MONEY MARKETING
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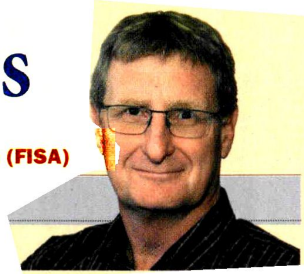
Fiduciary Matters



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Cash shortfalls in deceased estates

Estate planning

Cash shortfalls are to blame for most of the delays in the administration of deceased estates. Understanding how cash shortfalls arise will help you understand the issues at play and allow you to take corrective action in preventing similar delays arising on your death.
Some causes leading to cash shortfalls are the following:

There is an outstanding bond over the fixed property.
To transfer the property, the bond needs to be cancelled or a substitution of debtor put in place. Most financial institutions do not favour substitution of debtor and the application to do so is in any event almost as challenging as applying for a new bond. The heir may not be employed or not be eligible for a bond. This can lead to significant delays and complex inter-family loans to get the matter resolved and the property transferred.

Insurance policies payable outside the estate to people other than the residuary heir.
This is common practice, as insurance can pay out quickly after death and because of the potential saving on executors' fees. This can be good practice, but not if it leaves the estate without enough cash to settle debts. Rather discuss the matter of the fee with your executor, conduct a regular liquidity analysis and ensure that sufficient life cover pays into your estate to alleviate this problem.

Do a liquidity analysis when preparing your Will

Insurance policies that do not pay out.
Although infrequent, this can happen for many reasons, such as premiums that are not kept up to date, incorrect statements made on the application form or during a switching of service provider if this is not carefully monitored.

People assume that their pension will pay a capital amount to their estate or a person nominated in writing to receive the benefits.
Pension fund money does not form part of the estate and the proceeds are regulated by section 37C of the Pension Funds Act. By nominating a beneficiary to your pension, this will not necessarily ensure that the payment will be made to that person. If the deceased is survived by dependents as well as the person he/ she nominated to receive the benefits of the pension fund, the benefits payable will be paid in such proportions as the fund's board of trustees decides is equitable.
This is a complex area and needs review by a qualified financial planner.

Unplanned-for debt.
There are several costs associated with death that need to be taken into consideration, such as capital gains tax, estate duty, outstanding rates and taxes, the requirement to pay several months of rates in advance to obtain a rates clearance certificate, property transfer costs, Masters fees, advertisement costs and executors fees etc. It is good practice to understand all these costs and how they can impact you. For example, have you discussed the costs of administering your estate with your executor, agreed a fee and recorded it in your Will?

Release from suretyships for business debts.
A business may acquire a motor vehicle on credit and sign the agreement, but the finance house often calls for the business-owner to sign surety for the debt in his or her personal capacity. On the death of the business-owner, the finance house claims against the estate in terms of this suretyship.

Transactional debt.
In the current economic environment, there is a growing reliance on using debt to fund living expenses. There are many estates where credit cards and overdraft facilities have been exhausted, and require repayment on death. In some cases, there is credit life cover in place, which settles the debt.

Medical and last illness expenses.
Medical aids often pay most of the deceased's last medical expenses, but there are people without medical aid or whose treatment costs exceed medical aid tariffs, which must be settled from the estate.
The unintended consequences of the above, if not planned for, can lead to assets being sold to settle debt, at a time which may not be opportune. For example, the asset values may be in a low value cycle like house prices at the moment.

A quick checklist

- Understand the above implications and plan ahead.
- Determine if your credit facilities have credit life cover.
- If appropriate, ensure that insurance policies are paid into the estate to the extent required. Discuss the exclusion of executors fees on the policy proceeds with your executor.
- Negotiate executors' fees and record this in your Will.
- Do a liquidity analysis when preparing your Will.
- Understand the implications of signing as surety and the impact it can have on your estate.
- Understand the implications of unpaid rates and outstanding bonds on your fixed property. Is there sufficient cash in your estate to pay the debts / can your heir qualify for finance?
- When making bequests of money in your Will, make sure there will be sufficient cash left over after settling debt, to meet the legacies.

This article was written by Graham McPherson, FPSA©, Vice Chairperson of the FISA Council, and Managing Member of Zentrust.
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