

How can I provide for my children's education in my Will?

Estate Planning Client Guide

Ensuring that their children receive a good education is often among parents' greatest concerns.

An education fund established through a testamentary trust in your Will is a tax-effective and flexible way to provide for the education of your children or grandchildren. It can also help to ensure that funds you wish to be applied for their education are not misused by young beneficiaries.

What is a testamentary trust?

In general, a trust describes an ownership structure where the assets of the trust are owned by one person or organisation (the trustee) but held for the benefit of other individuals or organisations (the beneficiaries).

A testamentary trust is a trust that is created within and by your Will but does not take effect until your death. It differs from a family trust (also known as an inter vivos trust), as a family trust is created by deed and commences during your lifetime.

A testamentary trust may be created using specified assets, a designated portion of your estate or the entire remaining balance of your estate. Multiple trusts may be created by the one Will.

What is an education fund?

Assets inherited directly by your beneficiaries become part of their personal assets and are under their control. The future of these assets depends upon the beneficiary's ability to manage their own financial affairs, with no guarantee that the assets will be applied to any particular purpose, such as their education.

An education fund is a trust which focuses on funding the education of a particular beneficiary (the 'primary beneficiary'). It gives you assurance that the income of the trust will be directed to the educational and other purposes you have approved.

How does an education fund operate?

The typical features of an education fund are:

- A proportion of your estate is held on trust until the primary beneficiary achieves a particular level of education or satisfies other conditions established in your Will.
- The trustee has the power to apply the income and capital of the trust to a variety of purposes specified in your Will for the benefit of the primary beneficiary, with the emphasis being on the educational needs of the primary beneficiary.
- During the financial year, income and capital are distributed to the primary beneficiary to the extent required for the approved purposes. Any remaining income is either accumulated within the trust or distributed to other beneficiaries, as directed by the Will.
- When the primary beneficiary has satisfied the conditions specified in the Will (such as attaining a particular level of education), they gain control of the remaining balance in the education fund and may either continue the trust or vest it (end it) at any time.
- If the primary beneficiary fails to satisfy the conditions within a specified period, the trustee may determine that the remaining balance in the education fund be distributed to other beneficiaries named in the Will or held on trust for the education of those beneficiaries (or their descendants).



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An education fund will normally be a mandatory trust imposed upon the beneficiary due to your desire that they continue their education to a specified level. The beneficiary will not normally be given the option of terminating the trust or eventually inheriting the trust without satisfying specified conditions. It is therefore important that an education fund is sufficiently funded to cover the administrative cost of operating the trust.

Case study

Rob and Amber have a combined estate worth \$500,000. They have two teenage children whom they wish to make their beneficiaries.

Rob and Amber are concerned that, in the event of their deaths, their children will not be sufficiently mature to use their inheritance responsibly. They wish to establish an education fund to ensure that the children are encouraged to further their education, but are also adequately provided for during their developing years.

As a result, Rob and Amber's Wills provide that 40% of the inheritance received by a child will be held in an education fund on the following terms:

- Until the beneficiary turns 30, their access to the income and capital of the trust is limited to specified purposes, such as:
 - education expenses, including HECS liabilities
 - hospital and medical expenses
 - rent or accommodation charges
 - electricity, gas and other utility payments
 - maintenance and income support at the discretion of the trustee.

- If a specified level of tertiary education has been completed by the age of 30, the beneficiary will be given full control of the trust at the time of attaining that educational level, with the ability to either continue the trust for tax planning purposes (as a tax-effective vehicle for supporting the education of their own children) or terminate it.
- If the beneficiary does not attain the required level of education by the age of 30, the remaining balance of the education fund will be donated among charities specified in the Wills.

The education funds will ensure that each child is adequately supported, but also given an incentive to further their education.

Would you like further information?

For further information please contact your AET Estate Planner on 1800 882 218.

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