

Nothing certain but death and taxes that have to be paid on deceased's estate

By **DEVLIN BROWN**

● Almost everyone will deal with the trauma of a loved one dying, but often this trauma is compounded by complicated and expensive estate administration, liabilities and unforeseen tax burdens.

Most people do not realise the financial implications of dying, and many do not have enough cash in their estates to settle debts and pay costs, according to Louis van Vuren, CEO of the Fiduciary Institute of Southern Africa (Fisa).

Marietjie Strauss, regional manager for Gauteng at Sentinel Trust, says the first thing that must be paid for is the funeral.

“Make sure your close relatives know what you budgeted for and where to collect the money from, such as a funeral policy or savings account. You don't want your family hosting a huge funeral chomping away on their inheritance if you planned for a small, intimate service,” says Strauss.

The next step is to report the estate to the master of the high court, where a specific

legal process must be followed. The appointed executor must first settle liabilities, then attend to specific items that have been bequeathed to specific people or organisations. The balance of the estate is called the residue. The residue will be transferred according to your will, and if you did not leave a will, “according to the rules of intestate succession law”, says Van Vuren.

He says there are two different processes – one for estates valued at less than R250,000 and one for those valued at more than this amount. There are not many formalities for estates below R250,000 and “most family members can attend to the process themselves”. However, for estates exceeding R250,000 an executor must be appointed – usually the person or entity nominated in your will – to administer and wind up the estate.

You can appoint a family member as your executor, but the master of the high court may demand security from the executor unless the executor is qualified to comply with all the relevant laws, says Van Vuren. Security

can be obtained by way of a court bond, a type of short-term insurance, which costs extra money for the premium.

The executor must account for all assets and liabilities in the estate in a document known as the liquidation and distribution account, which is lodged with the master of the high court.

“The liabilities include those amounts owing by the deceased at the time of death, as well as the administration costs resulting



Many estates do not have enough cash to settle the debts and administration costs

Louis van Vuren

CEO of the Fiduciary Institute of Southern Africa

from the administration process,” says Van Vuren.

Many people know that your estate can be liable for estate duty of 20% of assets not left to a spouse and which exceed the estate duty exemptions (R3.5m for a single person). But not many are aware of all the administration costs, which Van Vuren says include:

- Advertising – your executor must advertise for creditors who want to claim against your estate and advertise the liquidation and distribution account in the Government Gazette and in a newspaper;

- Master's fees – these are due to the South African Revenue Service (Sars) for estates worth more than R250,000 where an executor is appointed. They are calculated on a sliding scale depending on the value of the estate, to a maximum of R7,000, Strauss says;

- Executor's remuneration – if your will doesn't stipulate the fee, it is typically calculated at the highest fee allowed: 3.5% of the gross asset value of the estate plus VAT. Most trust companies will reduce the fee on es-

tates worth more than R3m Strauss says;

- Costs of security – if the executor is required to lodge security for the administration of the estate, the cost of the premium for this insurance is a charge against the estate, usually around 0.5% of the gross value of the estate plus VAT, Van Vuren says; and

- The costs of selling or transferring fixed property – your estate may incur mortgage cancellation costs. Though no transfer duties are payable when a property is transferred to a beneficiary, there are still some costs, such as attorney and Deeds Office fees, Van Vuren and Strauss say.

If the property must be sold, your estate will incur costs such as estate agent's commission and brokerage fees, they say.

Other costs may include the costs of valuing the assets for the estate liquidation and distribution account, submitted to the master and to Sars for estate duty purposes; costs to transfer shares or timeshare; bank charges; postage and petties; funeral expenses; maintenance of assets while the estate is wound up; tax accounting fees – a fee

charged by the person preparing the tax returns; and duplicate original motor vehicle registration certificates.

Once the administration costs are calculated, the executor will look for claims against the estate, including a claim from Sars against the estate for income tax due for the period March 1 to date of death.

It is the executor's duty to give Sars a completed tax return including capital gains made on the deemed disposal from you to your estate for the relevant period; and to settle bonds and overdrafts or instalment agreements.

Each estate is different, so you need to work out your own costs and make a plan to ensure there is enough cash in the estate.

Van Vuren says many estates are solvent, but still they do not have enough cash to settle the debts and administration costs. The heirs may be required to pay cash into the estate to avoid the sale of assets. If they are unable to do so, the executor may be forced to sell a valuable asset such as a home or car to generate the cash.