

## YOUR MONEY SORTED



# EXECUTORS AND WILLS

By LETITIA WATSON

Send suggestions for topics and requests for info to [yourmoney@you.co.za](mailto:yourmoney@you.co.za). We may answer your questions in this column but won't reply personally.

Here's a guide to ensuring you get the best service from the executor of your will

## KNOW WHAT IT TAKES

### CHOOSE WELL

It's best to appoint a professional as the executor of your will. Estate administration may seem easy but the executor must know the procedures and follow them strictly. If they aren't familiar with the Estates Act and tax regulations, finalisation of the estate may be slow. Someone with little legal knowledge may interpret the will incorrectly and for instance give the wrong people advances from the estate, says Angelique Visser, chairperson of the Fiduciary Institute of Southern Africa.

### YOU'RE THE EXECUTOR - WHAT NOW?

If you have no estates experience the Master of the High Court may refuse to accept your appointment – unless you're assisted by an experienced agent. The executor may negotiate with the agent regarding payment for administration of the estate, which is often less than the usual executor's fee. A relative appointed as executor doesn't usually expect payment and only the agent will be paid, Visser says. If you use an agent you remain in effect the nominated executor.

## MORE THINGS TO CONSIDER

### PREVENT PROBLEMS

Surviving spouses or relatives appointed as executors are often in mourning and in no state to make the best financial decisions. A solution is to appoint a professional executor and specify their fee in your will. You can appoint someone you trust as co-executor. Experts in this field are lawyers who specialise in estates, and trust companies. If executors help to draw up wills, problems can be solved while the testator is alive.

### EXECUTOR PAYMENT

The testator can set an executor's fee in their will – provided the executor agrees. Otherwise the Estates Act determines it. An executor can charge 3,5 per cent of the gross value of the estate as at the date of death (excluding assets such as pension), plus 14 per cent if they're VAT vendors, plus six per cent on all gross income accumulated from the date of death until the estate is finalised. If the deceased person was married in community of property this applies to the gross assets of the common estate.

## 5 QUESTIONS ON EXECUTORSHIP

- 1 Is the executor familiar with estates and tax law?** Death has many tax implications and the executor must understand the effect on the estate and the heirs.
- 2 Can the executor handle the family efficiently?** A lot of stress can be generated if the executor makes decisions the heirs disagree with. The executor must be able to keep a clear head through family squabbles.
- 3 Who won't the Master appoint as an executor?** Minors, someone without the authority to act, an unrehabilitated bankrupt person or a person who doesn't meet specific regulations and legal requirements.
- 4 If I'm an executor and appoint an agent do I still have executor's duties?** Yes, you remain accountable. If the agent doesn't administer the estate correctly and finalise it in time, the Master will take action against you as executor.
- 5 Which estates don't need a professional executor?** In terms of the Estates Act, solvent estates worth less than R125 000 don't require a professional executor. In such cases the Master appoints someone with full power of attorney.

## 70% OF ESTATES ARE PROBLEMATIC



Last year 162 251 estates were registered by the Master's Office. In more than 70 per cent of cases the deceased had left no will, or the will was invalid. This complicates and slows down estate administration.

SOURCE: ANGELIQUE VISSER, CHAIRPERSON OF THE FIDUCIARY INSTITUTE OF SOUTHERN AFRICA (FISA) AND A DIRECTOR OF BARAZA WEALTH

**TIP!** The Master of the High Court can help with solving disputes about executors' fees.

### GET MORE HELP HERE

- Information about professional will and estate experts: Fisa - [fidsa.org.za](http://fidsa.org.za)
- The Master of the High Court: [www.justice.gov.za](http://www.justice.gov.za)

*'In modern business it is not the crook who is to be feared most, it is the honest man who doesn't know what he is doing'*

WILLIAM WORDSWORTH, ENGLISH POET