

Choose someone to carry out your will, literally

By CHARLENE STEENKAMP

● Death is inevitable, but you can make life after your demise much easier for your family by choosing who will take care of the administration of your estate.

Typically you can nominate a trust company, bank, attorney or accountant as the executor of your will. After your death, the individual or firm is formally appointed by the master of the high court, who issues a letter of executorship.

Chris Murphy, the Fiduciary Institute of South Africa's councillor for the Western Cape and a director of Legacy Financial Services, says it is becoming increasingly popular to appoint a family member or friend as an executor to "keep it in the family" and make sure costs are kept low. But in most cases the family member will still have to appoint a professional because the administration process is complex and onerous.

Advocate Sankie Morata, the chief operations officer of Sanlam Personal Finance: Fiduciary Services, says: "It is important to nominate an executor who will be able to put himself or herself in the shoes of the deceased and ensure that all is delivered according to the deceased's wishes. The executor must demonstrate a high standard of knowledge, competence and reputation."

You have a choice of which type of professional to pick: a trust company, a family lawyer or an accountant.

Peter Hewett, CEO of Hewett Wealth and a former Financial Planner of the Year, says although trust companies are viewed by the public as "sausage machines", and appear to

lack sensitivity to the deceased's family, they know the law and act accordingly.

Generally these companies have spent a fortune on systems that can manage the estate process from beginning to end, including the creation of the liquidation and distribution accounts in the required format.

But it is also true that attorneys and accountants who specialise in the administration of deceased estates provide excellent service, he says.

Attorneys and accountants, particularly if they are well acquainted with your family, could be more sensitive to a family's grief.

Challenges arise when attorneys or accountants handle estates as a sideline – for instance, when a conveyancing attorney takes on a deceased estate, Hewett says.

Long list of documents

Accountants and attorneys who do not specialise in estates do not necessarily know the legal processes and required formats of the various accounts that need to be drafted and submitted, often resulting in delays or the submission of supplementary liquidation and distribution accounts to the master of the high court, he says.

Non-specialists are not always familiar with the most efficient processes to transfer various assets to the beneficiaries. For example, they may not be aware that a share portfolio can be transferred to an heir through a simple scrip transfer rather than liquidating the portfolio for distribution to the heirs, Hewett says.

Using a person or institution that does not have expertise in managing estates can re-



Choosing an executor can make things easier for your surviving loved ones. Picture: iStock

The advice

- Choose a specialist to administer your estate.
- Negotiate the executor's fees and write the negotiated fee and the name of the executor into your will.
- Nominate your spouse or a family member as a co-executor together with a professional expert executor. This will ensure that the spouse is kept informed of the process and can provide input on the family's personal circumstances.

sult in significant delays – in many instances extending to years – in finalising the estate, Hewett says.

Elmarie de Vos, the manager of the trust division at Legatus Trust, says that although the basics of estate administration are the

same, expertise and experience make a significant difference.

For instance, when reporting an estate to the master's office, a long list of documents is needed but there is no specified list that exists.

"Through experience we know what is needed and are able to submit a comprehensive list with no comebacks from the master's office," she says.

Inexperienced practitioners will submit what they think is necessary and the master's office takes between three and 12 weeks to come back with a query for further documents. This can happen a few times and can significantly delay the issuing of the letters of executorship.

Die or emigrate

Trust companies have a special fast-tracking procedure in place at the master's office, as do some lawyers who specialise in estates.

Generally, an independent and professional executor who can serve as the voice of reason if heirs are in dispute over your will is a better option than a family attorney who knows the family personally, says De Vos.

An accountant may be part of a family setup for many years and might favour one heir rather than another.

"We have had a situation with a will that was drawn up by an accountant in which two of the three heirs had been left out," she says.

Harry Joffe, the head of legal and tax marketing at Discovery Life, says the issue of fees may play a role in who to choose to administer your estate after your death.

Executor fees are regulated by tariffs set in terms of the Estate Duty Act, and the maximum that may be charged is 3.99% (3.5% plus VAT) of the estate value.

Where a family member is nominated as executor, and asks an attorney or accountant to handle the estate, professional hourly fees could be charged – and may end up being more expensive than an overall executor's fee.

Joffe says that with a trust company or bank's trust division, you know they have enough staff to do the job and that as a company they are likely to have been in business for a long time. But if you appoint an individual such as an attorney or accountant, the individual may die before you or emigrate prior to your death.