



# estate planning

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## estate planning

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- ~ not a luxury: an essential component of every person's lifestyle financial plan
- ~ estate planning is a continuous process
- ~ must produce a plan
- ~ maximum enjoyment of assets during life

## estate planning...

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- ~ most beneficial tax (estate duty etc.) structure on death
- ~ long term view – consider all parties to the plan
- ~ focus on the practical issues of the estate plan – keep it simple even if it is a large estate!

## executing your plan: beware...

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- ~ a person may bequeath assets to whomever he chooses, but..
- ~ Maintenance of Surviving Spouses Act
- ~ complicated family/matrimonial relationships - failure to provide adequately for:
  - ~ surviving spouse
  - ~ minor child/ren
  - ~ maintenance claim
- ~ possible consequences?

## beware further...

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- ~ bequest of loan account to a trust
- ~ bequests of assets to spouse (CGT and estate duty) implications
- ~ effects of CGT

## and...

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- ~ insufficient liquidity in estate
- ~ adequate cash for surviving spouse – 3 months
- ~ insurance proceeds may take time to finalise
- ~ own banking account / unit trusts / family trust if in COP
- ~ role of life insurance policies
- ~ pending legislation

## your will

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- ~ “only people with no assets can afford to have a free will”
- ~ a will is the most basic estate planning mechanism
  - ~ ties together the planning
- ~ if there is no will, there can be no estate planning as assets are distributed in terms of law of intestate succession

This applies if there is no will or if the will is invalid!

## your will...

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- ~ is your will valid?
- ~ is your will current? When was it drafted?
- ~ be aware of legislative changes
- ~ where is your original will?
- ~ wills and beneficiary nominations
- ~ 3-month rule relating to divorce

## wills: dealing with minors

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- ~ can appoint a guardian in the will
- ~ natural guardian can receive money or other movables on behalf of the child
- ~ no natural guardian, money paid/proceeds into guardian's fund unless will stipulates otherwise
- ~ What will happen with the proceeds of a policy if the nominated beneficiary is a minor?
- ~ direct provision to a beneficiary who lacks ability to manage own finances should be avoided
- ~ use trusts where minor children

## the executor

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- ~ trust company/bank versus family member
- ~ trusted professional?
- ~ professional and a family member jointly?
- ~ surviving spouse? good idea?
- ~ provision of security

## the executor...

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- ~ executor's duty only to realise assets to extent that need to settle liabilities, unless will directs otherwise
- ~ executor should not sell assets if heirs and legatees are prepared to settle liabilities

## executor's fees

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- ~ maximum at 3,99% (including VAT)
- ~ nominate beneficiaries on policies – keep proceeds outside estate
- ~ you can negotiate lower executor fees
- ~ deductible expense before the calculation of estate duty

## choosing beneficiaries

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- ~ who do you want to benefit?
- ~ proceeds of your retirement fund
- ~ Section 37C of the Pensions Fund Act
  - ~ discretion lies with trustees
- ~ testamentary trust
- ~ letter of wishes to trustees?

## trusts

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- ~ is the use of trusts still appropriate?
- ~ considerations?
- ~ the so-called “family trust”

questions?



thank you

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