

**PLANNING**

**YOUR ESTATE**

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Firm

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By understanding our clients' needs and objectives, we strive to deliver cost-effective legal solutions for all business and personal matters. We are committed to developing close working relationships with our clients, enabling us to succeed consistently on their behalf.



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# HOW IMPORTANT IS A WILL?

To ensure that your estate is administered efficiently, cost-effectively, and with minimum delays for your chosen beneficiaries, it is important that you draw up a valid will and you seek professional advice in doing so.


Your will must consider many things, the most obvious being the nomination of heirs and the appointment of an executor to administer your estate.

A will trust can be created to control any assets being awarded to a minor child. It is also possible to stipulate your choice of guardian to care for your minor children in the event of your untimely death.

However, issues which are less apparent but of paramount importance should always be considered in conjunction with the drafting of your will. These include:

- Will there be sufficient liquidity in your estate to pay your debts and at the same time provide for the financial security of your family?
- Do you have business interests which may be vulnerable?
- Can estate duty be minimised?
- Is your mortgage bond covered by insurance?
- If applicable, where will the funds come from to meet your obligations in terms of a divorce order?
- What are the capital gains tax implications?
- Is your will correctly structured to cover your offshore assets?

If you have an *inter vivos* trust, which is set up during your lifetime, the trust deed may need to be reviewed, particularly with regard to the appointment of suitable trustees to manage the trust after your death.



Any or all of these aspects may have relevance for you. By seeking the best possible professional assistance, you will be able to identify problem areas, investigate solutions, and achieve the peace of mind of knowing that you have done everything possible to streamline your financial affairs and ensure that your will is a sound legal document.

**SHOULD YOUR WILL BE REVIEWED REGULARLY?**

Yes. Events which shape one's life, such as marriage, the purchase of a property, birth of a child, death of a loved one, a divorce or emigration, all lead to a change in personal circumstances which may require the updating of your will. Our fees for will preparation are competitive and we will not charge you for holding your original will in safe custody.


**SHOULD YOU CREATE A WILL TRUST?**

A will trust or testamentary trust, as the name implies, can be created in terms of your will and does not require any further formalities. Such a trust comes into operation upon your death and may have various advantages. For example:

- You can ensure that minor beneficiaries receive their inheritance at an age when you feel they will be sufficiently responsible to manage it.
- You can protect your surviving spouse and children by ensuring that they receive income or capital in predetermined amounts.

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- In situations where it is desirable to bequeath a right to receive an income from specified assets to a beneficiary, while at the same time safely preserving the capital of the trust for the benefit of the beneficiaries who will ultimately inherit the actual assets concerned, a testamentary trust can be an ideal solution.

### **WHAT IS AN *INTER VIVOS* TRUST AND HOW CAN IT BENEFIT YOU?**

An *inter vivos* trust is an entity which is set up by you during your lifetime and is effective as soon as you have complied with certain formalities and registered the trust at the office of the Master of the High Court.

Such a trust can be a useful tool in planning your estate with a view to minimising the estate duty that is payable on your death. Estate duty is currently payable at the rate of 20% on the amount by which the value of your net estate exceeds R3.5 million and 25% on the portion of such net value which exceeds R30m, subject to certain rebates.

By acquiring assets in the name of an *inter vivos* trust as opposed to in your personal capacity, you can ensure that any increase in the value of such assets over the years will be the property of the trust and won't form part of your dutiable estate. In addition, it is advisable to periodically review your existing *inter vivos* trust deed so that any potentially problematic areas can be identified and rectified where necessary.

We are able to advise you whether, depending on your personal circumstances, the creation of an *inter vivos* trust would be advantageous.



# HOW IS A DECEASED ESTATE WOUND UP?

The Administration of Deceased Estates Act prescribes the formal procedure which must be followed when winding up a deceased estate.

The executor nominated in the will must make application to the Master of the High Court for Letters of Executorship to be granted in their favour. No executor has any power to act on behalf of an estate before they have been issued with this document.

An executor who is not proficient in estate administration normally chooses a professional agent (often an attorney) to assist them with the application to the Master and to attend to the administration process on their behalf.

The executor must attend to the following:

- Handling each asset forming part of the estate in an appropriate manner;
- Settling all liabilities;
- Obtaining all necessary tax clearances, i.e. estate duty, income tax, and capital gains tax;
- Complying with the provisions of the Administration of Deceased Estates Act, including the placing of statutory advertisements and formal accounting to the Master;
- Communication with the heirs and all other interested parties;
- Collection and investment of all cash forming part of the estate; and
- Payment and transfer of inheritances to the heirs entitled to same.





## **CAN THE EXECUTOR'S FEES BE NEGOTIATED?**

Yes, this is always possible.

## **LET US ASSIST YOU**

Our Deceased Estates Administration department specialises in the administration of deceased estates and offers a professional, efficient, personalised, and cost-effective service.

**For assistance, contact us at:**

**E:** [estates@stbb.co.za](mailto:estates@stbb.co.za)

**T:** 021 673 4700

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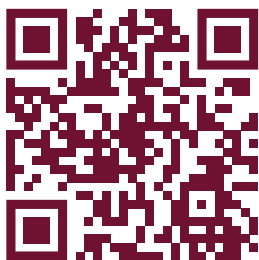
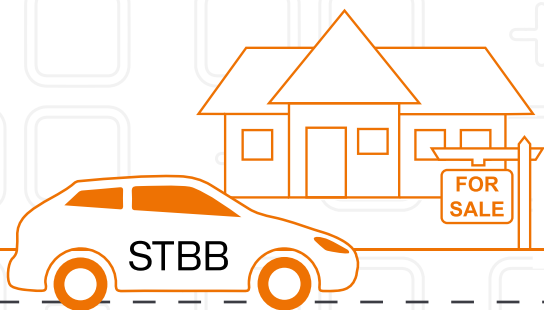
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