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THE BUSINESS NEWSLETTER FROM AUSWILD & CO
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WHAT DO ARETHA FRANKLIN & PRINCE HAVE IN COMMON?

Both Aretha Franklin, who died last month at the age of 76, and Prince who died in April 2016, did not have wills.

In the two weeks since the death of Aretha Franklin, the world has grieved, mourned and offered outpourings of love in a public funeral that drew everyone from fellow artists to religious leaders to former presidents. While the Queen of Soul's formidable legacy and impact is certain, the fate of her estate might end up a more contentious matter. That's because she died without leaving a will.

Franklin, who was one of the best-selling musical artists of all time with more than 75 million records sold worldwide, to say nothing of her 18 Grammy Awards — reportedly had a net worth of between \$80 million and \$108 million. Under Michigan law, the state where Franklin lived and died, in the absence of a will, her estate should be evenly divided among her four adult sons: Ted White Jr., Kecal Franklin, Edward Franklin and Clarence Franklin.

However, given what's happened in similar situations with high-profile celebrity estates in the past, the process could take years and the ownership of her assets will highly likely be contested. Her creditors will have the chance to make claims on the estate and if other celebrity estates are any guide, shirttail relatives and long-lost friends could appear looking for a payout. Those questions will be resolved in Oakland County Probate Court, and, ironically for a very private person, it is certain to play out in public.

When Prince died in April 2016, he left behind an estate estimated to be worth between \$150 million and \$300 million, but the musician had no will. Two years on, the legal mess of what belongs to who, has yet to be untangled. The heirs that have come forth to insist upon ownership of his estate include five half-siblings, one of whom hadn't seen Prince for 15 years.

Closer to home, when businessman (and lawyer) Robert Holmes a Court died suddenly of a heart attack at age 53 in 1990, he did so without a will. (His unsigned will was still in his briefcase!) Usually when one dies intestate (ie without a will), the assets of the estate will be distributed under a set formula. Fortunately for his widow, Janet, their four children waived their entitlements to two-thirds of his estate under the intestacy laws, thereby making her one of Australia's wealthiest women.

So, ***have you got a will?*** If you have, ***is it still current and relevant?*** When was the last time you reviewed your will?

If you haven't prepared a will, and you are also the sole director of your company, your affairs will be very messy to handle. A family member or other person will have to apply to the court for letters of administration to manage your estate. This could take months. Who will be running your business whilst this happens?

Here are some tips on ensuring your will is valid and reflects your wishes –

- **See an expert.** Most of us will need to see a lawyer and perhaps our accountant and financial planner. Experts tend to frown on the \$30 DIY Wills that you can purchase from a newsagent. These may be suitable for young people but as soon as you have any complexity in your life, then you should seek the advice of specialists.
- **Keep it up to date.** An out of date will can be as bad as not having a will! If it hasn't been reviewed for more than two years or isn't current, make an appointment immediately to amend or draft a new will to reflect your current situation.
- **Store your will in a safe place.** Sad but true story – in 2002, an animal lover's \$375,000 gift to the RSPCA was disputed after the will was eaten by her dog.
- **Make sure someone knows where it is kept.** Ensure your executors and at least one other person knows where your will is.
- **Be careful who you appoint as executor.** If they are elderly, they may die before you or be unable to cope with the responsibilities. Are your executors still your preferred choice? Are they willing to cope with the responsibilities?
- **Be clear.** A common mistake is to use everyday language. Vague, hard to define wording can render relevant clauses in the will invalid. If you wish to leave someone out of the will, say so in the will and state why. It will not necessarily stop them contesting the will but at least it makes it very clear that you have not forgotten them.
- **Consider any tax consequences.** Remember that tax may be payable on some assets.
- **Nominate a guardian for any young children.**
- **Don't use a beneficiary of your will as a witness.** Always use someone independent to witness your will. That way, if your will is contested, the witness does not have a vested interest in the estate.
- **Make a binding nomination for your superannuation.** If you don't, the trustees of the fund must decide how to distribute your entitlements.

And, whilst we have got your attention, do you have an **enduring power of attorney** in place?

Your business partners and family will be very pleased you had the foresight to put one in place, should you lose your marbles, suffer a similar tragic fate and be deemed mentally incapable of controlling your affairs. If you haven't, make an appointment immediately with your legal adviser.

Just keep this in mind – ***"The biggest mistake we can make in life is not deciding what we want to happen at our death."***

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Birthday Greetings go to Tim Hillier, Daryl Ball, Mark Barclay & Dianne Bennett this month, all of whom celebrate special birthdays. Happy Birthday to you all.....our Condolences go to Rhonda Hockley and family on the passing of Les. Our thoughts and prayers are with you all.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. This bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without prior approval.