

## Is your will structured correctly?

SARS will collect around R 1.486 billion this tax year in estate duty. The Katz Commission, followed by the current Davis Tax Committee, has suggested that this figure needs to be closer to R10-R15 billion a year.

It is clear that it is paramount for testators to structure their wills correctly. Even today, deceased estates are paying hundreds of millions in estate duty that could have been avoided had the deceased's will been structured correctly - to take advantage of the true nature of residual bequests,

as confirmed by the Supreme Court of Appeal.

On a R10 million estate, this saving can be as much as R205,000 and still leave a bequest to your nominated charitable beneficiary.

Executors' fees are exorbitant. A professional charging you R750 an hour would need to spend over 465 hours to justify the executor's fees on a R10 million estate. This is nowhere near reality and is not commensurate with the work they do. It is essentially a random figure.

### How you benefit from using our wills and estate administration services

Standard will	Sable wills
In the vast majority of wills drafted, estate duty is assumed as 20% of the net value of the estate. This is an incorrect assumption, as the effective rate is 25%.	Estate duty is correctly calculated at 20% of the amount received by the heirs. This approach has been confirmed by the Supreme Court of Appeal.
For example: If an estate has a chargeable value of R1 million, an amount of R200,000 will be levied as estate duty, leaving the heirs R800,000. This equals 25% of the heirs' ultimate benefit.	For example: If an estate has a chargeable value of R1 million, an amount of R166,333 will be levied as estate duty, a saving of R31,667. On a R10 million estate, the saving is R205,833.
Agents aren't bound by the statutory fee to administer a will, which currently is 3.5% (excl VAT) of the gross value of the estate. On R10 million, this is R399,000 incl. VAT.	The named executors have a direct interest in the administration. The fees chargeable by executors and agents are limited by percentage and ceilings.
Drafters typically appoint themselves as executor. Their primary interest is the fee they can generate from the estate administration.	The beneficiaries have only one interest – to have the estate wound up as speedily as possible. Records show that average times to wind up estates are in excess of 15 months.
Income received in the estate is subject to executor's fees, set at 6% (excl VAT). The longer an estate takes to finalise, the more income may be received and be subject to this charge.	Fees on income received in the estate are again limited. The faster the estate is wound up, the faster beneficiaries get their entitlement from the estate.
Your will needs regular amending or updating to take into account your fluctuating estate value in order to try and maximize any estate duty implications. Equally, any charitable bequests may change from time to time, where applicable, in order to remain within your parameters.	The will does not need constant amendment and updating and allows for fluctuating values without impacting on estate duty calculations. The only time the will needs amendment is where beneficiaries are added or removed. Charitable bequests are also included in the will to reflect your wishes.