

# Money Matters

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## The big picture

### Estate planning

Estate planning is a task that must be completed if your legacy, no matter how big or small, is to be successfully passed onto the next generation.

In the past, the need for an estate plan was traditionally confined to the rich.

Times have changed. Modern society has forced Mr and Mrs Average not only to plan for retirement but also for death in a more comprehensive manner. Factors that have driven this trend include:

- the demise of life-time employment and the shifting of the burden to plan for retirement and death from the employer to the individual;
- the demise of the family whether in its extended form or the breakdown of the immediate family itself;
- our liberal constitution that provides for more than one form of marriage; and
- the increase in financial products available as well as the complexity of their treatment from a tax perspective upon death.

### Basic steps for estate planning

- **Find the right professional to design, implement and administer the estate plan**

The complexity of a sound estate plan and a will means you need to find a competent independent professional advisor who has the required knowledge and experience.

- **Calculate the net asset value of the estate**

Identify the assets, including bank and investment accounts, personal property, retirement plans, face values of life insurance, business interests, monies owed to you, and fixed property.

Entrepreneurs or business owners should ensure that they place a value on their business interest annually and that the basis for valuation is regulated in their partnership or shareholder agreement.

- **Identify your liabilities** - including credit card debt, car and other personal loans, and mortgages.
- **Look at the family position and assess the financial needs of the family**  
*Minor children*  
*Mentally or physically challenged adult children*  
*Elderly parents or family members*

The primary considerations when addressing these special needs are:

- The careful consideration of the appointment of a guardian and or custodian. It does not necessarily follow that your immediate siblings or

your parents are the ideal choice to act as guardian and or custodian.

Before committing a person, check that he or she is willing to accept the appointment – an instant family including great-aunt Mary may prove to be an unwelcome surprise!

- After recognising the financial constraints of the individual concerned it is essential to provide adequate funding to sustain the individual through their specific need, be it schooling and tertiary education, frail care support and medical cover.
- **Design and implement the plan**

Estate planning is essentially a plan of who gets what, when and how. Certain components will flow from the plan, the most obvious being a will. Other actions may include the purchasing of additional life cover, the revision of a shareholder's agreement, the recordal of a personal loan or the creation of an inter vivos trust.

Implementation pointers may include amendments to beneficiary forms for life assurance and retirements plans.

### The Will

Key considerations:

- Choosing your fiduciaries wisely includes the appointment of an executor, trustee(s) nominations for testamentary trusts and or substitutive trustee(s) for an inter vivos trust. Criteria for selection would include their understanding of the family dynamics, independence and financial acumen.
- Cremation versus burial – personal choices anchored in religious tradition should be expressed and clearly documented in the will. It is unfair on the family, which may hold different views, to decide upon what is appropriate.
- Similarly, the drafting of a living will is a personal choice. A living will is a legal document that is used to make known wishes regarding life prolonging medical treatments. This document should stand alone from the will, with copies given to family members and close friends as well as the family doctor.
- Where specific bequests are made, it is important to identify and describe accurately the assets to be bequeathed;
- With the relaxation of our exchange control regulations, more and more individuals have offshore investments. It is important to recognise probate in the specific jurisdictions in which assets are held, especially where fixed property is concerned. For example French inheritance

law is quite protective of children, so the chateau in Provence cannot be bequeathed only to a surviving spouse.

- **Safe custody and storage of documentation**

Tell someone where your will is filed – obvious but often overlooked! The storage and retrieval of your will and associated documentation, such as life policies, title deeds and the car registration forms will go a long way to expediting the winding up of your estate.

- **Review the plan**

Review your estate plan every few years, even if your situation is pretty much the same. Laws change constantly, and your planning may be out of date. The birth of a child, marriage and the purchase of a material asset, such as a property, should all result in

a review of the estate plan.

*This column was written by FISA exco member Cheryl Howard, MD of Cheryl Howard & Associates. A list of FISA-registered practitioners is available from [secretariat@fidsa.org.za](mailto:secretariat@fidsa.org.za) Visit our website at [www.fidsa.org.za](http://www.fidsa.org.za) FISA is a non-profit organisation that represents practitioners in the fiduciary industry and sets high minimum standards to protect the public's interests. Activities of FISA members include but are not restricted to the drafting of wills, administration of trusts and estates, tax and financial advice and the management of client funds. FISA has 21 member companies and more than 600 individual members who collectively manage in excess of R200 billion. Membership is open to any professional who meets the membership criteria.*

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