

- **Q: Please would you introduce the wills and estate planning topic for us today.**

At the beginning of the series, there was a set agenda to discuss how insurance can cover our own lives and that of loved ones. We want to make sure that insurance, and all the complex terms and product options, are made as simple as possible to understand so that we can all ultimately focus on what really matters: enjoying life and time with our loved ones. Having a will in place is a vital component to having that peace of mind and knowing that were something to happen to you, your family would be taken care of.

So, what is a will then? A will is a legal document to help you pass on your money, property and possessions – known as your estate – to your loved ones after you die. It sets out how your finances will be divided.

Without a will, your assets will be distributed in terms of the Intestate Succession Act of 1987, which means that assets or finances in your will might not go to the people or organizations you would actually like them to. This can also be a very lengthy process in comparison to having a will in place.

- **Q: I have always seen and heard about wills in the movies, but what does a will actually do? And what can it actually help with?**

When you make a will, you'll need to decide how you'd like your estate to be shared out and which people or organisations you would like to leave something to. To do this you need to list what assets you have and what they are roughly worth. An example of the types of assets usually included in a will:

- Your home and any other property.
- Any savings, pension funds, stocks or other investments.
- Your business if you own or part-own one.
- Cars, jewellery, family heirlooms, general household contents.
- Any sentimental items you want particular people to inherit.
- Any outstanding debts you may have, home loans, credit card loans.

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A will is not just for explaining how you'd like your assets to be shared out. It can also:

- Name a guardian who'll look after your children or step-children under the age of 18.
 - Stating what happens if any or all of the people you've named to inherit your assets pass away before you do.
 - Naming executors (the people you task with sorting out the estate and administering it) - an executor of a will can be a friend or relative, a bank, or an appropriate professional.
 - Documenting other wishes you may have, for example, your funeral arrangements, or who looks after your surviving pets.
- **Q: We have had plenty of detailed discussions around life cover and some of the different options available and how they could assist us in having peace of mind. If I have life insurance, do I still need a will? What happens to my life insurance payout were I to pass away with or without a will?**

Excellent question. Firstly, yes, if you have life insurance or a will you may very well still need the other. These are two separate documents related to that peace of mind in knowing your loved ones would be taken care of were you no longer around.

With life insurance you can either name a beneficiary, or you can choose for the pay out to go to your estate to be distributed as part of your will. If you name an individual as your beneficiary on your life insurance, the pay out should reach them faster than it would through a will and estate process. There are also likely to be some tax implications in deciding to include the payout in your estate. But some people choose their estate to be the life insurance beneficiary, so the pay out can be used for things like paying off outstanding debts and so on.

As a will and a life insurance policy are separate legal documents, it is possible for someone to be named as a beneficiary on your life insurance policy, but not on your will. If this happens, the money will most likely be distributed as specified in those two documents. So, it would be advisable to mention your life insurance in your will, and explain who the beneficiary is, and even how you'd like the money to be spent.

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- **Q: I question I have heard asked when it comes to wills and estates is this thing called estate duty. What exactly is that and does it have any effect on my life insurance policy?**

As we have said already, when a person dies, all of their assets are placed in an estate which is then handled by an Executor (someone who will handle the distribution of the assets). Most people choose to do this through a legally recognised will, a financial institution, or allowing the state to determine how their assets get distributed. These assets can include and are not limited to immovable property such as a house, movable property including furniture, cars, technological devices, money in the bank, investments, and (importantly) life insurance policies. The impact of estate duty on a life insurance policy can affect the payout that is meant to be received by the beneficiary. However, this may not always be the case.

Various deductions are placed on the estate under section 4 of the Estate Duty Act (1995) which determines the net value of the estate, which can have an impact on any payouts that are made to beneficiaries. So, how will this impact your life cover?

What determines whether you will pay estate duty on your life cover is how much you will have left after these deductions have been made. The duty is levied at 20 or 30% depending on the total value of the estate. People who have less than R3.5 million left will not be affected by this. This really means people who have a life insurance payout of R3.5 million - R30 million and more will be liable to pay the Estate duty.

The next question one might as is then: Are beneficiaries responsible for paying estate duty? There is a chance that a beneficiary will be affected by this duty should you fall into the tax bracket that holds you liable for estate duty. It is crucial to keep in mind that any assets, debt or payments that need to be made will impact your loved ones after you pass away. If you are unsure or want to learn more about how estate duty may affect your estate or life insurance claim, make contact with a financial advisor.

- **Q: I am sure plenty of listeners are hearing this right now and realizing they need to get a will in place for themselves today! Do you have a few short and simple tips that you can share on wills and getting one set up?**

Good question! Let's look at five simple things to keep in mind for your will:

1. Your will must be valid to be implemented. In South Africa, that means your will must be in a written form, initialled and signed in the presence of two witnesses that are not executors or will inherit.
2. It can be a good idea to get your assets valued when you write or update your will as their value can change over time.

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3. Keep your will safe and where it can be easily found. This can be at home, with your bank, a lawyer or notary, or even a dedicated will storage company.
 4. It's also vital you let the relevant people (family, friends, and/or executor) know where to find your will and that they are included in your will in one role or another.
 5. If you want to get the process started to compile your first will, you can make contact with a financial advisor or planner, a law firm or notaries, selected banks, insurers and investment houses also offer drafting and curating wills as a service.
- **Q: Before we let you go, I have one final question for you that I think many listeners may be interested to understand a little better. How does customary law in South Africa affect how I should be thinking about my will or estate planning?**

Excellent question! We do not have too much time left for today, but I will quickly share some insight into African customary law as well as persons married in terms of Muslim and Hindu religious rites.

1. What is the position with regard to African to customary marriage?

A party in a subsisting customary marriage which is recognized in terms of section 2 of the Recognition of Customary Marriages Act, 120 of 1998 is also a spouse for intestate succession purposes. These marriages include customary marriages which were validly concluded before the Act came into operation, and which still existed at the commencement of the Act (15 November 2000) as well as marriages concluded in terms of the provisions of the Act after the commencement of the Act.

2. What is the position with regard to persons married in terms of Muslim and Hindu religious rites?

Persons married in terms of Muslim and Hindu religious rites are regarded as spouses for purposes of intestate succession and are entitled to inherit from their deceased partner in terms of the Intestate Succession Act, despite the fact that their "marriage" is not recognised as a valid marriage in terms of our current law of Persons who died before 1 December 2006, and are regarded as "spouses" for purposes of intestate succession

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