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ESTATE ADMINISTRATION

A lot is written about the legal and accounting aspects of estate administration but very little about the inherent risks associated with the administration of estates. After all, there has to be a reason why the Masters Office calls for the provision of security.

Ignoring the outright theft of funds or assets, there are in fact many areas that can lead to loss for heirs or the executor. These need to be identified and resolved at an early stage in the administration process.

Short-term insurance

Once the relevant bank is advised of the death, the accounts are often frozen and/or closed. If there is an insurance debit going through that gets rejected, there is a very real possibility that the cover over the insured assets lapses. In the event of a car accident, even if the insurance debit doesn't lapse, the person driving the vehicle may

have a different risk profile to the deceased or the place the vehicle is stored may be different to the recorded terms of the policy. The house itself may now be vacant, for some period of time, which may impact on the terms of the insurance cover. It's important that all these changes are recorded with the Insurers and the premium adjusted if necessary.

Family conflict

Executors are often faced with some form of historical family conflict which can be inflamed at death or if unexpected inheritances are made under the Will. It is important to understand the impact such conflict can have on the estate, such as withholding consent to a sale, intentionally delaying the administration time frame by not paying in cash shortfalls, possible litigation or raising maintenance or other claims against the estate. At the preliminary interview with the family these issues should be

identified and appropriate steps put in place to proactively manage the process.

Communication and due process

By far the majority of complaints received in the industry are not around wrongdoing but generate from a lack of communication with heirs. For example, it is not possible to finalise a full estate in two months from date of death, simply due to the reporting and advertising requirements. However, not many heirs will know this. Simply setting out the process to be followed in preliminary correspondence and following up with regular feedback reports will go a long way to stopping needless complaints.

Financial losses to heirs

It is an executor's duty to pass transfer of the assets in the estate to the heirs, unless they are required to be sold to pay debt or the executor is requested to sell assets by the heirs. Most losses are derived from unexpected stock market or exchange control volatility. This highlights the importance of not only obtaining heirs' instructions to sell items, in writing, but also the timely actioning of the instruction.

Invest estate funds

Most estate bank accounts earn very little or no interest. Do you invest the funds in the estate's name to obtain a better return if the balance on hand is significant?

Financial Intelligence Centre Act and cash sales above the reporting threshold

Motor vehicles are often sold out of estates, quite often for cash for older makes. It might be more appropriate for the funds to be paid into the account at the local banking branch, which is geared to report under FICA. Failure to report above threshold or irregular transactions can lead to severe penalties and even jail.

Business interests and farming operations

This is a very wide subject but the key steps to understand are the implications around buy and sell agreements (including when not deductible for estate duty), VAT and who can/is going to actually run the business/manage the farm? Ask yourself, what happens if the business becomes unprofitable under that person's management before the business is awarded to the heirs?

Firearms

Many people die with registered firearms but are you aware of the requirements for an heir to be placed in possession of the firearm, and the other requirements on the executor under the Firearm Control Act, such as storage?

In summary, there are many inherent risks associated with the administration of estates, and whilst knowledge and experience may count for a lot, so does ongoing communication and good process management skills.

This article was written by Graham McPherson, Managing Member of Zentrust CC.

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