the brother had got around to signing the will document.

Ironically the unsigned will was meant to leave the estate equally between his father and his siblings.

When I was growing up my parents drilled an old nursery rhyme into me; it went, "For want of a nail the shoe was lost. For want of a shoe the horse was lost. For want of a horse the rider was lost. For want of a rider the battle was lost. For want of a battle the kingdom was lost. And all for the want of a horseshoe nail."

Makes you think of the importance of having a will, doesn't it.

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ILL-FATED: Not only did the brother in New Zealand neglect to complete a will, he failed to take out travel insurance on a trip to Brazil where a heart attack ended his life.

Q Can you please confirm if the temporary reduction of 50 per cent to minimum annual percentage drawdowns for allocated pensions will finish at the end of this financial year 2009/10? For example: up to age 65 is 2 per cent a year and it would go to 4 per cent a year, etcetera.

A The temporary change in the rules finishes on June 30 and from that date the previous minimum drawdowns will apply. These depend on your age. For example, if you are under 65 the minimum that must be withdrawn is 4 per cent of the balance a year, and if you are between 65 and 74 the figure is 5 per cent.

Q I am 60 and my wife is 59. We have \$463,000 and \$469,000 in our super funds at the moment. We are both on Centrelink Newstart payments which come up to a total of \$237 a fortnight as we both do some part-time work. We both therefore have a health care card which give us concessional benefits worth in excess of \$2000 a year. We were subsidising our living

expenses from money set aside, which has now run out. I now have a mortgage of \$24,000. Now that I am 60 and will not be up for tax on a transition to retirement pension, should we hang up our Centrelink benefits, forfeit the card and both of us go on to a TTR to subsidise our income by around \$27,000 a year? Would the loss of the card and benefits be made up by a higher earning pension account?

A On the information supplied your benefits are just over \$8000 a year, and if your portfolio within super earned \$55,000 a year the tax at 15 per cent would be \$8250. On the face of it there is not much to be gained by moving your superannuation from a 15 per cent environment to a zero tax environment but the actual numbers will depend on the make-up of the income that is generated by your fund. Your advisor will be able to do the numbers in detail for you but a simpler option may be to make lump sum withdrawals from super to supplement your living expenses as necessary.

Q Our place of residence is worth \$700,000 on which we owe \$290,000. We have an investment property worth \$285,000 on which we owe \$125,000. Due to recent renovations, we currently have a \$15,000 credit card debt. We are about to come into about \$100,000 and after we have paid off the credit card, were wondering how to best use the remaining \$85,000. We would like to move into a bigger property in a few years' time and rent out our place of residence.

A By all means pay off your credit card to avoid its high interest rate and then talk to your bank about depositing the funds in an offset account linked to the loan of \$290,000 on your own residence. Then, when you decide to move out and buy another property, you could withdraw the funds from the offset account leaving a large debt on the home which will maximise your tax benefits.

Send your questions to noel.whittaker@whittakermacnaught.com.au

Claim now to maximise tax offset on medical costs

By **BARBARA DRURY**

IF you have been putting off that expensive medical or dental procedure, schedule it before June 30 to maximise the amount you can claim back through the tax system.

In the fine print of last month's federal budget, the government announced it will increase the threshold of financial pain taxpayers must suffer before they qualify for tax relief in the form of the medical expenses tax offset.

Under the current rules, if your net medical expenses (after deducting refunds from Medicare and your private health insurer) amount to more than \$1500 in one financial year, you can claim 20 per cent of your net expenses

over the \$1500 threshold.

The \$1500 threshold has been in force since 2003 but from July 1 it increases to \$2000 and will be indexed annually.

This handy tax perk is easy to overlook, especially if you are not in the habit of saving all your receipts.

"We tell clients 'just save everything'," says a financial adviser from WLM Financial Services, Laura Menschik.

Few people notch up enough medical expenses to claim a rebate every year but most people have the occasional year when they see more of the medical profession than usual.

The good news is there is no upper limit to the amount you can

claim and you can include medical expenses for yourself, your spouse and dependents.

Say you spent \$5000 on family medical expenses this financial year, after subtracting refunds. Subtract the \$1500 threshold from your net expenses and you are left with \$3500 out-of-pocket expenses and a rebate of \$700 (20 per cent of \$3500).

You can claim for expenses relating to an illness or operation paid to a doctor, nurse, chemist or hospital. You can also claim for some carer payments and residential aged-care expenses.

Other eligible claims include dental treatment, glasses and contact lenses, hearing aids, medical aids prescribed by a

doctor, most common types of therapy recommended by your doctor and in vitro fertilisation.

You can't claim for purely cosmetic surgery but you can claim for cosmetic procedures following an accident, laser eye surgery to correct vision or reconstructive surgery following an operation (for breast cancer, for example).

You can also claim for chemist bills but only for items related to a medical condition. This includes over-the-counter medicine, medical devices, headache pills and cold preparations.

However, you can't claim health-related items such as pain-relief tablets bought at other retail outlets such as supermarkets and health food stores. Non-prescribed

vitamins and health foods are also out.

If you haven't kept receipts, all is not lost. You can go to your pharmacist at the end of the tax year and ask for a printout of all the medications you purchased that year. You can also ask for an itemised statement from Medicare or your private health insurer.

If you know you need a series of expensive treatments, try to schedule them within a single tax year. By spreading it over two years you may find you fall just short of the threshold.

Menschik suggests it may be beneficial for couples to combine medical expenses and make a claim in the name of the person on the higher marginal tax rate. SMH