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TUESDAY TIMES ISSUE #101

WHAT IS INTESTATE SUCCESSION ACT (ISA)?

9 Important Rules You Need to Know.

TUESDAY TIMES

During my work and interaction with my clients, whenever I mention estate planning, the first thing that comes into their minds will be, ***“are you a property agent?”*** Or, they will say, ***“I have already written my Will.”*** Not to be confused with real physical property and Will, estate planning involves more than these.

DEFINITION OF ESTATE PLANNING

Estate Planning is the process of designing a comprehensive and well-coordinated plan for creating, conserving and distributing your assets to realize personal goals for yourself and your loved ones.

It sounds like a very loaded statement. Let me break it down for you.

When I mention comprehensive, it means well thought out. It can be from selecting the assets you want to leave behind, who you want to give them to and the contingency plans, etc.

Well-coordinated means the relevant parties are informed, and you have made the necessary provisions. If Plan A fails, then Plan B is activated. Then, if Plan B fails, Plan C can be your backup, and so on. I often hear people doing DIY Will online, which doesn't make sense to me. Although cheap, do we want to be penny-wise but pound fools? There are many implications.

Lastly, you want to accumulate, preserve and give your assets to the people you care about and need most.

HAVE YOU AMENDED YOUR WILL?

This a question for you – ***"Have you amended your Will?"*** You might be thinking... ***"What do you mean?"***

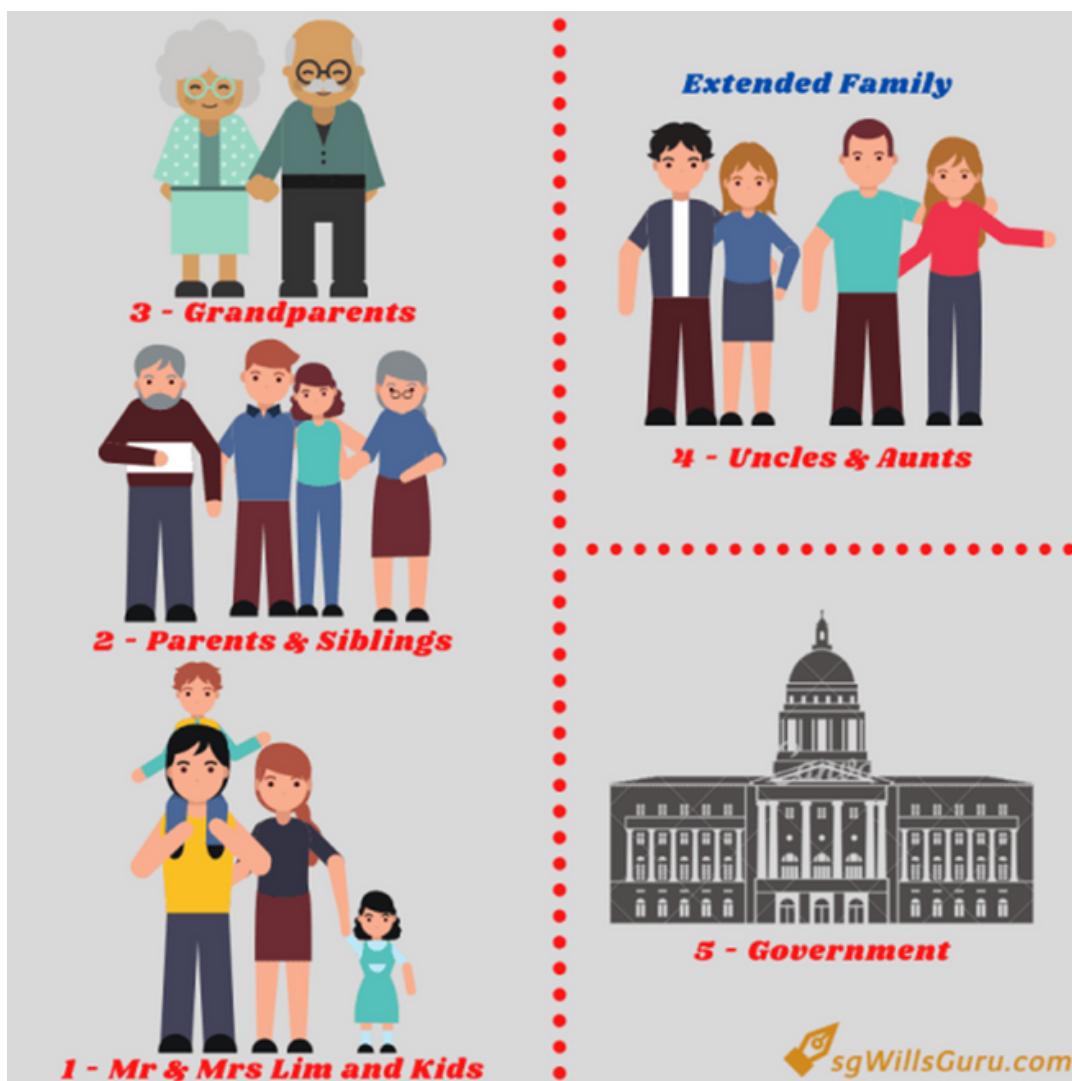
Suppose you belong to the first group of people who have done their Wills. Congratulations. It is not easy to overcome this mental inertia. There are several reasons why people have not written their Wills yet. However, this is a topic for another day.

In fact, when was the last time you did a review for your Will? Or even, do you know what your instructions in the Will are? Do you know where you place your Will? Or worst, have you misplaced it? Or did you do a DIY Will? These are Wills that you can do online for free, but do you know there are potential loopholes? Or you could be a private banking client and have done something like a Trust with them. But do all your assets go through the Trust? Probably not.

The second group of people I want to address are people who have yet to write their Wills. By the way, do you know the Government already had a Will written for you? Yes, you heard me right. You had a Will written without you knowing. Amazing right? Do you know what it is? Do you know your money could be given or passed to your ex-spouse, aunties and uncles, your in-laws or grandparents? Do you like it? This is something scary that you might not know. If so, you are going to benefit from this article.

RULES FOR DISTRIBUTION OF ESTATE

If no proper Will is done and you pass on, your estate will be distributed according to *Intestate Succession Act (ISA)*.



Example: The above diagram represents Mr. Lim's family nucleus. It consists of the below four groups:

- Group 1 – Mr. Lim is married with two kids
- Group 2 – Mr. Lim's parents and siblings
- Group 3 – Mr. Lim's grandparents
- Group 4 – Mr. Lim's relatives

According to the *Intestate Succession Act, Chapter 146, Act 7 of 1967*, in effecting such distribution, the following nine rules shall be observed:



For example, upon the demise of Mr. Lim, he left behind an estate of \$300,000 cash.

RULE 1

If an intestate dies, leaving a surviving spouse, no issue and no parent, the spouse shall be entitled to the whole of the estate.



Spouse
\$300,000



Children
(issue)



Parents



Spouse
\$150,000



Children (issue)
\$150,000
(shared equally)



Parents
\$0

RULE 2 (SCENARIO 1)

If an intestate dies, leaving a surviving spouse and issue, the spouse shall be entitled to one-half of the estate.

RULE 2
(SCENARIO 2)



Spouse
\$150,000



Children (issue)
\$150,000
(shared equally)



Parents

RULE 3 (SCENARIO 1)

Subject to the rights of the surviving spouse, if any, the estate (both as to the undistributed portion and the reversionary interest) of an intestate who leaves issue shall be distributed by equal portions per stirpes to and amongst the children of the person dying intestate and such persons as legally represent those children, in case any of those children be then dead.

Proviso No. (1) — The persons who legally represent the children of an intestate are their descendants and not their next-of-kin.

Proviso No. (2) — Descendants of the intestate to the remotest degree stand in the place of their parent or other ancestors, and take according to their stocks the share which he or she would have taken.



Spouse



Children (issue)
\$300,000 (shared equally)



Parents

RULE 3
(SCENARIO 2)



Spouse



Children (issue)



Parents

\$300,000
(shared equally)

RULE 3
(SCENARIO 3)



Spouse



Children
(issue)



Parents



Descendants of Children (issue) =
\$300,000 (shared equally)

RULE 3
(SCENARIO 4)



Spouse



Children
(issue)



Parents



Descendants of Children (issue)
\$300,000 (shared equally)

RULE 4

If an intestate dies leaving a surviving spouse and no issue but a parent or parents, the spouse shall be entitled to one-half of the estate and the parent or parents to the other half of the estate.



Spouse
\$150,000



Children
(issue)



Parents
\$150,000
(shared equally)



Spouse



Children
(issue)



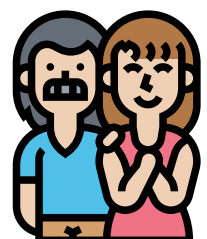
Parents
\$300,000
(shared equally)

RULE 5

If there are no descendants, the parent or parents of the intestate shall take the estate, in equal portions if there be 2 parents, subject to the rights of the surviving spouse (if any) as provided in rule 4.

RULE 6 (SCENARIO 1)

If there are no surviving spouse, descendants or parents, the brothers and sisters and children of deceased brothers or sisters of the intestate shall share the estate in equal portions between the brothers and sisters and the children of any deceased brother or sister shall take according to their stocks the share which the deceased brother or sister would have taken.

**Spouse****Children (issue)****Parents****Siblings****\$300,000****(shared equally)****RULE 6 (SCENARIO 2)****Spouse****Children (issue)****Parents****Siblings****Descendants of Children (issue)****\$300,000 (shared equally)**

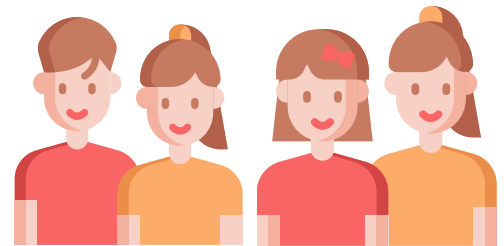
RULE 7

If there are no surviving spouse, descendants, parents, brothers and sisters or children of such brothers and sisters but grandparents of the intestate, the grandparents shall take the whole of the estate in equal portions.

**Spouse****Children (issue)****Parents****Siblings****Descendants of
Children (issue)****Grandparents
\$300,000
(shared equally)****Descendants of
Siblings**

RULE 8

If there are no surviving spouse, descendants, parents, brothers and sisters or their children or grandparents but uncles and aunts of the intestate, the uncles and aunts shall take the whole of the estate in equal portions.

**Spouse****Children (issue)****Parents****Siblings****Descendants of
Children (issue) &
Siblings****Grandparents****Uncles & Aunts**
\$300,000
(shared equally)

RULE 9

In default of distribution under rules 1 to 8, the Government shall be entitled to the whole of the estate.



Spouse



Children (issue)



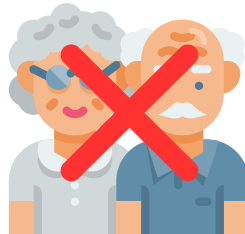
Parents



Siblings



**Descendants of
Children (issue) &
Siblings**



Grandparents



Uncles & Aunts



Government

\$300,000

EXCEPTIONS



Legally adopted children but not illegitimate children have succession rights on the death of an intestate under the Intestate Succession Act (ISA).

The Act does not apply to the estate of any Muslim or shall affect any rule of the Muslim law in respect of the distribution of the estate of any such person.



No distinction is made between relatives of the same class, whether of the paternal or maternal side.

Full-blood relatives take before half-blood relatives of the same class.



CONCLUSION

The Intestate Succession Act (ISA) provides a fixed and rigid framework if Mr. Lim does not have a Will. Mr. Lim's estate administrator must distribute the assets according to the nine rules and exceptions. For someone unfamiliar with the ISA, it will be confusing, and there will be a delay in the estate distribution. Conflicts will ensue from this. Mr. Lim might not foresee the issues when the estate is transferred to his spouse, and she passes on without any children. Mr. Lim's hard-earned money will be given to his in-laws. Besides, when there is a divorce scenario, this could further complicate the estate's distribution if the Will is not updated. Mr. Lim's assets could be given to people he did not have in mind. Thus, depriving loved ones who might need these assets the most.



ABOUT THE AUTHOR

Bruce Lam is a licensed financial practitioner and currently serves as IFPAS Assistant Secretary and Assistant Treasurer. He graduated with a degree in Banking & Finance and holds STEP Affiliate, AEPP®, CLU®/S, ChFC®/S, AFC, IBFA, SAMP™ and CSM® designations.

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