

# FINANCE MATTERS

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Wealth

**IMPORTANCE OF ESTATE PLANNING** – Khuluma magazine feature on Estate Planning, by: Peter James Hewett, CFP® | 2014 Financial Planning Institute’s Financial Planner of Year.

## 1. AS PART OF YOUR ESTATE PLANNING, WHAT THINGS DO YOU NEED TO DO BEFORE YOU DIE?

Many believe that estate planning simply entails the drafting of an appropriate will, however it is actually quite complex with a far reaching, long-term impact. A detailed understanding of the various rebates, exclusions and deductions relating to estate duty is very important. In addition, the implications of various estate planning structures and systems become critically important once your estate value exceeds R3.5 million. Thus, seeking professional estate planning assistance is very important when focusing on getting the affairs of your estate in order. A CERTIFIED FINANCIAL PLANNER® professional is certified by the Financial Planning Institute (FPI) can thus play a vital role in the process by guiding you with quality advice based on your unique financial position.

The first step in the estate planning process is to establish the financial needs of your beneficiaries and the liquidity needs within your estate. Once you have established these needs and made adequate provision, you can proceed with the drafting of a will to ensure the effective transfer of your assets in accordance with your wishes. A CFP® professional is able to assist you with the drafting of your will as simple errors in the wording or the exclusion of certain basic legal provisions could have a dire impact on your estate, or on the rights of your beneficiaries.

Another important step is to ensure that your spouse or dependents know where to find your will and any other important documents. Furthermore, a CFP® professional will ensure that he or she has a very good understanding of your family, your wishes in terms of your will and your asset and liability base. This will enable the professional to assist your executor in collating and compiling the required documentation to ensure the efficient transfer of your estate.

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## 2. WHAT ARE SOME OF THE EXPENSES ASSOCIATED WITH DYING; e.g. FUNERAL, TAXES, ADMINISTRATION COSTS, etc.?

The initial expenses that need to be catered for include funeral, burial or cremation costs and, in some instances, medical expenses incurred just before death. These claims will however be against the estate and would be settled by the executor on receipt of the letters of executorship.

The costs of the winding up of the estate should also be catered for during a comprehensive financial planning process. These would include:

- Master of the Supreme Court Fees - which are capped and relatively insignificant,
- Executors fees that are set at 3,5% plus Vat on the value of the estate (which are also sometimes negotiable dependent on the size of the estate),
- Transfer fees where there are properties involved. These are also levied at set tariffs but can be quite significant, and
- Minor general administrative fees

All of these costs are charges against the estate. It is therefore important to ensure that there is adequate money to cover these costs, as well as any liabilities that are outstanding when you pass away. Any shortfall would force the executor to liquidate assets. This could mean that assets you specifically bequeathed will now be sold - sometimes at a much lower values due to inopportune timing.

Estate duty is another expense that needs to be catered for. This is only relevant in estates with a net value in excess of R3.5 million, after taking account of various inclusions, exclusions and abatements.

Capital Gains Tax (applicable to profits made on the sale of an asset) can also have a considerable impact on the estate of a deceased and should always be taken into consideration when assessing liquidity requirements. Once again there are certain exclusions and “roll-over relief” provisions dependent on the structure of your will. These aspects of estate planning again, displays the need for an appropriately qualified financial advisor such as a CFP® professional.

## 3. WHAT IS THE IMPORTANCE OF HAVING A WILL?

Having a will is absolutely critical to anyone that has an asset base of any kind, especially if you are married and/ or have dependents. Dying intestate (without a will) will significantly delay the finalisation of an estate and could have a very negative impact on the ultimate transfer of

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assets. In cases where individuals die intestate, there are specific rules of succession that are applied to the distribution of the estate. These rules may lead to a situation where your assets are distributed to unintended beneficiaries.

#### **4. ANY OTHER CONSIDERATIONS TO DO WITH DRAWING UP A WILL; e.g. HAVING A LIVING WILL?**

Making use of a testamentary trust is a good way to ensure that minors are adequately provided for. Trusts are an excellent means to ensure the proper level of care for dependents or other beneficiaries with special needs, as the management of their affairs can be entrusted to someone that the testator trusts. This gives you the peace of mind that they will not be entrusted with wealth that they are not mature enough to manage. It is usually also prudent to ensure the appointment of a professional Trustee in such instances. The professional Trustee will ensure the effective management of the assets on behalf of the beneficiary, and will also be in a position to make un-emotive decisions in the best interests of the beneficiary.

Special care must also be taken to nominate guardians where minor children are concerned. Guardians should preferably be approached prior to the nomination, in order to ensure that they are willing to accept the role, should the need arise.

A will should make adequate provision for various scenarios. Many wills, for example, do not provide for family decimation, where the entire family passes away simultaneously. It is therefore important to provide for substitute beneficiaries to cater for every possible or likely eventuality.

Finally, a will should make provision for wishes such as whether you want to be buried or cremated, or have your organs donated. It should also include a "living will" - a document that outlines the wishes of an individual should they become medically unfit to act in their own interests. This document is commonly used to specify the course of action, should the person find themselves in a position where they are on life support and thus kept alive artificially. The true value of a living will is that it removes the burden of life support decisions from those close to you, as they would normally be required to make such a decision. It is however important to note that the living will has limited legal standing.

#### **5. HOW DO YOU CHOOSE WHO WILL BE YOUR EXECUTOR?**

Many individuals opt for nominating a family member as the executor (the person responsible for carrying out the wishes in your will), either for cost saving reasons or a lack of trust in institutions. This, however, poses a significant risk as the administration of an estate is a very

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complex and structured process. It requires legal and technical competence in the estates administration field.

Therefore, it is always better to elect a competent company specialising in the management, liquidation and distribution of deceased estates, to act as your executor.

Savings can be made by negotiating the executor's fee upfront, based on the size of your estate. The appointment of a specialist trust company will ensure that the administration process is efficiently managed, that the required regulatory and legislative requirements are complied with, and that the estate is finalised within a reasonable time-frame.

## 6. WHY SHOULD YOU HAVE CASH ON HAND BEFORE YOU DIE?

To ensure yours and your family's financial stability and security, it is important to have a financial plan in place. This need becomes even more apparent in the instance of death. You need to ensure funds are made available to your dependents, to cover expenses in the weeks following your death. Additionally, liquidity in the estate is critical to ensure the effective transfer of your estate.

The simple reason for this is that once financial institutions are notified of the death of an individual, they are required to freeze the accounts. The executor has the power in terms of the act to provide for the immediate maintenance needs of the dependents but, it may take some time to make such arrangements. A provision of two to three months of normal monthly income should be more than adequate to cater for the immediate needs of any dependents, pending the official appointment of an executor.

You can obtain advice and more detailed information from Hewett Wealth directly by calling 010 597 7506 or by emailing [enquiries@hewettwealth.co.za](mailto:enquiries@hewettwealth.co.za)

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