

# Tips for easier estate planning

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Drafting a will is at the very forefront of efficient estate planning. It holds everything together but has to be drafted correctly. It's essential that the wording is simple and clear so that the third party dealing with your estate and the interpretation of your will on your death, can easily understand your intentions.

Consider the following aspects to ensure effective estate planning:

## 1. Bequests of movable items



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Although special bequests (inheritances) are a good way to provide individuals (in addition to your main beneficiaries) with specific assets you want them to have, it's important not to have these run over many pages. The reason for this is that specially bequeathed assets, specifically furniture, need to be valued separately which can become quite a costly and complicated exercise required to enable proper drafting of the Liquidation and Distribution Account. This is the official, legal document drafted by the administrators of the estate, listing all the assets and liabilities of the deceased as at date of death, as well as all income and expenditure after date of death and the

distributions to be done.

Another - and more practical - way of giving specific assets to specific people is to leave a detailed list, separate to your will.

## 2. Choosing your executor

You may worry about who should have full control of your estate. Rest assured, however, as most executors will not make important decisions without consulting beneficiaries first and in many instances such as the sale of a property, the Master of the High Court would call for consent from the beneficiaries before he would allow the executor to proceed. Consider appointing two executors; one being a family member that you trust and the other being a professional, such as an accountant or attorney who knows about the administration of deceased estates.

## 3. Specifying guardians for minor children

If you are a parent, you should make provision for a guardian in the event that your children are left orphaned and of the age where they still need guardianship, which is currently 18 years of age. Although a court can decide this, it is better if you mention this in your will as it also gives you the power to decide who you would like to raise your children.

## 4. Dealing with foreign assets

In the event that you have extensive assets overseas, it is advisable that you draft two wills, one dealing with your foreign assets and the other dealing with your South African assets. Alternatively, your South African drafted will must specify that the executors are to deal with your worldwide assets. It is important to keep a proper record of all assets held. Bear in mind that many European countries have their own laws governing the division of assets and it might, in some instances, not be possible to divide these in terms of the provisions of a South African will. Make sure you are aware of the laws and restrictions in the countries where your assets are held.

## 5. Tax consequences when you die

Estate Duty becomes payable when the gross asset value of your estate exceeds the rebate amount that SARS allows which is currently R3.5 million. In terms of new legislation, there is a rebate amount of R7 million (less any amount utilised in the estate of the predeceased) deductible on the estate of the last dying. Capital Gains Tax (CGT) also applies on death, on assets such as property, other than the primary residence as well as shares. If an asset is bequeathed to and transferred into the name of a surviving spouse, there will be a roll-over of CGT until the death of the last dying. However, should the asset(s) be sold, the sale will generate a further CGT event. You and your loved ones must be fully aware of the various taxations issues that may arise from a deceased estate.

## 6. Reviewing your will regularly

You must regularly review your will and in particular, update it when your personal circumstances change. This could, for example, be when there is a marriage or a child is born, if you start a new business or obtain a large sum of money. Do not accept, once a will has been drafted and signed, that you are set up for life.

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