

# Costs Associated WITH ADMINISTERING YOUR DECEASED ESTATE

Are you aware of the costs associated with administering a deceased estate and various taxes and liabilities that survive after your death?

That reality can be overwhelming for a surviving spouse or other heirs, so make provision in your estate planning for cash liquidity after your death

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## THE EXECUTOR'S FEE

A tariff which is calculated at 3.5% of the gross asset value of your estate, applicable whether you die with a Will (testate) or without (intestate), as someone has to administer your estate, preferably an experienced professional. Where a relative has been appointed as Executor, attorneys act as agents of the Executor to administer the estate at the 3.5% fee.

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## THE MASTER OF THE HIGH COURT'S ADMINISTRATIVE FEE

This varies between R 600 and R 7,000 depending on the estate value.

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## PROVIDING SECURITY

You should include a clause in your Will to exempt your nominated Executor from providing security to the Master for the fulfillment of this role. If that clause is absent or you die intestate, and if your Executor is not your surviving spouse or one of your children, the Masters' office will require that a bond of security be registered, calculated according to the value of the estate.

The costs of this bond of security are payable by your estate. Also bear in mind that it is difficult for laypersons to obtain bonds of security and the companies granting bonds prefer to issue them to a professional with indemnity cover, such as attorneys.

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## TRANSFER COSTS

If you intend for your heir(s) to inherit your property or properties, and the property won't be sold, the transfer of ownership attracts costs, payable by your estate. There is no Transfer Duty payable to SARS on inheritance transfers, but transfer costs are payable. The standard conveyancing or transfer process also applies to deceased estates, such as obtaining Rates Clearance Certificates, Transfer Duty exemption, drafting of transfer documents and registration at the Deeds Office. If there is insufficient cash in your estate to cover costs, your heir(s) would be asked to contribute to that cash shortfall. If the heir(s) can't cover these costs, the transfer of that property can't take place.

Your Executor and family would be faced with the unfortunate scenario of having to sell some of your assets to cover the shortfall. Your heir(s) may register a bond themselves to raise finance to prevent a sale of estate assets.

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## BOND COSTS

If you have a bond registered against your property which you solely own, that bond has to be settled and cancelled. If there is an amount owing on the bond, and you didn't secure any type of life insurance cover to settle that or other debts, this would need to be paid by your estate. There are also bond cancellation costs to be paid, which are about R 4,500 per bond, excluding any settlement amount.

If you are leaving a bonded property to an heir, and that heir will take over the bond, there are various options:

- If the heir co-owns the property with you, a substitution of debtor application would need to be made, so that the heir becomes the sole mortgagor.
- If the property is registered in your name only, your bond will have to be cancelled and a new bond will have to be registered in the name of the heir taking ownership.

These options attract costs so bear this in mind when you consult with your attorney, and draft your Will.

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## TAXES

Your tax obligations do not cease on your death. Outstanding Income Tax returns, VAT returns and taxes have to be submitted and settled by your Executor. Provide for accounting fees. Post death taxes may be payable, as after your death your estate may receive rental income and returns on investments.

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## CAPITAL GAINS TAX (CGT)

This is a tax payable to SARS, for example on the sale or transfer of an asset that attracts profit, such as a secondary property. The process is simple when your assets are sold, as all taxes and liabilities can be paid from the proceeds. An issue arises when you leave all of those assets to heirs, in which case the Executor requires funds to transfer assets and pay CGT.

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## ESTATE DUTY

A tax payable to SARS if your net estate is valued at more than R 3.5 million. Please discuss with your attorney or accountant the various deemed assets included for Estate Duty calculations, such as certain investments, and offshore asset values if you are a South African resident.

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**EXTRAS**

Provisions for minor or incapacitated heirs such as Testamentary Trusts, attract costs too.

Good estate planning and a well-drafted Will should provide you and your family with peace of mind.

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