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Fiduciary Matters

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Let liquidity, knowledge and simplicity be your legacy

I frequently get asked: “What must I do to make sure that my family is left in the best position, should something happen to me?”

My answer is always the same: provide for liquidity, information and expertise.

Of these, to my mind the most important is to provide for **liquidity** in your estate, as this is usually the most pressing issue for your family following your death. Their grief and loss can only be compounded when the electricity is cut off and the M-Net decoder is disconnected.

If your family is not in a position to settle the immediate expenses and short term debts such as funeral expenses, rates, taxes and insurance, the unnecessary unhappiness and hardship caused can be truly heart-breaking.

It is also important to remember that on your death, your bank accounts will in all likelihood be frozen and no one will have access to the funds in those accounts until the executor is appointed. If you are married in community of property, the

accounts of both you and your spouse can be frozen, even if the account is in the survivor’s name only.

My advice is to plan for the event, make provision for funds to be readily available to your spouse to settle the debts and expenses and to keep the household running for a few months until the executor is appointed and he/she can access the funds.

Insurance policies are a good way of providing this liquidity. However, they can take a few weeks and sometimes months before they pay out, as many companies now require copies of the Letters of Executorship before they will process the claim.

The speed at which you can obtain the Letters of Executorship and begin winding up your estate depends on many factors, most important of which is probably the second key component, information.

Information is critical to a speedy reporting of your estate. Too many times in practice we see that the survivor is unaware of where the important documents and

information are kept, such as the Will, accounts, policies and proof of investments. It unnecessarily wastes time going through boxes of old paper and statements to try and ascertain what bills need to be paid and where investments are kept.

I suggest that you maintain a file with all your important information in it. Update it regularly and let your spouse and family know where it is kept. If you have such a file, and your spouse simply has to pick it up and hand it to your nominated executor, the quicker and faster your estate can be wound up and the less costly it will be.

Also involve your spouse in the management of the household finances, so that they can step into your shoes quickly and easily to take over this role when you are no longer there.

The third and final key component is **expertise**. I was once approached by a respected attorney to assist him to wind up a family member’s estate. I mischievously asked him why, as an attorney, he did not simply do it himself.

The answer I received was exactly to the point.

He said: “I know the law, and how to interpret it, but deceased estate administration requires a specialist’s hand.” He went on to say jokingly, “I can go onto the internet and learn how to remove my tonsils. But I would never dare try to do it myself.”

My advice would be to get the experts involved in any deceased estate sooner rather than later and make sure the practitioner is a member of the Fiduciary Institute of Southern Africa (FISA). While the family component in an estate is very important with regard to making decisions and providing information, they also need time and space to grieve, so make sure that the legal administration process is handled by professionals whose focus is the administration of deceased estates. It will be done more quickly and delays, problems and issues will be minimised.

These issues of liquidity, information and required expertise can be easily solved with a proper estate plan.

Plan for the inevitable, take the time to sit down and work out the ramifications of what might happen sooner rather than later and work out the possible scenarios.

No one likes to face up to death and taxes, but they are said to be the only two certainties in life and we all need to ensure that we prepare for them and so leave the best possible legacy for those who follow.

This article was written by Chris Murphy, FISA member and director of Legacy Fiduciary Services and Estate Planners

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