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What happens to these investments when you die?

Here's what you need to know about these five financial products when you pass away

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YOU may have a life policy, unit trusts and a retirement fund that you've been contributing to for years without giving much thought to what will happen to these investments in the event of your death.

We asked Louis van Vuren of the Fiduciary Institute of Southern Africa to explain what you need to know.

1 RETIREMENT FUNDS

● Pension benefits aren't part of a deceased's estate and are protected against creditor claims (people or companies you owe money).

● The trustees of a retirement fund decide how your benefits are divided – even if you have nominated beneficiaries. The trustees have 12 months to find your dependants and decide what each of them will receive.

Dependants in terms of the Pension Funds Act include your spouse, children and anyone proven to be dependent on the deceased at the time of their death. For example, if the deceased was divorced, got married again and only nominated their new spouse as the beneficiary, the trustees should try to find out if there are children

from the first marriage.

● Although it's generally expected that a spouse would get half of the benefit if married in community of property, it doesn't apply to pension funds.

Death benefits from a pension fund aren't subject to the law dealing with who owns what in marriage and as such are not part of the joint estate.

2 LIFE POLICIES

Life policies are protected against claims by your creditors under certain circumstances.

How the proceeds from a life policy are paid out depends on whether there are nominated beneficiaries or not.

● With nominated beneficiaries, it's paid directly to them, so no executor's fees apply.

● If no beneficiary has been nominated, the proceeds go into your estate. A policy being paid out to your estate can ensure there's cash that the executor can use to, for instance, settle your debts.

● Estate duty is the tax payable on that part of your estate that doesn't go to your spouse. It can be charged on proceeds of the policy exceeding R3,5 million.

If a life policy is bequeathed to a surviving spouse then estate duty wouldn't apply, but it's possible other beneficiaries could be taxed.

3 UNIT TRUSTS

These investments become part of your estate. They are subject to estate duty and not protected against creditors. The executor of your estate divides all your assets to pay creditors and heirs in your will.

On receipt of the death notice from the executor, no further transactions can take place and the investment company usually pays out the money or transfers the units as directed by the executor.

Executor's fees are also payable for the administration or distribution of these funds.

4 TAX-FREE SAVINGS ACCOUNTS (TFSA's)

These investments become part of your estate. Interest and growth on tax-free savings accounts (TFSA's) are free from income tax and capital gains tax while you are alive and at your death, but they aren't free from estate duty.

TFSA's can be in cash, for instance in bank accounts or money market funds or unit trusts, but regardless of where the money is invested, the rules applicable to unit trusts (see point 3) also apply here.

5 RETIREMENT ANNUITIES

A retirement annuity is an investment vehicle you use to

save for retirement. The savings accumulated are used to buy a life or living annuity (or a combination of the two) that pays you an after-retirement income.

● If you die before retirement, the same rules apply as for retirement funds. The only difference is that estate duty could be payable if tax rules were not followed while you contributed. A financial advisor will be able to check this.

● If you have a living annuity, you can nominate beneficiaries to receive the residual value in the event of your death. Your beneficiaries should notify the fund administrator how they wish to receive their benefits.

There are three options: beneficiaries can take a lump sum, transfer the funds to a living annuity in their own name or combine these two options. A certain amount could be tax-free depending on the deceased's withdrawal history.

Your beneficiaries will not pay tax when transferring the full benefit to a living or life annuity in their name, but any income received from it will be taxed according to their personal income tax rates.

● The proceeds of a living annuity aren't included in the estate and are not subject to estate duty and executor's fees. If you haven't nominated beneficiaries or they can't be traced it can become part of the estate.

● Guaranteed life annuities usually cease to pay out when you pass away. □

TIP Even though the trustees of your retirement fund ultimately decide on the distribution of the proceeds, nominating beneficiaries can speed up this process. It can also help the trustees to ensure the money is allocated fairly between your dependants and nominated beneficiaries.

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