



► Structuring your wealth

Estate planning

What it involves, why it's important and practical tips to help your loved ones.

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Overview

Click on the icons to find out more



What estate planning involves

- 1 Structuring your wealth optimally for both during your lifetime and after your death.
- 2 Planning for all life events such as marriage, the birth of a child, divorce and death.
- 3 Understanding the financial impact of death, ie the costs that will apply.
- 4 Making provision for these costs.
- 5 Having a valid, up-to-date and executable will to ensure that the right people benefit from your wealth.



Why estate planning is important

- Have peace of mind that the way your wealth is structured allows for changes over time and that it provides protection against risks such as creditor risk.
- Have peace of mind that your wealth will devolve as you intended if you pass away.
- Protect your beneficiaries and children and any other vulnerable members of your family.
- Ensure cost and time efficiency by avoiding unnecessary delays in payouts and minimising costs such as taxes.



Practical tips to make it easier for your loved ones

- 1 Make sure you have a valid, up-to-date and executable will.
- 2 Give your loved ones access to your information.
- 3 Help them understand what to do and expect.

How you can put the necessary plans in place.

Our specialist support

- Your wealth manager
- Fiduciary specialist

Estate planning tools

- Wills
- Trusts
- Donations
- Life insurance policies
- Retirement saving vehicles
- Your marital regime

We recommend seeking professional advice on your specific situation.



This document sets out the basic principles of estate planning. To put the necessary plans and structures in place based on your specific needs and circumstances you need personal and expert advice. We have the expertise to help.

- If you are an existing client, please speak to your relationship manager about putting you in touch with one of our fiduciary specialists.
- If you are not a client yet but are interested in becoming one and benefitting from our expertise, please contact us on 0800 111 263 or at contact@nedbankprivatewealth.co.za.

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What estate planning involves

i At its core, estate planning is about protecting your own and your loved ones' interests.

Since everyone's circumstances, family set-up and needs are different, your estate and succession plan will be different from someone else's. That is why it is important to get personal advice on your specific situation. However, the 5 points in this section set out the key objectives that form the foundation of any estate plan.

2.1 Structuring your wealth optimally

There are different ways to structure your South African and international assets for during and after your lifetime.







These include the following:

- 1**
Sole name
Owning the asset in your name only.
- 2**
Joint name (applies to tangible assets only, eg fixed property)
Co-owning the asset with someone else.
- 3**
Multiple names (international assets only)
Co-owning the asset with more than 1 person.
- 4**
Trust
Setting up a trust and placing the asset in the trust.
- 5**
Company
Registering a company and holding shares in the company in your personal capacity.
- 6**
Trust and company
Setting up a trust and using the trust to fund a company through a loan or issuing shares, with the trust as the shareholder.

These ownership options all have different estate- and tax-planning consequences.

The ownership structure determines, for example, how your assets will be distributed after your death, and whether you can make provision for your dependants. To make an informed decision about which ownership option may be best for you, it is important to understand the impact of each (as summarised in the table on the next page) and get professional advice.



Factors to consider	What it refers to	How relevant is it for you?
 <p>Continuity</p>	<p>The extent to which significant events such as liquidation or death can disrupt the continued management of, or access to your assets.</p>	<p>Is it important that you and/or your family retain access to and control over these assets if you face liquidation or if you pass away?</p>
 <p>Effective distribution of your assets after death</p>	<p>The process and timeframe related to how your assets will be distributed after your death. For example, assets included in your estate may be frozen for some time before your beneficiaries can access the assets and there are costs involved in winding up your estate.</p>	<p>Do you have certain requirements or limits relating to access to your assets on your death, eg is it important that your family get immediate access to your assets?</p>
 <p>Protection of your dependants</p>	<p>The extent to which minors or those with disabilities are financially protected, and to which education planning and intergenerational wealth transfer is supported.</p>	<p>Do you have dependants who require your financial support now and in the future?</p>
 <p>Protection of your assets from seizure</p>	<p>The legal ownership (structure) of your assets and the associated level of protection from government and creditor risks.</p>	<p>Is it important for you to protect your assets from possible seizure by government or creditors in case you become insolvent?</p>
 <p>Tax and tax administration</p>	<p>The potential tax rates and associated tax risks that apply, and the tax administration requirements and responsibilities.</p>	<p>Are you aware of the tax consequences of the ownership choices and which ones are most tax-efficient? Do you have the knowledge and capacity to deal with complex tax administration, or do you have access to expertise and support?</p>
 <p>Flexibility</p>	<p>The extent to which the ownership structure allows for changes in your circumstances, regulations and best practice over time.</p>	<p>Is it important to you that the structure can adapt to changes in your personal circumstances or changes to industry regulations over time?</p>

2.2 Planning for all life events

Planning for significant life events helps ensure that your wealth is structured optimally for these events and their impact.

Whether these events are predictable and within your control, such as getting married, or unpredictable and out of your control, such as being in an accident and becoming incapacitated, putting the right plans in place can help ensure that you and your loved ones make the most of your wealth the way you intended, whatever happens. Below are a few examples:



Getting married

Your marital status, ie whether you are married:

- in or out of community of property; and
- with or without the application of the accrual system;

will determine how your assets are distributed between you and your spouse in the case of divorce or death.



Changes in your family circumstances

Whether it is the birth of your child, getting divorced, getting married again after divorce, or having more children from a second marriage, your estate plan should reflect these circumstances for both:

- during your lifetime, eg making provision for a child's education or providing for maintenance; and
- after your lifetime, eg ensuring that your will makes it clear who should benefit from your wealth to avoid family disputes.



Becoming incapacitated or passing away

If you become incapacitated and are no longer able to earn an income, or if you pass away, the financial impact on your loved ones can be severe, in addition to the emotional difficulties they would already be facing. Planning for uninterrupted access to your finances and ensuring that you have a valid, up-to-date and executable will can help avoid financial disaster for you and your family.

We also provide some practical tips on how you can help your loved ones be prepared for the situation of death and incapacity on page 9.

2.3 Understanding the financial impact of death

- **Immediate costs:** For example, funeral costs.
- **Settling outstanding debt and liabilities:** For example, any amounts still owing on your home loan.
- **Taxes:** For example, estate duty and capital gains tax.
- **Estate administration fees:** For example, executor fees.

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2.4 Making provision for the costs of dying

To cover the costs of dying will require 2 things:

- 1 cash; and
- 2 assets that can be converted to cash easily.

This is known as your liquidity position.

i What happens if you don't have enough cash or liquid assets to cover the costs?

If you have a shortfall, some of your assets would have to be sold to cover the costs, putting your loved ones at financial risk. However, there are ways to avoid this, including the following:

- Make regular contributions to your cash reserves to grow these or increase the assets that can easily be converted to cash.
- Take out a life insurance policy that pays out immediately to your beneficiaries on your death, bypassing the estate.
- Set up separate emergency accounts for your loved ones and make regular deposits into these accounts to give them immediate and easy access to extra cash.

2.5 Having a valid, up-to-date and executable will



Why is this important?

A **valid, up-to-date and executable will*** ensures that your wishes are clear and that the right people benefit from your wealth.

What happens if you pass away without a valid will?

If you pass away without a valid will, your wishes may be ignored. You will die intestate, which may have the following consequences:

- Your loved ones may not receive the assets you wished them to have.
- There could be serious delays in the administration of your estate.
- It could lead to conflict between your family members and dependants.

* What does this mean?

Your will must be:

- **valid** by fulfilling the necessary legal requirements, eg it must be in writing; and
- **up to date** by reflecting your **latest** circumstances, eg your marital status or a new business venture.





Why estate planning is important



Peace of mind

- Have peace of mind that your wealth is structured in a way that allows for changes in your circumstances, regulations and best practice over time and that it provides protection against risks. For example, using a trust to house your assets can help protect your assets from seizure by the government or creditors in the case of insolvency.
- Be confident that, in the case of death, your wealth will devolve as you intended, instead of the government deciding what happens to your assets.



Protect your beneficiaries, children and other vulnerable family members

- Prevent your loved ones from being forced to sell assets to cover expenses and costs.
- Minimise your loved ones' financial stress during what will already be an emotionally difficult time.



Time- and cost-efficiency

- Avoid an unnecessary delay in the payouts of assets and inheritances by ensuring that your wealth structures and the administration of your estate are as efficient as possible.
- Minimise costs such as taxes.

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Practical tips to make it easier for your loved ones

4.1 Make sure that you have a valid, up-to-date and executable will

If you pass away without a valid will, your wishes may be ignored. You will die intestate, which may have the following consequences:

- Your loved ones may not receive the assets that you wished them to have.
- There could be serious delays in the administration of your estate.
- It could lead to conflict between your family members and dependants.

4.2 Give your loved ones access to your information

Record and collate the information and documents that are critical to managing your affairs and share this with your loved ones, for example:

i General information and inventories

- **Regular expenses**
An inventory of all regular expenses (how much, from which account, how and when paid), including the relevant supporting documentation and contact details (eg a rental contract and the contact details of the landlord).
- **Bank and investment accounts**
An inventory of your bank and investment accounts with login details (usernames, passwords and PINs) and any other assets, eg property.
- **Contact details of key people**
Contact details of the key people involved in your financial affairs, eg your wealth manager and attorney.
- **Digital assets**
An inventory of all your digital assets and accounts with login details, indicating which of these have a monetary value, eg cryptocurrency accounts. It is also advisable to familiarise yourself with the terms and conditions of your online accounts and to specify your digital assets in your will.

Documents that may be requested as part of the estate administration process

These can include:

- ✓ Your ID
- ✓ Marriage certificate
- ✓ Original antenuptial contract
- ✓ Divorce order
- ✓ Predeceased spouse's death certificate
- ✓ Details of your heir(s) and their FICA documents
- ✓ Title deed(s) for fixed properties
- ✓ Vehicle registration certificates
- ✓ Copies of firearm licences
- ✓ Policies payable to the estate
- ✓ Short-term insurance details
- ✓ Details of all assets or investments
- ✓ Share certificates
- ✓ Timeshare certificates
- ✓ Liabilities and debts
- ✓ Income tax details

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4.3 Help your loved ones understand what to expect and what they need to do

Talk your loved ones through the processes that will apply in case of your death or if you become incapacitated, and give them easy access to this information:

If you pass away	
What they need to know about access to money	<p>Your bank and investment accounts will be frozen as soon as the death is reported.</p> <p>It is only once the executor has been appointed (which can be up to 8 weeks following the death) that they can:</p> <ul style="list-style-type: none">• open a new bank account in the name of the estate and transfer money from your bank account into the new bank account; and• consider interim advances against an inheritance. <div data-bbox="1451 475 1915 719"><p>i This is why it's important to make provision for immediate expenses and cash reserves – click here for ideas on how to ensure that your loved ones have access to sufficient cash.</p></div>
Actions they need to take	<p>Report the death.</p> <p>1 Report the death to any of the following people:</p> <ul style="list-style-type: none">• Specific officers at the Department of Home Affairs.• Members of the South African Police Service (SAPS).• Funeral undertakers who are appointed and recognised by the law.• If the death occurred abroad – a South African mission, embassy or consulate. <p>2 Fill in the required form.</p> <p>The person reporting the death, as well as the people listed below, will also be required to complete the 'Notification of death' form:</p> <ul style="list-style-type: none">• A medical practitioner (or a traditional leader where a medical practitioner is not available).• A Home Affairs official or SAPS member. <p>Once the 'Notification of death' form is submitted, Home Affairs will issue a 'Death report'. After both the form and report have been processed, Home Affairs will issue the death certificate.</p> <div data-bbox="1451 786 1915 1059"><p>i In many instances the medical practitioner or hospital will report your death on your loved ones' behalf, which means they won't necessarily have to take these actions themselves.</p></div>

If you pass away (continued)

Actions they need to take (continued)

Initiate the estate administration process.

1 Contact your wealth manager or fiduciary specialist.

Report the death to your wealth manager or fiduciary specialist to start the estate administration process and provide the following documents:

- The 'Notification of death' (issued by a medical practitioner or the mortuary).
- An inventory of the deceased's assets.
- The original will.
- Death certificate.

2 Provide updated documents, if requested.

Once the assets in the estate are ready for distribution, the executor will request your loved ones (the heirs) to complete various forms and provide updated FICA documents to transfer the assets.



It's important to initiate the process as soon as possible.

It is vital that we receive the documents as soon as possible following the death, since the estate planning team must report the estate to the Master of the High Court within 14 days of the death.



The estate administration process can take months, so don't expect an outcome immediately.

At best, estates take a minimum of 10 to 12 months to be wound up. The process can take even longer where the deceased's affairs are more complex, or information is difficult to obtain.

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If you become incapacitated



What does 'incapacitated' mean?

When someone is physically or mentally unable to manage their own affairs. For example, a prolonged hospital stay following an operation, or being diagnosed with a mental illness that deems them incompetent to make decisions.

What your loved ones need to know about access to money

Your loved ones will still be able to transact on your accounts.

If they have access to the relevant details, such as login details, they should be able to transact on your accounts. That is why it is important to ensure that they have access to the necessary information.

In some cases they may need evidence of permission to act.

Depending on, for example, how long you are incapacitated for or the nature of the transaction, your loved ones may need to provide evidence that they have permission to act on your behalf.

There are 2 ways in which someone else can be legally authorised to act on your behalf:

1 Power of Attorney

If you are physically unable to act but are mentally competent, you can give your loved ones permission to act on your behalf in the form of a Power of Attorney (PoA).

2 Appointing an administrator

If you are mentally incompetent (ie you cannot make rational decisions and you don't understand the consequences of your actions), your loved ones have to apply to appoint an administrator to manage your affairs.



Who can act on your behalf?

A family member, an attorney or another professional individual can act as a PoA or administrator.

Actions you need to take

PoA

1 Set up a PoA if you know you may require it soon.

If you are aware of an upcoming event that may affect you managing your own affairs, such as an operation or extensive medical treatment, you can set up a PoA now for your peace of mind.

2 Make sure your loved ones understand the scope of the PoA.

If you appoint a loved one as the agent, make sure that they understand what they are able to do and what they cannot do – see detail on the next page.

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Actions you need to take (continued)

General

- 1 **Share this information with your loved ones and ensure that they know what to do when the time comes.**
Your loved ones can apply for the appointment of an administrator only once you are mentally incapacitated – it is not something you can put in place before it is necessary.
- 2 **Make your wishes known.**
You can, however, make your wishes about the possible appointment of an administrator or curator known while you are still healthy, for example by documenting these in your will.

The detail – how PoA and appointing an administrator work

PoA

Putting a PoA in place.

You authorise another person (the agent) to act on your behalf by signing a PoA form.

Different types of PoA.

- 1 Special PoA: Allows the agent to act in either a specific transaction (eg buying property) or in a limited, specified range of matters.
- 2 General PoA: The agent is authorised to act on your behalf with very little limitations.

How long it stays in place.

You can cancel the PoA at any time. Furthermore, it will lapse automatically when you:

- die; or
- become insolvent and your estate is sequestrated; or
- become mentally incapacitated and are no longer competent to act on your own behalf.

Appointing an administrator

- An interested party (eg a spouse or business partner) applies for the appointment of an administrator or curatorship to the Master of the High Court. Curatorship is usually a last resort, since it is a much more expensive and cumbersome process than appointing an administrator.
- To determine who is a suitable administrator, the Master will request reports from certain independent people, including 2 medical practitioners – 1 must be a mental health practitioner.

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