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KIWISAVER AND WILLS

Many New Zealanders have opted into a KiwiSaver Scheme for saving towards retirement. However, many of them do not understand what happens to their KiwiSaver fund when they die.

Upon death your KiwiSaver fund forms part of your estate and if you have a Will your KiwiSaver is distributed in accordance with your Will. However, if you do not have a Will, then it will be distributed in accordance with the Administration Act 1969 ("the Act") and you will have no say in who receives it.

If the balance of your KiwiSaver fund is over \$15,000.00 then your KiwiSaver provider will freeze your fund and your family will only be able to access the fund once Probate or Letters of Administration have been granted by the High Court. Probate is granted where there is a Will and can take 6-8 weeks to be applied for and granted. Whereas Letters of Administration is granted where there is no Will and can take up to 6 months to be granted. Therefore by not having a Will there will be delays in your family accessing the funds.

Take the examples of Barbara and Kath. Barbara and Kath both have \$365,000.00 in their KiwiSaver funds, a husband and three children and want their KiwiSaver to go to their husbands for their retirement. However, Barbara has a Will and Kath does not.

Barbara's Will provides that her estate is to go to her husband and if he doesn't survive her then equally between her children. So upon her death (after Probate had been granted), Barbara's husband received all of her KiwiSaver.

Kath assumes that her KiwiSaver will automatically go all to her husband, so doesn't create a Will. However, as per the Act, Kath's husband receives the first \$155,000.00 of the KiwiSaver fund, with the balance of \$210,000.00 being split into thirds, with Kath's husband receiving one third and the other two thirds being split equally between her children. So Kath's husband only receives \$225,000.00 and her children receive \$46,666.00 each.

Therefore by having a Will Barbara was able to decide who received her KiwiSaver fund whereas Kath was not. This illustrates why it is so important to have a Will.

If you do not have a Will in place, then we would highly recommend you have one so you can ensure your KiwiSaver goes to who you want it to go. Please take advantage of our free will promotion by visiting our website www.freewills.co.nz.

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