

## **PREVENT UNNECESSARY AND SOMETIMES CATASTROPHIC DELAYS**

### **A) REVISE YOUR WILL REGULARLY, PAYING PARTICULAR ATTENTION TO CORRECT WORDING**

- Do regular estate planning
- Avoid contradictory terms and / or wording
- Regularly revise your will, particularly after:
  - Divorce
  - Deaths
  - Sale / alienation of major assets.
- **ENSURE THAT YOUR NEXT-OF-KIN KNOW WHERE YOUR WILL IS KEPT.**
- **THE CONTENTS OF A WILL ARE CONFIDENTIAL AND NEED NOT BE SHARED WITH ANYBODY.**



### **B) PROCEDURE TO BE FOLLOWED IN THE EVENT OF DEATH IN YOUR FAMILY :**

- Report the estate
  - All the completed and signed documents, death certificate, original will and codicils must be submitted to the Master of the Supreme Court
- The Master of the Supreme Court will then appoint an official Executor
- Delays can be experienced in instances where a valid will does not exist or the nominated Executor does not accept the nomination
- Estate affairs can only be dealt with by the Executor once the Master of the Supreme Court has appointed an Executor
- Avoid delays in reporting the estate by ensuring that all required documents are readily available and handed over to the Executor as a matter of urgency



## **C) AVOIDABLE PROBLEMS EXPERIENCED IN FINALISING AN ESTATE**

### **1. CASHFLOW SHORTAGES**

- Ensure that sufficient cash is available in the estate to cover expenses such as :
  - Outstanding taxes
  - Estate administration costs
  - Creditors up to date of death
  - Executors fees
  - Masters fees
- The Executor must ensure that sufficient cash or other assets are available to cover all estate expenses prior to the transfer of any cash or other assets to beneficiaries.
- A shortfall in available cash funds could lead to estate assets, such as a house, having to be sold by the Executor to cover costs.
- Heirs could also be required to make a cash contribution in order to prevent fixed assets from being sold by the Executor.
- A cashflow shortfall can to a large extent be avoided by ensuring adequate life cover with the estate as the nominated beneficiary.
- It is essential to obtain professional advice to ensure that adequate funds will be available in your estate in the event of your death.

### **2. POOR SERVICE DELIVERY**

- The Executor is dependent on the undermentioned organisations / institutions in the course of handling the estate affairs :
  - The Master of the Supreme Court
  - The Receiver of Revenue – all outstanding personal returns must first be finalised
  - Deeds Office
  - Insurance companies
  - Banks and other financial institutions
  - Accountants of the deceased (where applicable)

- Unqualified / incompetent executor – it is senseless appointing your husband / wife / child as Executor as they do not have the necessary expertise to finalise your estate!

**ULTIMATELY, THIS MIGHT COST YOU MORE THAN THE FIXED PRESCRIBED FEES THAT AN EXECUTOR MAY CHARGE, AS AN APPOINTED AGENT IS NOT RESTRICTED BY WHAT THEY CHARGE.**

**IT IS ESSENTIAL TO APPOINT A QUALIFIED AND EXPERIENCED EXECUTOR FROM THE ONSET**

### **3. MAINTENANCE CLAIMS**

- It can sometimes take months to agree on claim settlements resulting from divorce and maintenance court orders by surviving spouses and dependents.
- This can be avoided to a large extent by agreeing on settlement terms prior to your death.

### **4. DISPUTES BETWEEN HEIRS**

- An inheritance is a privilege rather than a right but often results in disputes between heirs
- This can be prevented to a large extent by avoiding general clauses such as ***“All the furniture to be divided equally between the children”*** and by rather specifying which items should go to which heir

### **5. TESTAMENTARY TRUSTS**

- Ensure as far as possible that qualified and willing Trustees are nominated who will not be disqualified to act as Trustees
- Ensure that sufficient assets are available for transfer to the Trust to cover all trust expenses
- The Executor cannot finalise the estate until all identified assets have been transferred to the Trust
- It is advisable to appoint at least one independent professional Trustee – preferably the Executor, on condition that they have the professional expertise

**6. OTHER PROBLEMS THAT CAN BE EXPERIENCED :**

- Where are the heirs?
- Executor cannot be traced
- Heirs that predecease you – revise your will regularly
- Testamentary provision must be made in the event that any heirs do not accept their inheritance
- Predeceased spouses or divorcees
- Information regarding the estates of any predeceased beneficiaries as well as particulars of all divorce orders must be provided to the Executor
- Provide copies of any collaboration / shareholders' agreements you may have with any other person / persons
- Unresolved court disputes

**The majority of the above problems are avoidable by REGULARLY revising your will and by utilising a qualified Executor to finalise your estate.**

**WE ARE QUALIFIED TO :**

- \* **ASSIST YOU WITH THE COMPILATION OF YOUR WILL**
- \* **ASSIST YOU WITH THE REVISION OF YOUR WILL**
- \* **ACT AS A PROFESSIONAL EXECUTOR**
- \* **ACT AS AN INDEPENDENT PROFESSIONAL TRUSTEE**

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