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Executors' Fees

The Administration of Deceased Estates Act allows an executor to charge fees up to an amount of 3,99% (including VAT) on the gross asset value of the estate.

Clients typically do not negotiate executors' fees upfront, but rather leave surviving family members to deal with this issue after death – if at all. Most executors will only consider a reduced fee if requested by the beneficiaries.

However, Glacier / Sanlam will invite clients to negotiate fees upfront. The negotiated fee is then written into the Will which binds the executor.

Aspects that can have an affect on executors' fees

- By nominating beneficiaries on life policies, clients will avoid paying executors' fees where the estate is not the recipient of the funds. An executor will take fees on all the assets that are reflected in the Liquidation and Distribution account. When giving clients this advice, one should always consider the liquidity of the estate as, generally speaking, it is a lot easier and more cost effective to use life insurance than to sell assets, in cases where there is insufficient liquidity in an estate.
- There are several disadvantages to selling off assets to meet estate expenses.

These include:

- The assets are lost.
- The disposal may, depending on the asset, be subject to Capital Gains Tax, thereby increasing the need for liquidity in the estate.
- It may not be an opportune time to dispose of assets. Imagine selling shares at the bottom of current market conditions.
- Clients may want to make specific bequests in their Wills, for instance leaving a valuable antique to a son or daughter. Where there are specific bequests in a Will, the executor is forced to place a value on each of these bequests. In these instances a valuator is called on to value the assets. The result is that the assets will, in most cases, be

given a higher valuation and there will also be the added cost of the valuator's service.

The cost of the valuator needs to be borne in mind when determining liquidity in estate. One also has to consider whether the estate is dutiable or if the beneficiaries are minors, as in these cases the executor will be required to send a valuator to value all assets.

- Clients are sometimes under the impression that if they nominate the surviving spouse or a child, they do not have to pay executors' fees. Any estate with a gross value of R125 000 and above has to be accounted for at the Master of the High Court in the form of a Liquidation and Distribution account. The Master will then appoint the surviving spouse or child as the executor but will insist on an agent to be appointed to assist the spouse or child.
- Regulation 910 of the Administration of Deceased Estates Act states that only a chartered accountant, attorney or a trust company can be appointed in this capacity. The agent will also, in almost all cases, insist on doing the administration of the estate as he/she has the expertise and will be able to charge an executor's fee - or at least - a reduced executor's fee.
- This places the spouse or child in the position of having to first find an appropriate agent and then to negotiate fees with companies, placing further burden on them during a time of bereavement. o Finally, a policy beneficiary nomination does not exclude the policy from Estate Duty.

Any queries may be directed to: Eugene Ward (041) 365 1303
