

12 interesting facts and tips on Estate Duty and other matters related to wills and deceased estates

1. Neither Estate Duty nor Capital Gains Tax is payable on the inheritance of the surviving spouse.
2. You can prevent assets from being attached by creditors of an insolvent heir by adding an appropriate paragraph to your will.
3. Cash inheritances of minor children are payable to the Guardians Fund of the Government, except if the will caters for a trust.
4. The surviving spouse can claim maintenance from the deceased estate in terms of the Maintenance of Surviving Spouses Act, 1990.
5. An invalid will, for example where only one witness signed the document, can be declared valid by the court.
6. You should have a separate will for your overseas assets.
7. There are disputes between children in a large percentage of deceased estates. Discussing your will with your children can help prevent this.
8. The primary rebate for Estate Duty is R3.5m. This amount is increased to R7m in the estate of the surviving spouse if the latter inherited everything from the first-dying spouse. Estate duty is calculated at 20% on the net value of the deceased estate exceeding the primary rebate, which will be between R3.5m and R7m. Certain exemptions, however, do apply.
9. Heirs of a deceased estate can enter into a redistribution agreement, which differs from the division in the will, to achieve an allocation of the assets which all of them are happy with.
10. Most people underestimate the values of their estate for Estate Duty purposes mainly because they do not realise that the proceeds of life insurance policies are relevant in this regard.
11. If you pass away without a will, the Intestate Succession Act, 1987 determines who the heirs of your estate will be. The provisions of the Act will often not be in line with your wishes.
12. Make sure that you nominated the right persons as executors, guardians

of your minor children as well as trustees of your family trust or trust for minor children. They all play an important role.

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