

# ENSURING THERE IS LIQUIDITY IN THE ESTATE



**T**he time it takes to wind up the estate of a deceased person has worsened, now taking up to two or three years. During this period, some beneficiaries may struggle with day-to-day living expenses.

Advisers should, therefore, consider the need for beneficiaries to have sufficient cash during the administration period, until they can receive their final inheritance – and beyond.

## Ensuring liquidity in the estate

In addition, when a person passes away, there is still a legal obligation to settle debts. Debit orders to creditors, like mortgage bond repayments, still go off a deceased's bank account, until such time the account is frozen by the bank. Creditors often charge interest on arrears, until the account is settled. This impacts negatively on heirs, as their inheritances are reduced.

The cost of administering an estate must also be considered by the adviser. These costs include fees to the executor, the Master of the High Court, conveyancers and other service providers as well as taxes like income tax, capital gains tax and estate duty.

The above implies that there needs to be liquidity in the estate. It is estimated that some 65% of estates are illiquid. If the estate is not liquid, the executor may need to call on beneficiaries to settle any cash shortfall or sell assets in the estate. So, how do you go about ensuring there is liquidity in the estate? The liquidity can be in the form of savings or investments, like unit trust funds or shares listed on the

JSE, which are assets that can easily be converted to cash. Alternatively, one could have a life cover policy where a percentage or the whole, thereof, is payable to the estate.

## An increasing backlog

As a result of the COVID-19 restrictions, many stakeholders whom the executor is reliant on during the administration of a deceased estate, are experiencing severe backlogs. The stakeholders include financial institutions, employers, the South African Revenue Service (SARS) and Master's Office. The Fiduciary Institute of Southern Africa (FISA) has seen a significant increase in complaints from its members, about the delays which, in some cases, are taking two to three years to finalise. Some companies have employed agents to assist with the backlog.

In the past, for example, it could take about three weeks for an executor to receive the Letter of Executorship to commence the administration of an estate. Currently, this process takes three to six months.

## Business, marital status and maintenance

Advisers need to provide appropriate advice, where a client is running a business. Business assurance cover can provide the solution to create liquidity for salaries, wages and business debt which still need to be paid for. Additionally, this type of cover accompanied by well drafted buy and sell agreement, will provide a good succession plan. This will prevent difficulties in the administration of the estate.

This type of planning ensures that the business continues to run efficiently. Beneficiaries can either take over the business

with ease or receive the value of what the business is worth.

Advisers should also provide for solutions to create liquidity in the estates of clients married out of Community of Property, with accrual, where there may be a potential accrual claim resting against an estate.

Should there be insufficient cash available to satisfy the accrual, an executor may have to sell assets in the estate to cater for the shortfall. This could be to the detriment of beneficiaries, especially in cases where assets are specially bequeathed, and the inheritance must be abated.

Maintenance obligations do not come to an end when a person dies. A cash sum must be made available to the beneficiary, either in or outside the estate, to fulfil such obligations. An adviser should consider a separate life cover policy, or suitable investment, to satisfy these obligations. This will prevent claims against the estate, which could also lead to a sale of certain assets and a long delay in the administration process.

In conclusion, an adviser plays a crucial role when engaging with clients. Clients must be made aware, so that an adequate plan is put in place to ensure there will be sufficient liquidity available.



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