

OCTOBER 2016**ESTATE PLANNING AND TESTAMENTS**

Do you know where your testament is? Have you setup a new testament after your divorce? Have you ever done a proper Estate Planning?

As this year draws to a close; your testament is probably the last thing on your mind. Yet, the time you spend on it now, can make the lives of your heirs so much easier. Don't spend a lifetime building up your estate, but no time and money on setting up a professional testament and plan for your estate.

It is important to decide whether your wishes are practically feasible and if there is enough money to pay for the administration process.

The first important aspect is to appoint an executor. The following points must be considered when choosing such a person:

- Does the person know the situation of the Testator / Testatrix?
- Does the person have experience in administering an estate? It does not help to appoint your spouse/spouses if the person has no experience. Usually a person does not make the best decisions during the grieving process; therefore my advice is to give the person time to grieve without this added responsibility.
- Do you trust the person enough that he/she will adhere to your wishes and will complete the estate as soon as possible in order to relieve the financial concerns of the heirs?

Secondly, it's important to plan for the estate. Remember estate planning is adjustments you make while you are still alive, in order to ease the tax on the estate and to administer the estate cost effectively. Planning for provision for your retirement also needs to be done. The following issues need to be considered:

- Do you own a business? Make sure the heir is someone who has knowledge of your business and will run the business in a profitable way. Key personnel members also need to be considered. Competitive businesses can easily grab these personnel; which will mean that your business needs to close or the value will decrease. If your heir cannot continue the business, then consider setting up a buy-and-sell policy in the name of key personnel so that such a person can continue running the business and the income from the policy can be paid to your beneficiary/heir.
- You know those in your family who can work together doing business and who cannot. Make sure your decisions keeps harmony in the family.

- The following also needs to be considered:

- Asset protection.
- Liquidation of the estate i.e. is there enough money in the estate to transfer fixed property.
- Control versus flexibility. This means that you never give up control of your assets (for example, assets donated to a Trust) to save on tax, rather pay the tax.
- Capital gains tax and other taxes must be considered so that heirs do not have to pay these taxes

Thirdly, the following points need to be considered with regard to the Testament:

- Don't control from the grave. This puts too much stress on heirs.
- Appoint guardians for minor children
- If possible avoid usufructs.
- Don't allow fixed property to be inherited by more than one person. It's better to let a trust inherit the property and that the heirs become the beneficiaries of the trust.
- Make sure your testament is valid. If the testament is invalid then you will pass away intestate.
- Specific wishes; for example organ donation, must be stipulated in the testament.

Remember to ask your executor for advice regarding a "living will", regarding your wishes for end-of-life matters when you're not capable of making your own decisions.

In conclusion, remember that each testament needs to be revised annually.

Contributed by: Sonja Steenkamp, Professional Accountant SA, Professional Tax Specialist SA

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