Short notes on:

THEY SAY THERE ARE ONLY TWO CERTAINTIES IN LIFE – DEATH AND TAXES...
DEATH AND TAXES 101

Introduction

When browsing the internet or reading the newspaper, it is disturbingly easy to find spine chilling stories (of real life events), that illustrate the importance of having a professionally drafted will. This regardless of a person’s age or how much money you have.

As a legal practitioner, I have heard on too many occasions, that people falsely believe that because they are either young or do not have much (in terms of worldly possessions), they believe they do not need to have a will or do not have a will.

With the stroke of google search, here are some of those stories I had no problem finding in minutes:

“Estranged father collects R1 million

Kylie was 22 years old when she died in a tragic accident. Kylie did not have a will and her estate received a R2 million insurance payout due to her accidental death.

Kylie’s parents each got half of her estate because she hadn’t made a will. This was done even though Kylie’s father deserted the family when she was 6 months old and paid no child support.

The family claims Kylie would not have wanted her father to get anything.

Kylie’s wishes would have been known if she had made a will.

Informal family arrangements

James lived in a de facto relationship with his partner, Karen, for more than 20 years and helped raise Karen’s children from a previous relationship. These children lived with him until they were adults.
Karen died before James and she left him her estate in her will. James continued his close relationship with Karen’s children for many years.

When James died without a will, Karen’s adult children did not receive any of his estate, including the family home where they had lived all their lives. James’s estate was given to his brother.

To share in the estate, Karen’s children had to submit a costly application to court as his stepchildren.

If James had made a will outlining who he wanted to receive his estate, the court processes would not have been necessary.  

The above proves that when passing unexpectedly, without leaving a professionally drafted will, many unnecessary family disputes tend to arise or financial hardship results or worse, our true wishes are not carried out - all due to poor planning or none at all!

When should you update your will or have one drafted if you do not yet have one?

- You recently got married or are living with someone.
- You want to appoint a guardian or set up a trust fund for your children to ensure they are protected and cared for.
- Alternatively, your child/children have now have reached the age of majority and no longer need the provisions you put in place while they were still minors.
- You have started a business or your business has expanded, and you need to make provision for its future, ensuring it does not lose value and burden your estate.
- You have pets and would like to ensure that they are not put down.
- You were recently, or are in the process of getting, divorced, or are now separated from your partner.
- You wish to appoint or change the executor who will administer your deceased estate, or you want to appoint or change the trustee who will manage your minor children’s inheritance in trust.
- You want to protect your estate from paying excessive taxes or debts, or becoming insolvent.
- You want to support your favourite charity or donate your organs after death.

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• Your current will was drafted and/or is kept by a financial institution, or is based on a standard document purchased from a newsagent and you fear it may be invalid.

Conclusion
The benefits of sensible estate planning and updating your will are among numerous other advantages:

• Drafting a will and applying the appropriate estate planning strategies ensures the plans you worked so hard to put into place become a reality. Otherwise, your life’s work could be needlessly devalued.
• A will gives your loved ones clarity and transparency, speeds up the administration process and avoids conflicts and disagreements.
• Your will protects your heirs from paying excess tax on your deceased estate, or having to sell your assets because of cash shortfalls or insolvency.
• Your will looks after your loved ones in financially savvy and cost effective ways. It guarantees that your nominated heirs receive their full inheritance.
• A will ensures your wishes regarding matters such as pets, organ donation, bequests to charity and burial versus cremation are carried out precisely as you wish.
• Through your will, you can appoint the most suitable people as executor(s), trustee(s) and guardian(s).

So, ask yourself, if you do not have a will or have not recently updated it. Why?