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Being an executor attracts liabilities

When developing estate planning approaches, people should think carefully about who they appoint as executor of their Will, as well as considering the responsibilities involved before accepting the role as executor for someone else's, advises Anna Hacker, wills and estates accredited specialist at Equity Trustees Limited (EQT).

Ms Hacker says that in Australia's increasingly litigious society, the role of executor can be onerous and that being asked to act as an executor for a friend might entail much more work than simply being the honour they believe it to be.

"In our experience, there are still a great many misunderstandings about Wills and Estates. Most people feel most comfortable appointing a friend or family member as an executor, and believe it is an approach that will also save money.

"However, an inexperienced, incompetent or distracted executor can cost an estate, and the beneficiaries, a great deal of money."

Ms Hacker says that those who appoint a friend or family member as an executor can be giving them a hospital pass.

"Acting as executor of an estate can often turn out to be a much more difficult role than they envisaged.

"In fact they could be liable to the beneficiaries for any negligent management of the estate that may arise from their lack of expertise, and lack of understanding about the role of executor is not an excuse.

"How can an inexperienced executor expect to deal with such issues as capital gains tax, income tax, any investment decisions that may be required, superannuation balances, and the correct interpretation of ambiguously expressed directions?" she said.

Ms Hacker warns that further stressful problems can arise for an executor if the Will is challenged.

"The legal problems that can occur from a badly thought out or unprofessionally drafted Will may cause family disputes and complications that make it necessary for the executor to seek independent professional advice.

"There are many more complicated estates today than there used to be. We are a more mobile society and single parent families, de facto relationships, and second marriages with blended families, can all make estate planning complicated and lead to people feeling entitled but not recognised," she said.

There has also been an increase in non-professional executors, such as friends or even family members, seeking executor's commission for their duties - something they are entitled to do.

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"While many people appoint family and friends hoping to save their beneficiaries the cost of an executor's commission, the reality is that any executor can charge for their efforts and we have seen an increase in the number of executors charging across the board," she said.

Ms Hacker said another point few people appreciate is that if you appoint a friend of family member as your executor and that person dies while administering your estate, their executor automatically becomes your executor.

"That person could be someone who has little or no knowledge of your financial affairs, be unknown to your family, or simply not competent to manage the tasks required," Ms Hacker said.

About Equity Trustees:

Equity Trustees is a publicly listed company that provides a range of financial services to corporate and private clients. Its businesses include funds management, responsible entity appointments, private client wealth management and corporate and personal superannuation. The company has over \$4 billion in its funds management, private client and superannuation businesses and has more than \$19 billion under responsible entity administration. Equity Trustees employs over 180 people in its Melbourne, Sydney and Brisbane offices.

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