



# What happens if you don't have a valid will?

When someone passes away without a valid will, this is known as intestacy. In this situation, the law in each state and territory sets out a formula for how your estate is divided. These rules often follow a standard order – spouse first, then children, then other relatives, but they may not align with what you would have wanted.

## Who usually inherits the intestate estate?

If you have a spouse and no children, your spouse will ordinarily receive the whole estate. If you have a spouse and children, whether the children receive anything depends on whether they are also the children of your spouse, as well as the laws of your state.

If you do not have a spouse or children, your estate may pass to your parents, then to siblings, and then to the next of kin, but this can vary between states. If there are no surviving and eligible relatives, the state you live in will typically receive the estate.

## Family provision

Note that even when an estate is distributed under intestacy laws, certain family members or dependants may still be able to apply to the court if they feel they have been left without proper provision. These are called family provision claims. Eligible people – typically a spouse, partner, child, or someone dependent on the deceased, can ask the court to adjust the distribution. This process is separate from intestacy and can apply whether or not there is a will.

## Exceptions to intestacy laws

Your super fund may decide which of your eligible beneficiaries receives your super, or it may pay the benefit to your estate. If your super fund allows for binding death benefit nominations, you can direct payment to an eligible beneficiary. Life insurance payouts on policies you personally own can also be directed in accordance with your wishes and may not necessarily form part of your estate. Remember jointly-owned property typically passes to the surviving joint owner.

*continued page 8* ➡

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This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.

## Deductibility of self-education expenses... cont

eating. The skills and knowledge required to carry out those duties are not the same as those required to carry out a nurse's duties.

- » There was a case recently where a person who was qualified as a dentist in Romania but was working as a dental technician and studying to qualify for registration as a dentist in Australia. Despite positive comments from her employer, the Administrative Appeals Tribunal held that the two jobs were very different and the dentistry course of study was not linked closely enough to her current role as a dental technician. This would not be an uncommon situation, with many new arrivals working in roles that are well below their foreign qualifications.
- » Courses designed to gain new employment are not eligible. A teacher's aide undertaking a Bachelor of Education working with a primary school teacher and performing non-teaching duties would not qualify for a deduction since teaching students is very different from working as a teacher's aide.
- » Personal development and self-improvement courses are not generally closely enough related to a person's current income earning activities to qualify for a tax deduction.

## What deductions are allowable?

It is important that any reimbursements received from your employer are offset against any claims, and you will also need to maintain documentary evidence to substantiate your claims. And it wouldn't hurt to have a positive statement from your employer about how participating in the course will affect the performance of your current employment duties.

Subject to the necessary connection to your existing income earning activities being established, the following deductions may be allowable:

- » Tuition, course, conference or seminar fees.
- » General course expenses, including text books, journals.
- » The decline in value of depreciating assets – apportionment may be needed in some cases.
- » Car and other transport expenses – this can range from an Uber to a nearby university to a return airfare to Paris to complete that MBA.
- » Accommodation and meal expenses for when you have to be away from home overnight.
- » Interest on borrowings to fund any of these outlays.



Self-education can be a tricky area, but that shouldn't stop you from making legitimate claims. We can help you with that. 💰

## What happens if you don't have a valid will?... cont

### Estate administrator

Who handles the paperwork if there's no will? Instead of an executor named by you, the court appoints an administrator. This is often your partner or next of kin, who will collect assets, pay the estate's debts and expenses, and then distribute the balance under the local intestacy law. Administrators step into a formal legal role and their authority begins once the court makes the grant.

### Funeral and burial arrangements

One of the most pressing questions after a death is who decides on funeral arrangements. If there is no will appointing an executor, the right to organise the funeral and burial usually follows the same order as for administering the estate. It lies with the person

who has the highest claim to be the administrator, typically the surviving spouse or de facto partner, or if none, the next of kin.

### ➡ KEY POINT

Dying without a will means giving up control over who manages your estate, who inherits from it, and even who decides on your funeral arrangements. While intestacy laws provide a safety net, they may not reflect your personal wishes or the needs of your loved ones. Making a valid will ensures your estate is handled the way you want and spares your family unnecessary uncertainty and stress. 💰

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