

Wills are vital in transferring wealth to the next generation

IT IS a fact that most people fail to plan. One cannot help but wonder why people commit to a lifetime of creating wealth but do not take the time to draft a will to deal with their assets when they die. Wills play a vital role in transferring wealth from one generation to the next.

Anyone who is 16 years or older and of sound mind can make a will. It is important that the person who drafts the document fully understands your personal situation, knows what kind of assets will be dealt with in terms of the will, and has the legal knowledge and experience to draft a will that meets your needs.

It is now possible to have a will drafted online. This is quick and easy, provided you have a good understanding of the legal and tax implications. If not, rather seek professional assistance, as fiduciary law is complex and there could be unintended consequences.

It is important to understand the types of assets that form part of your estate to which a will gives effect in



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the event of your death. Retirement funds, life insurance policies payable to third parties, and the assets of discretionary trusts do not form part of the assets that are dealt with in terms of a will. It is always a good time to review the beneficiaries of financial products when your will is updated to ensure that your will is aligned with your financial plan.

You should have a valid, up-to-date will for the following reasons:

◆ It allows you to choose to

whom you will leave your wealth.

◆ Parents must appoint guardians for their minor children in their will in the unfortunate event that both parents die. Failure to do so could result in the well-being of your child being neglected.

◆ You can provide for loved ones with special needs who may not be able to look after their financial affairs, by setting up a trust in your will.

◆ By leaving clear instructions, you will limit the likelihood of conflicts, bitterness and after-death disputes among your children and other family members. Disputes can result in estates taking years to be wound up.

APPOINTMENT OF AN EXECUTOR

If the value of your estate is below R250 000 when you die, a very simple process is followed to administer the estate that does not require a professional. If your estate is worth R250 000 or more, you can either appoint a professional who specialises in fiduciary matters as

executor to administer your estate, or someone responsible whom you trust, who will have to seek the assistance of a fiduciary professional to assist with the administration process. The Master of the High Court normally does not issue letters of executorship to a person who does not have any legal knowledge without confirmation that he or she will be assisted in the legal process.

You need to consider the following when a will is drafted and an executor is appointed:

◆ **Education and experience.** Does the will drafter have a legal qualification to ensure that your wishes are set out clearly and the correct clauses are included to ensure a smooth estate administration process? And does your potential executor or agent for the executor have the appropriate legal and tax qualifications and experience? Conflict situations are sometimes challenging, and experience in dealing with such situations should never be underestimated.

◆ **Ethical behaviour.** Does the

will drafter or potential executor belong to a professional body where ethical behaviour and high standards are required – for instance, the Fiduciary Institute of Southern Africa (Fisa)?

REVIEWING YOUR WILL

You should review your will on:

- ◆ Moving in with a life partner or entering into marriage;
- ◆ The birth or adoption of a child;
- ◆ The dissolution of a marriage by divorce or death;
- ◆ Acquiring business interests or offshore assets;
- ◆ Receiving an inheritance or acquiring assets; or
- ◆ Setting up a family trust.

As everyone's situation is different, it is recommended that you seek as much information as possible to make informed decisions and leave a legacy of good memories.

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