



ADMINISTRATION OF AN ESTATE AND OBSTACLES IN THE PROCESS

Possible obstacles which may be encountered.

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In South Africa a deceased estate is administered as prescribed by the Administration of Estates Act, and distributed in accordance with a valid registered will or the Intestate Succession Act, or a combination of both Acts. Numerous other Acts and regulations pertaining to, among others, income tax (including VAT and CGT), estate duty and donations tax, and maintenance of a surviving spouse, may also apply.

When a person with assets dies, his/her estate must be registered at the office of the Master of the High Court as soon as possible. Certain documents, as well as a will, if any, must be submitted. In the case of estates, including joint estates, with a gross value of less than R125 000 the Master may waive the official appointment of an executor to carry out the prescribed administration process. In all other cases the Master will appoint an executor.

The official administration process to be followed by the executor will then commence. One of the executor's first duties is to advertise to creditors, obtain details of estate assets, have these valued if necessary, and to collect certain assets. Known and reported liabilities must be evaluated and attention should be given to income tax, among others. The executor must submit a liquidation and distribution account to the Master

within six months, or request a deferment. This estate account shows all assets and liabilities, distribution to heirs, and details of assets outside the estate payable directly to beneficiaries.

The Master examines the estate account and then issues a questionnaire. Once approved, the account must be advertised and be open to inspection for 21 days at the Master's office or, in most cases, at the nearest magistrate's office. If written objections are received, they must be dealt with in the prescribed manner. If there are no objections, or after dealing with the objections, the executor must pay creditors and heirs and transfer others assets to the heirs within two months.

In most cases this should not be a complex process and it should be completed within a reasonable period of time. However, there are many obstacles that could delay the process for months and in some cases even bring it to a complete standstill. Among the most common obstacles are **poor service by government and private institutions, incorrect and impracticable wills, cash shortfalls, disputes and discord among heirs, a lack of information, the disarray of the deceased's tax and other matters, lawsuits before and after death**, and in the event of unnatural death, legal inquests as required for the payment of policies in certain cases. 🌟



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