



The importance of having a last will and testament

If we were to single out one important wealth aspect that was of utmost importance during this ongoing COVID-19 pandemic, it is the absolute necessity of having a valid last will and testament at the time of death. To have witnessed the utter pandemonium amongst family members as a result of an absent valid will, especially at a grievous time when loved ones need to be there for one another, incited us to caution our clients to ensure they have a valid last will and testament.

Perhaps the most fitting way to initiate this word of caution is to explain what precisely the implications of not having a valid will are. Should you pass on without a will or valid will, then your estate may not be dealt with as you would have wanted it to, but rather be considered 'intestate' and hence administered in terms of the Intestate Succession Ordinance. You will thus have relinquished your right to dictate how your assets should be handled with the result of your estate, as well as your heirs, to be at the mercy of the explicit legal commandments as specified by this regulation. The outcome of this statutory process may be vastly different from what you may have envisaged and could ultimately influence your legacy as well as the way in which you will be remembered by your nearest and dearest.

This unfortunate process is also not only for those without a will, but as indicated above, it extends to invalid wills as well. So what precisely constitutes a valid will? A will is a legal document that specifies how your estate is to be distributed, it appoints an executor to manage the distribution process and also appoints guardians for your children. There are various factors that consider a will to be invalid for instance it not being signed in the right manner, it is not witnessed by two competent witnesses or heirs who signed as witnesses, which will be disqualified of inheriting to name but a few.

To prevent this unfortunate circumstance of not having a valid will at the time of death, we want to urge our clients that are not entirely certain of the status of their will to take the following advice to heart in order to ensure that they have a valid will that is relevant to their needs and situation.


An appropriate and valid will is not possible without a proper process which includes the culmination of well thought through steps, carefully directed by knowledgeable experts after gaining an intimate insight into your affairs. At Capricorn Private Wealth, a joined offering of Bank Windhoek and Capricorn Asset Management, we have dedicated experts that are ready to assist our clients in getting their affairs in order. In order for them to have a meaningful discussion, you will have to think about the following questions:

1. Who will manage your assets in your estate?

You may decide who will handle your estate and you have the opportunity to nominate an 'executor'. This is the person who will be in charge of wrapping up all your affairs. When selecting an executor ensure you select someone or an entity you trust and will be able to handle your financial matters prudently. The responsibilities may include everything from closing bank accounts, transfer property or liquidating assets and should hence be given to someone who has the relevant knowledge and experience. Capricorn Asset Management may be appointed as the executor of your estate.

2. Who will inherit your assets and who not?

As mentioned already, a will lets you decide who will get your assets at the time of your, the testator's, death. As the testator, you may name people or other legal entities as beneficiaries of your specific assets. You may also name beneficiaries for any property that is not specifically mentioned in your will. These assets will form the "residue" of your



estate. When your executor handles your will, they'll be in charge of distributing these assets. With a valid will, you can ensure that some or part of your assets are not distributed to unwanted persons (e.g. an alienated spouse) whereas such persons may well be heirs in outdated wills or intestate estates.

3. Who will take care of your minor children (if any)?

If you are a parent, you can use your will to nominate a 'guardian' for your minor children. A guardian will be responsible for all your children's daily needs, including food, housing, health care, education and clothing. If you fail to nominate a guardian and there is a family dispute, a court will have to choose one for you. This could mean that someone you would not have chosen will end up raising your children. With a will, you can also prevent your cash from being paid to the Guardians Fund by protecting your minor children's inheritance in the form of a trust.

4. Who will look after your pets?

Not many people are aware that you can make sure that someone takes care of your pet after you pass on by naming a beneficiary for your pet. You may even leave them funds to provide for your pet's care.

5. What should happen at your funeral?

A will is an excellent way to provide instructions for your funeral should you wish to do so. Although you may not want to think about your funeral now, to leave instructions with your will can lessen the burden on your loved ones after you pass on.

The ultimate purpose of estate planning is to transfer your wealth to the next generation or nominated heirs in the most economical, tax-friendly and efficient manner and a valid will is an integral part of this. By ensuring that you have a valid will, you will save time, money, and stress for your loved ones who will already be going through a difficult period. Assets in foreign countries may pose additional complexities and even incur inheritance tax from such jurisdictions.

Furthermore, if you have complicated family dynamics, this is another particularly good reason to have an appropriate will. Without a proper and valid will, ambiguity may arise that will most likely create friction amongst relatives which sometimes can last a lifetime. Legal claims against the estate is often then a nasty reality. A valid will solves this problem by eliminating uncertainty and providing all heirs comfort in knowing that the testator's wishes were observed. To leave your loved ones with a valid will can be seen as a final act of love and it's not only just for people with vast estates.

We also highly advise our clients to communicate properly to all loved ones and heirs. It could prevent uncertainty or even negativity if they are well informed of your wishes while you are still alive.

While the entire concept of creating a valid will may seem challenging, with the assistance of our professional fiduciary team, the entire process will be manageable and will provide you with peace of mind that your loved ones will be well looked after.

Should you have any queries or need our assistance to draft or review your last will and testament, please contact our dedicated wealth team at 061-299 1950 or email us at wealth.privatewealth@capricorn.com.na