

Get your affairs in order this October

26 October 2020 While we will all face the inevitability of death one day, many of us find it scary to confront our own mortality. But good estate planning is a critical aspect of broader financial planning; without it, our dependants may be left in a precarious financial position.

This is the view of Jaya Leibowitz, legal advisor at Allan Gray, who urges investors to not let the fear of death get in the way of robust planning.

“Failing to think about what will happen to our assets when we are gone can have dire consequences for loved ones,” says Leibowitz.

Below Leibowitz shares her top tips for getting your affairs in order during National Wills Week, which runs from 26 – 30 October this year.

1. Draft a will and keep it up to date

Leibowitz says having a valid, up-to-date will is essential.

“Having a valid will allows you to determine who inherits your assets after your death. Your will can be as simple or complicated as you need it to be, but it needs to comply with certain legal requirements in order to be valid.”

She explains that if you die without a valid will in place, your assets will be distributed according to the Intestate Succession Act. This may result in your assets being inherited by people other than those you would like to leave those assets to. In addition, winding up your estate could take far longer and cost more.

Leibowitz recommends consulting with a professional to assist you with drafting and executing a will, if possible, such as an attorney or financial adviser.

National Wills Week enables South Africans to consult with an attorney, who will assist with the drafting of a will at no cost. For more information on National Wills Week, visit the [Law Society of South Africa's website](#).

“There are some financial investments, such as unit trusts, that must be dealt with in your will, but others, such as retirement funds, have different legal requirements; the rules of which are important to know. Your attorney or financial adviser can help,” says Leibowitz.

She recommends updating your will every time there is a life-changing event, such as a marriage, the birth of a child or a death in the family.

2. Keep your retirement fund nominees' and details of beneficiaries of your other policies up to date

She emphasises that keeping the details of retirement fund nominees and beneficiaries of your other policies (such as living annuities and some tax-free investments and endowments) up to date is critical.

If you are a member of a retirement fund, the Pension Funds Act states that the trustees of the fund must determine how your benefit is distributed to your dependants and nominees. While a nomination does not guarantee that the person will receive all, or a part, of the benefit, it does mean that the nominee must be considered by the trustees when allocating the benefit.

“By keeping the details of nominees up to date, the trustees will be able to consider your wishes during their investigation into your circle of dependants at the time of your death.”

In the case of your other policies, keeping your information up to date will ensure your intended beneficiaries receive speedy payment of their benefits.

3. Plan for immediate needs

“Your loved ones may have immediate financial needs, such as covering funeral costs, and may not be able to access your investments in time,” says Leibowitz, adding that it is important to plan for this appropriately – particularly if you have retirement fund investments, as the process of determining how your benefit is to be distributed to your dependants and nominees can be lengthy.

“Trustees have up to 12 months to identify and trace dependants and may need additional time to consider all the factors that are relevant for them to make an equitable allocation of the benefit.”

4. Talk to your beneficiaries, dependants and nominees

“Half the task is creating a plan, but it is just as important that you share your plan with the people who need to know. Make sure that your loved ones know what will need to be done in the event of your death, to make the process as seamless as possible,” concludes Leibowitz.

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