

Wills and trusts

A **will**, or a “last will and testament”, is a document in which you describe exactly what you want to happen to your worldly goods and assets after you die. To be **valid**, a will has to be drawn up correctly and you and two witnesses must sign it at the same time.

Your will is part of your overall financial management plan. If you die **intestate**, i.e. without a valid will, your assets can go to the wrong people – and the process can take ages. A clear and practical will ensures that your assets are distributed quickly and according to your wishes after your death and it is best to have it drawn up **professionally**. A lawyer can do it, or your insurance company, your bank, or a trust company. You must stipulate an **executor**, which, in the case of a very simple estate, could be a family member.

The purpose of a **trust** is to provide **security** for your dependants. Ask your lawyer or financial adviser. It can own property, receive donations and inherit money from your estate when you die. What makes a trust so secure is the fact that its decisions are taken by the **trustees** you appoint when you create it.



There are basically two kinds of trust:

- An “**inter vivos**” (living) trust, created while you are still alive.
- A **testamentary** trust, created after your death in terms of instructions in your will.

Whichever type you choose, a trust protects the interests of your dependants. If you think it could benefit your broader financial plan, talk it over with your financial adviser, bank or lawyer.

The role of a Credit Bureau

Credit bureaux are companies that keep a record of all consumers who use credit as well as details of their credit history. The credit bureau provides this information to assist companies to decide who gets credit. A **good credit record** is an asset as it reassures the company that you are a good credit risk. However, if you have had a **judgement** against you for money you owe or you have been declared **insolvent**, this will be on your record too.

If you have been **blacklisted** by a credit bureau, get a copy of your **credit profile** from ITC (0861-482-482) or Experian (0861-105-665) so that you can see what caused this. (You will be charged a small fee.) If there is something on your profile that is incorrect or that you disagree with, the credit bureau will make a note of your comments and investigate the matter for you. Once the investigation is complete, any information that is incorrect or under dispute will be rectified on your profile.

If you are not satisfied with the assistance given to you at a credit bureau, you have the right to complain to the **Credit Information Ombud**. The Ombud will be able to tell you what steps you can take to have your name cleared, and how long it will take.

Contact details of the **Credit Information Ombud**: Tel: 0861-66-28-37, e-mail: ombud@creditombud.org.za

INVESTMENTS AND TAX

Tax is something that we all have to pay whether we like it or not. Generally, any earnings are taxed – for example, salaries. Returns on investments and benefits paid on financial products are also taxed, but in different ways.

There are two kinds of tax payable on returns offered by the products discussed in this book. In the case of both, you are sometimes allowed to deduct certain expenditure to reduce the tax that you have to pay. If the deduction is larger than the taxable benefit, the loss can be deducted from other taxable income of the same type.

Income Tax is paid on **earnings** in general and is payable only when you get the money or when you become entitled to it. Although all **interest** earned is taxable, total interest below a certain amount is tax-free. This includes interest earned on a bank deposit. **Capital Gains Tax** is payable on any **profit** you make when you sell an asset and must be paid when you receive the increased value. It is lower than income tax.

LONG-TERM INSURANCE

Different products have different tax bases.

Risk benefits

These are the benefits paid on death and disability. Premiums may not be deducted for income tax purposes, but death benefits and disability benefits which are payable in a lump sum are tax-free. Disability benefits, payable in instalments to replace salary, are subject to income tax.

Endowment benefits

The returns earned by the endowment fund on the assets of these products are subject to both capital gains tax and income tax. Because the returns are taxed in the hands of the insurers, you do not have to pay any further tax when they are paid to you.

Annuities

Annuity products pay you monthly instalments. A *voluntary* annuity is bought of your own choice. The contribution is not deductible and a portion of the return earned by the annuities fund is taxable as income. A *compulsory* annuity must be bought with the proceeds of a retirement fund and is taxed.

RETIREMENT FUNDS

Pension Funds and Retirement Annuity Funds

All contributions made to these funds are tax-deductible (subject to limits). The benefits must include the purchase of an annuity and a portion may be taken as a lump sum. The benefits are taxable, apart from a portion of the lump sum which is tax-free.

Provident Funds

Contributions to these funds are not tax-deductible. The benefits may be a lump sum and may include an annuity. Apart from a limited portion of the lump sum which is tax-free, the benefits are taxable.

SHORT-TERM INSURANCE

Premiums payable on short-term insurance are not tax-deductible. Benefits paid to you in the event of a claim are tax-free.

UNIT TRUSTS

There are three kinds of returns from a unit trust investment. The first is an interest return which is taxable as income. The second kind is rental distributions on property unit trusts that are also taxable. The third, the increase in the value of the units, is taxable as a capital gain, when you dispose of them. The unit trust management company will provide you with a statement showing the taxable returns you receive every year.

SHARES

Shares have two kinds of returns. Firstly, there are dividends which are not taxed other than in special cases. Secondly, there is an increase in the value of the share which is taxed as a capital gain. However, if you were to buy and sell shares very often or regularly, you may be considered a trader and you will then have to pay income tax on the increases in the value of the shares, which is higher than capital gains tax.

Tax can be complex and it is always advisable to ask the intermediary for details of tax implications when you invest in any financial services product.

FIVE STEPS TO FINANCIAL FREEDOM

Financial security for yourself and your family does not just happen – you have to be motivated ... and disciplined ... and you have to have a strategy.

1. Knowledge

There is no substitute for knowing the facts. Financial knowledge comes in two parts: educating yourself generally and knowing your financial situation specifically.

Financial knowledge is not difficult to acquire. It is available everywhere: in newspapers, on TV, radio and the Internet, and through your financial institution's promotional publications. For most people, financial ignorance has nothing to do with lack of access and everything to do with attitude. We often say, "This is for other people". But to think this way is to do yourself a disservice. Financial matters affect us all in direct ways. It therefore makes sense to become informed and to **understand** the processes that can enrich or impoverish us.

2. Goals

We all need goals. Without something to strive for, life becomes a grind. This is as true financially as it is in other areas of life. Most of our goals require money, so reaching them means we must have a financial plan to get there. There are three types of goals: long-term (e.g. to retire with enough to live on comfortably); medium-term (e.g. to be able to pay for a child's university education, or extend a home, or start a business); and short-term (e.g. to budget effectively to control one's spending to establish a healthy saving pattern). Take a close look at your own goals and work out the financial implications. With realistic goals to strive for, financial discipline and self-control become much easier.

3. Honesty

Knowledge and honesty go hand in hand. Knowledge without honesty is unreliable, and will do nothing to realise your goals. Honesty means assessing yourself; your needs and your areas of

weakness. It means facing facts. Are you in debt over your head? Admit it to yourself. Are you free from debt, but unable to achieve your goals due to lack of commitment? You can change your habits and achieve your goals, but it requires an honest look at yourself. Only if you are honest about your shortcomings will you be able to overcome them!

4. Discipline and self-control

These are the least popular requirements for financial freedom. Financial freedom does not mean having unlimited money. It means **managing** what you have in such a way that you are free from worry, guilt and fear.

Applying discipline where it is required reaps great rewards. Learn to say "no" to yourself. If you keep your goals in sight, it is easier to be disciplined. The people who find self-discipline hardest of all are those with no clear goals and no plan for how to achieve them – or goals that are so distant and unrealistic that they are removed from daily life. Revisit your goals regularly, apply discipline and self-control, and you stand a good chance of realising your dreams.

5. Compassion

Acquiring wealth can be a worthwhile goal, but on its own it cannot bring satisfaction or fulfilment. True happiness comes from using our resources – whether money, energy or talent – to make a positive difference to the world around us. There are plenty of ways to do this. Some people donate money to charities every month because they approve of the work that the charity performs. Others use their money to give someone else a leg up – perhaps a younger person with ambition, or a mother struggling to make ends meet. Others, again, prefer to put a small part of their wealth back into the community they grew up in. It all makes the world a better place!

RECOURSE

or: What To Do When You Suspect You Have Been Cheated

We are often very reluctant to complain. We don't want to "make a scene" or we don't want to cause trouble for anyone. As a result, we don't stand up for our rights.

In South African law, the consumer has many rights, and there are many ways to exercise these rights. The financial services industry, in particular, has gone to great lengths to ensure that every client has a voice that will be heard.

If you feel you have been cheated or treated unfairly, it is your right to complain. The person to start with is your intermediary. If this person does not resolve your problem immediately (or if you do not trust him or her) you should complain direct to the company you are dealing with.

Should none of the above options succeed, you can approach one of the organisations listed below, depending on the nature of the complaint.

LIFE INSURANCE POLICY:

The Ombudsman for Long-Term Insurance
Private Bag X45, CLAREMONT 7735
Tel: (021) 657 5000 Fax: (021) 674 0951
Toll-free: 0860 103236
e-mail: info@ombud.co.za

SHORT-TERM INSURANCE POLICY:

The Ombudsman for Short-Term Insurance
P O Box 32334, BRAAMFONTEIN 2017
Tel: (011) 726 8900 Fax: (011) 726 5501
e-mail: info@osti.co.za

RETIREMENT FUND:

Pension Fund Adjudicator
P O Box 23005, CLAREMONT 7735
Tel: (021) 674 0209 Fax: (021) 674 0185
e-mail: enquiries@pfa.org.za

FINANCIAL SERVICES INTERMEDIARY:

The Ombudsman for FAIS
P.O. Box 74571, LYNNWOOD RIDGE 0040
Tel: (012) 470 9080 Fax: (012) 348 3447
e-mail: info@faisombud.co.za or
kim@faisombud.co.za

BANK:

The Ombudsman for Banking Services
P O Box 5728, JOHANNESBURG 2000
Tel: 0860 800 900 Fax: (011) 838 0043
e-mail: info@obssa.co.za

SUSPECTED ILLEGAL BANKING BUSINESS:

(Deposit-taking by entities other than registered banks)

Registrar of Banks
P O Box 8432, PRETORIA 0002
Tel: (012) 313 3942 Fax: (012) 313 3758
e-mail: wilfred.lautenberg@resbank.co.za

MICROLOANS:

The Micro Finance Regulatory Council
11 Parklane Ave, PARKTOWN
Toll-free: 0860 100406 Fax: (011) 647 4440
e-mail: complaints@mfrco.co.za

PYRAMID SCHEMES OR MISREPRESENTATION:

Consumer Affairs Committee
Department of Trade and Industry
Private Bag X84, PRETORIA 0001
Tel: (012) 394 1551/52 Fax: (012) 394 2551/52
e-mail: ebimo@thedti.gov.za or dinki@thedti.gov.za

If your complaint does not fall into one of the above categories you can contact the Financial Services Board's Call Centre at 0800 202 087.