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Five things to consider for your estate planning during the festive season

10 December 2020 – As we reach the end of the year and prepare for much needed rest and relaxation it would be worthwhile to add a few estate planning considerations on your December to-do list. Pausing to consider issues that might impact you and your family in the short and long term, is important.

There are many myths associated with Estate Planning and one such myth is that its only for the wealthy. “In fact, estate planning is for everyone and people can benefit from ensuring their assets and finances are properly taken care of after their death. In addition, estate planning involves giving permission to family members or an Executor to carry out your wishes if you become incapacitated while you still alive,” said Matlhodi Leteane, Head of Operations, FNB Fiduciary.

Leteane advises on the five considerations that will help you get started and thinking on your estate planning needs and requirements:

1. Is your Will in place and valid?

- This is a crucial start as people simply neglect or ignore the importance of having a valid Will in place. A Will is a simple document that contains all your wishes for your loved ones.
- Sit down and take time to review the assets and investments that you have accumulated and decide who you would like to leave these to.
- If you already have a valid Will, review and check whether your circumstances have changed. These changes need to be factored into your Will

2. Do you have a Trust?

- A consideration is to open a Trust if you have a large portfolio or asset base. It may sound complicated or expensive, but with the proper guidelines and advise – you can establish your own Trust.



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- A Will combined with a Trust should be the main components of every estate plan. This ensures that your assets, investments and generational wealth is preserved and distributed according to an individual's wishes (if drafted according to state laws).
- Some trusts help limit estate taxes or legal challenges. However, simply having a will or trust isn't enough. The wording of the document is critically important.

3. Are you happy with your selected beneficiaries or guardians nominated to look after minor beneficiaries of your estate?

- As we mature and our circumstances in life change, it is worthwhile to review your Will and decide whether you are still happy with your selected beneficiaries in your Will.
- If the beneficiary is deceased, that portion that would have been due a deceased beneficiary, may devolve in a term of the Intestate Succession Law if the Will does not make provision for Substitute beneficiaries.
- If you have minor children or are considering having kids, picking a guardian is incredibly important and sometimes overlooked. Make sure the individual or couple you choose shares your views and values, is financially sound, and is genuinely willing to raise children. As with all designations, a backup or contingent guardian should be named as well.

4. Have you drafted your letter of intent?

- A letter of intent is simply a document that you have drafted to your executor or a beneficiary. The purpose of the letter is to define what you want to be done with a particular asset after your death or incapacitation. Some letters of intent also provide funeral details or other special requests.
- It has been said that this document may not be valid in the eyes of the law, but this helps inform a probate judge of your intentions and may help in the distribution of your assets if the Will is deemed invalid for some reason.

5. Do you have a Power of Attorney?

- Power of attorney (POA) is an agent or a person you need to assign so that they will act on your behalf when you are unable to do so yourself.
- If you don't have a POA, the court will be left to decide what happens to your assets if you or your beneficiaries are found to be incapable of looking after your assets, and the court's decision may not be how you wanted your wishes to be carried out. It is important to mention that a POA will cease to be valid if the principal (the person signing the POA) is to suffer from mental incapacity.



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“The above-mentioned considerations should be considered and weighed up against your current Will or Estate plan. Should you be unsure of how to carry out your wishes consult a certified financial advisor from your bank or legal professional personnel who can guide you in this process,” Leteane added.

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