

DYING INTESTATE (WITHOUT A WILL)

INTESTACY LAWS IN STATES OF AUSTRALIA

Ever wonder what happens if you die intestate? Estate Planning experts at Topdocs Legal Pty Ltd, our preferred partner for tailored solutions for our valued client's Estate Planning needs, have prepared the following fact sheet.

The various State intestacy laws reflect what happens to a person's estate if **no valid Will** is in place. This may come as very unpleasant news to some people.

	Spouse			Children	
	1 st \$	% Remainder		% Remainder	
		Portion	\$	Portion	\$
QLD	\$150k	1/3	\$583k	2/3	\$1.167m
NSW	N/A	100%	\$1.9m	0	\$0
VIC	N/A	100%	\$1.9m	0	\$0
TAS	N/A	100%	\$1.9m	0	\$0
SA	\$100k	1/2	\$900k	1/2	\$900k
WA	\$50k	1/3	\$617k	2/3	\$1.233m
ACT	\$200k	1/3	\$566k	2/3	\$1.133m
NT	\$350k	1/3	\$516k	2/3	\$1.034m

The above table is based on an example of a husband and wife who have 3 children of that relationship and the value of the estate (excluding chattels) is \$1.9 million.

The chattels automatically will go the remaining spouse as will the family home if owned in joint names.

Please note that in the event of intestacy, the distribution of the deceased's assets will be in accordance with the laws of intestacy applicable in that jurisdiction.

Some people have been separated for many years and have never gotten around to getting a divorce. Imagine if that spouse had run off and abandoned their partner and children, had never paid any maintenance and then they ended up getting an inheritance that they probably didn't deserve.

Unfortunately, prolonged divorce proceedings can also extend exposure in the event of the death of one party to the marriage with no valid Will being in place.

What about couples who are in a blended family? The laws of intestacy may prevent a step-child from receiving anything from their step parent's estate which may not be the intention of the deceased step parent.

For people who have interests in businesses (companies, partnerships

or even sole traders) as you can imagine, the intestacy laws can have adverse impacts on the ownership of the interests, and in many cases, ultimately on the control of the business which affects not just the immediate family of the deceased but co-owners.

If a valid Will is in place at the time of the Will-makers death, an Executor is known and will manage the estate in accordance with the deceased's wishes. Dying intestate will generally see a Court appoint an administrator, and in most cases, appoint one of the various State Public Trustees, who will charge high fees and may not act as quickly as beneficiaries may wish.

The distribution of an estate under the laws of intestacy may result in a distribution different from what the deceased may have wanted and

could possibly lead to disputes and costly litigation between the remaining family members. The risk of disputes in such circumstances is particularly high where there are blended families or beneficiaries with special needs.

As life circumstances change, it is essential that adults make a Will, or review and update their current one. This will ensure that their wishes as to who receives the benefit of their estate is their decision, and not the various State intestacy laws dictating who the beneficiaries are and what they will get paid.

More information

Please contact DMG Financial on 03 5144 4422.

Disclaimer: This table is for illustrative purposes only and readers should refer to the relevant State/Territory Intestacy laws. These laws vary and can be very complex in the case of blended families and ex-spouses (Tasmania and Northern Territory in particular)