

CLIENT GUIDE | ESTATE PLANNING

Estate Planning Guide

Arranging your affairs to protect your family, your wealth and your business

Wills, trusts, estate duty and succession | Updated June 2026

Contents

Contents	2
■ About this guide	3
■ At a glance	3
■ Why plan at all	3
■ The building blocks of a plan	4
■ Your will	4
■ Dying without a will	4
■ Marriage regime and your plan	5
■ Estate duty and how to reduce it	5
■ Capital gains tax on death	6
■ Donations as a planning tool	6
■ Liquidity	6
■ Trusts in estate planning	7
■ Retirement funds and life policies	7
■ Business succession	7
■ Offshore assets	8
■ Special situations	8
■ Provide for your dependants	8
■ Digital assets and access	8
■ Documents your family will need	9
■ Keeping your plan current	9
■ Estate planning best practice	9
■ Common estate pitfalls	10
■ Estate planning checklist	10
■ Frequently asked questions	10
■ Glossary of terms	11
■ How we can help	11
■ Important notice	12

About this guide

Jansen Accountants & Auditors | Estate Planning | Updated June 2026

How to arrange your affairs during your lifetime so that your wealth passes to the people you choose, with the least tax, cost and delay.

Estate planning is not only for the wealthy. Anyone with a family, a home, a business or a retirement fund benefits from a plan. This guide explains the tools and the taxes, and the decisions that make the difference, so you can put a sound plan in place. It reflects the Wills Act 7 of 1953, the Intestate Succession Act 81 of 1987, the Estate Duty Act 45 of 1955, the Income Tax Act 58 of 1962, the Pension Funds Act 24 of 1956 and the Maintenance of Surviving Spouses Act 27 of 1990, as at June 2026.

How to read the boxes in this guide

A **JACC insight** explains a point plainly, a **Planning opportunity** points to something worth doing, and a **Common estate pitfall** warns of what goes wrong. A note from our partner appears where experience matters most.

Professional disclaimer

This guide does not constitute personal, legal or tax advice. A good estate plan is built around your specific family, assets and wishes. Use this to prepare, then plan it with us.

This guide, and our Deceased Estates guide

This guide is about planning ahead, while you are alive, so your wishes are carried out and the tax and cost are minimised. Our separate Deceased Estates guide explains what happens afterwards, when an estate is reported to the Master and wound up. Use this one to plan; use that one when administering an estate.

At a glance

The numbers that shape a plan

R3.5m

Estate duty abatement

20% / 25%

Estate duty rates

R7m

Portable s4A abatement

R3m

Primary residence exclusion

R150 000

Annual donations exemption

R440 000

CGT exclusion at death

3.5% +VAT

Executor's fee

Section 9HA

Deemed disposal at death

Why plan at all

What a good plan achieves

- Your assets go to the people you choose, in the way you choose.
- Estate duty, capital gains tax and executor's fees are reduced where it is legitimate to do so.
- There is enough cash in the estate to settle debts, tax and costs without a forced sale.
- Your business can continue, or be sold, without a crisis.
- Minor children and vulnerable dependants are provided for and protected.

Charlton's insight

The plans that go wrong are almost never the complicated ones. They are the simple estates with no will, no liquidity, or a property in one name and a bond in another. Get the basics right first: a valid will, enough cash, and current beneficiary nominations. Everything else builds on those three.

■ The building blocks of a plan

What we put in place

- A valid, current will.
- The right marriage regime, understood and aligned with the will.
- Enough liquidity to settle the estate, usually through life cover.
- Estate duty and CGT planning, including the spouse roll-over and lifetime donations.
- Up-to-date beneficiary nominations on retirement funds and policies.
- A trust, where protection or succession justifies it.
- A business succession arrangement, if you own a business.

■ Your will

The foundation of the plan

A valid will is the single most important document. Under the Wills Act 7 of 1953 it must be in writing, signed by you at the end, in the presence of two or more competent witnesses aged 14 or older, who each sign in your presence and in each other's presence. A witness, or their spouse, must not be a beneficiary, or that benefit can be forfeited or need a court application to rescue it.

- Name an executor, and consider a professional agent to do the work.
- Deal with your whole estate, and name alternates in case a beneficiary dies before you.
- Nominate a guardian for minor children.
- Consider a testamentary trust so a minor child's inheritance is managed until they are old enough.
- Review the will after every major life event.

Common estate pitfall

A will signed incorrectly can be rejected, and a homemade will often is. The most common faults are missing or disqualified witnesses, no signature at the end, and amendments squeezed in afterwards without being signed. Have the will professionally drawn and signed.

■ Dying without a will

Intestate succession

If you die without a valid will, the Intestate Succession Act 81 of 1987 decides who inherits, and it may be very different from your wishes. In broad terms, where there is a spouse and children, the spouse takes the greater of a child's share or a set amount (currently R250 000), and the children share the rest. The process is also slower and a next-of-kin affidavit is required.

JACC insight

Intestacy makes no provision for friends, stepchildren you have not adopted, charities, or a life partner you are not married to. If any of those matter to you, only a will can give effect to your wishes.

Marriage regime and your plan

It changes everything

How you are married shapes what you can leave and to whom. In community of property, there is one joint estate and your spouse already owns half, so only your half is dealt with. Out of community with accrual, your spouse may have an accrual claim against, or owe a claim to, your estate. Out of community without accrual, the estates are fully separate. Your will must work with your regime, not against it.

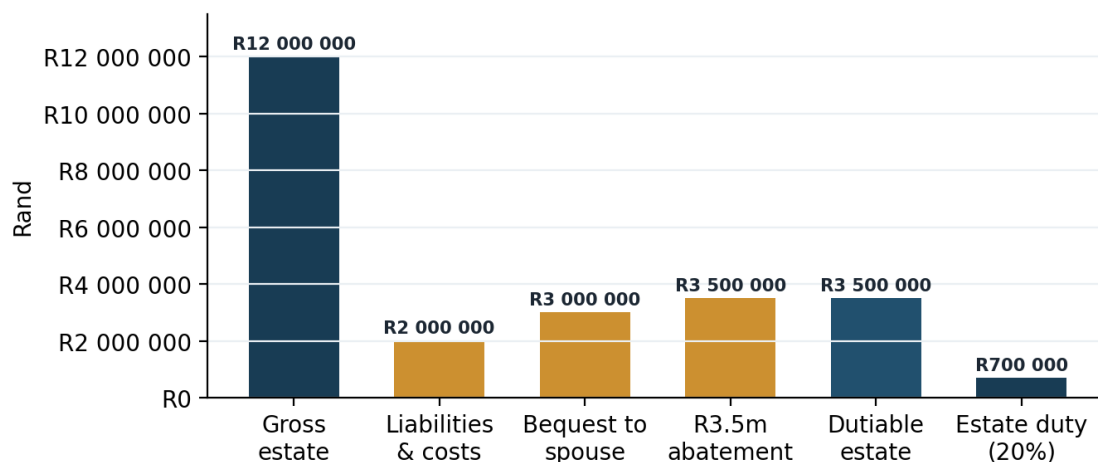
See also: Our JACC Deceased Estates guide for how the marriage regime affects the administration.

Estate duty and how to reduce it

Estate Duty Act 45 of 1955

Estate duty is 20% on the dutiable estate up to R30 million and 25% above it, after the R3.5 million abatement. The main, legitimate ways to reduce it are:

- The spousal deduction: assets left to a surviving spouse pass free of estate duty, and the unused abatement rolls over, giving a couple up to R7 million combined.
- Lifetime donations within the R150 000 annual exemption, which move growth assets out of the estate over time.
- A trust, so that future growth in assets accrues in the trust and not in your personal estate.
- Bequests to approved public benefit organisations, which are deductible.



An illustrative estate duty calculation: gross estate, less deductions and the abatement, gives the dutiable estate and the duty.

Worked example

An estate has a gross value of R12 million.
 Less liabilities and administration costs: R2 million.
 Less a bequest to the surviving spouse: R3 million.
 Less the R3.5 million abatement.
 Dutiable estate: R3.5 million. Estate duty at 20%: R700 000.

■ Capital gains tax on death

Section 9HA

Death is a deemed disposal. Under section 9HA of the Income Tax Act, you are treated as selling your assets at market value on the day you die, which can trigger capital gains tax in your estate. Two important reliefs apply: assets left to a surviving spouse roll over with no CGT, and the annual CGT exclusion in the year of death is R440 000, higher than the normal exclusion. The primary residence exclusion of R3 million also still applies.

Planning opportunity

The spouse roll-over defers both estate duty and CGT to the second death, which is why couples should plan their two estates together. It buys time and liquidity, but the tax is deferred, not avoided, so the second estate must still be planned for.

■ Donations as a planning tool

Sections 54 to 64

Donations tax is levied at 20% on the value of property donated, up to a cumulative R30 million, and at 25% above R30 million. The first R150 000 donated by a natural person each year is exempt. Used consistently, the annual exemption is one of the simplest ways to move value, and its future growth, out of a dutiable estate.

Common estate pitfall

Beware donating into a trust by way of an interest-free loan. The interest you give up is treated as an ongoing donation under section 7C, which uses your annual exemption and can trigger donations tax. Funding a trust needs to be structured, not improvised.

■ Liquidity

Can your estate pay its bills?

An estate can be asset-rich and cash-poor. Estate duty, the deceased's final tax, executor's fees and bond settlements all fall due before the heirs inherit. If there is not enough cash, the executor must sell assets, often the family home or the business, at the worst possible time.

JACC insight

Life cover, correctly structured and with the right beneficiary nomination, is the usual answer to a liquidity shortfall. We calculate the likely cash needed, the estate duty, CGT, fees and debts, and match it to cover so your family is not forced to sell.

■ Trusts in estate planning

A tool, not a magic wand

A trust caps the growth of your dutiable estate, protects assets and provides for vulnerable beneficiaries, because future growth accrues in the trust and not in your hands. The trade-offs are the 45% income tax rate (mitigated by distributing income to beneficiaries), running costs, and the section 7C rules on loans to the trust. A trust must be properly run to deliver its benefits, and it is not right for every estate.

See also: Our JACC South African Trust Guide for how a trust works and what running one requires.

■ Retirement funds and life policies

Assets that pass outside your will

Retirement fund benefits and life policies with a nominated beneficiary do not pass through your will, and this catches many people out.

- Retirement fund death benefits are distributed by the fund trustees under section 37C of the Pension Funds Act, who take dependants into account and are not strictly bound by your nomination. These benefits fall outside the estate and outside executor's fees.
- A life policy with a nominated beneficiary pays directly to that person, outside the estate, so the family gets cash quickly and no executor's fee applies.
- A policy with no nomination, or payable to the estate, falls into the estate and is available for liquidity, but attracts executor's fees.
- For estate duty, domestic policies on your life are generally deemed property and included under section 3(3) of the Estate Duty Act, unless an exemption applies.

Common estate pitfall

Outside the estate does not mean tax-free. A policy paid to a nominated beneficiary escapes executor's fees and reaches the family quickly, but it can still be deemed property and subject to estate duty under section 3(3) of the Estate Duty Act. Plan for the duty even where the cash goes straight to a beneficiary.

Common estate pitfall

Out-of-date beneficiary nominations are a frequent and painful error. An ex-spouse named on a policy or retirement fund can still inherit it, regardless of what your will says. Review every nomination after a divorce, a death or a new relationship.

■ Business succession

Keeping the business alive

If you own a business, your estate plan must say what happens to it. A buy-and-sell agreement between co-owners, funded by life cover, lets the survivors buy your share and gives your estate cash instead of an unsellable stake. Key-person cover protects the business against the loss of an essential person. The shareholders' agreement and your will must work together and say the same thing.

■ Offshore assets

Plan across borders

Foreign assets may need a separate offshore will and can attract foreign succession taxes and a foreign probate process, which runs in parallel with the South African estate. As a South African resident you are also taxed here on your worldwide assets, and offshore transfers are subject to exchange control. Tell us about any offshore holdings so the plan covers them properly.

■ Special situations

Where extra care is needed

- Minor children: never leave assets directly to a minor, as the funds may go to the Guardian's Fund. Use a testamentary trust and nominate a guardian.
- A beneficiary with a disability: a special trust (Type A) can provide for them and is taxed on the individual scale, not at 45%.
- Blended families: stepchildren do not inherit on intestacy unless adopted, so a will is essential to provide for them.
- A life partner: an unmarried partner does not automatically inherit under the Intestate Succession Act unless properly provided for, but may have other claims, for maintenance, in contract, or as a universal partnership, depending on the facts. A will and supporting agreements are essential.

■ Provide for your dependants

Maintenance of Surviving Spouses Act 27 of 1990

A will cannot simply ignore those who depend on you. A surviving spouse may claim reasonable maintenance against your estate under the Maintenance of Surviving Spouses Act 27 of 1990, to the extent they cannot provide for themselves, and dependent children have a common-law maintenance claim. These claims rank ahead of heirs, so a plan that leaves a dependent spouse or child with too little invites a claim that can upset the whole estate.

JACC insight

If you intend to leave a dependent spouse or child less than they need, take advice first. It is better to plan for the claim, or provide separately, than to have the estate disrupted by a maintenance claim after your death.

■ Digital assets and access

Do not lock your family out

More of life is now online, and a plan that ignores it can leave the family unable to act. Make sure someone trusted can access, or at least locate, your digital life.

- A secure record of online accounts and passwords, in a password manager or a sealed list kept with your will.
- Banking and investment logins, and any two-factor devices.
- Cryptocurrency wallets and their recovery phrases.
- Cloud storage, email and social media accounts.
- Access to business systems, accounting software and supplier portals.

Common estate pitfall

Cryptocurrency with no recorded recovery phrase is simply lost on death. There is no bank to call and no way to recover it. If you hold crypto, record the access details securely and make sure they can be found.

■ Documents your family will need

Assemble them now

Much of the delay in winding up an estate comes from hunting for documents. Pull these together now, tell your executor and family where they are, and keep them current:

- Your original will, and any codicils.
- Identity document, marriage certificate and antenuptial contract.
- Title deeds and the latest municipal accounts.
- Life, funeral and short-term insurance policy schedules.
- Retirement, provident and annuity fund statements.
- Share certificates, shareholder and buy-and-sell agreements.
- Loan agreements, including any loan account with a trust.
- Trust deeds and Letters of Authority.
- Your tax reference number and latest assessment.
- Records of any offshore assets and accounts.

■ Keeping your plan current

Review triggers

An estate plan is not a once-off. Review it every three to five years, and immediately after any of the following:

- Marriage, divorce or the start of a new relationship.
- The birth or adoption of a child.
- A death in the family, especially of a spouse or a named beneficiary or executor.
- Starting, buying or selling a business.
- A significant change in your assets, or emigration.

■ Estate planning best practice

How to get it right

- Treat your affairs as one plan: the will, nominations, trust and business agreements must say the same thing.
- Plan both spouses' estates together, not separately.
- Fund the liquidity, so nothing has to be sold in a hurry.
- Use a professional executor or agent to keep the fee reasonable and the process clean.
- Keep beneficiary nominations current, because they override the will for those assets.
- Keep a single, accessible record of your assets, documents and digital access.
- Review the plan every three to five years, and after every major life change.
- Get advice before you act, especially with trusts, offshore assets and business interests.

What not to do

Do not draft your own will casually. Do not leave assets directly to minors. Do not assume policies and funds follow your will. Do not ignore liquidity. Do not leave offshore assets out of the plan. Do not leave business shares without a buy-and-sell agreement.

Common estate pitfalls

- No will, or a will that is out of date after a major life change.
- A homemade will that is invalid for want of proper signing or witnesses.
- No liquidity, forcing a sale of the home or business to pay duty and costs.
- Beneficiary nominations on policies and funds that no longer reflect your wishes.
- Leaving assets directly to a minor instead of through a testamentary trust.
- A trust that exists on paper but is not run properly, so it gives no real protection.
- Foreign assets with no offshore will, causing delay and double cost.

Estate planning checklist

Work through this with us

A quick self-check. If you cannot tick an item, it is worth a conversation.

- A valid, current will is in place.
- Your marriage contract and regime are clear.
- Beneficiary nominations on policies and funds are up to date.
- Life and other cover are in place and adequate.
- Retirement and annuity arrangements are documented.
- Property and bonds are accounted for in the plan.
- Business interests have a succession arrangement.
- Loans and loan accounts, including any to a trust, are recorded.
- Trust interests and deeds are current.
- Offshore assets have an offshore will where needed.
- Liquidity to settle the estate has been estimated and funded.
- Estate duty and capital gains tax exposure has been modelled.
- An executor, and an agent, have been nominated.
- Your family knows where the documents are.

Frequently asked questions

Do I need an estate plan if I am not wealthy?

Yes. A will, enough liquidity and current nominations matter at every level. The plan is simpler, not unnecessary.

Will a trust avoid estate duty completely?

No, but it can cap the growth of your dutiable estate and protect assets. It is one tool among several, and not right for every estate.

Does my pension go to whoever I named?

Not necessarily. Retirement fund death benefits are distributed by the fund trustees under section 37C, who must consider your dependants, not only your nomination.

Can I leave everything to my spouse to avoid tax?

Assets left to a spouse are free of estate duty and CGT, but this only defers the tax to the second death. Both estates need to be planned together.

How often should I review my plan?

Every three to five years, and immediately after any marriage, divorce, birth, death or major change in your assets or business.

■ Glossary of terms

Testator The person who makes a will.

Executor The person who winds up the estate, appointed by the Master.

Intestate Dying without a valid will; the Intestate Succession Act then applies.

Abatement The R3.5 million deducted before estate duty is calculated.

Spousal roll-over The deferral of estate duty and CGT on assets left to a surviving spouse.

Testamentary trust A trust created in a will, often to hold a minor child's inheritance.

Section 9HA The rule that treats a person as disposing of assets at market value on death, for CGT.

Section 37C The Pension Funds Act rule under which fund trustees distribute death benefits.

Deemed property Assets, such as certain life policies, included for estate duty though they pass outside the estate.

Accrual The growth shared between spouses married out of community with the accrual system.

■ How we can help

Jansen Accountants & Auditors

We are a Cape Town firm of chartered accountants and registered auditors, and registered tax practitioners. We help clients get this right the first time, and fix it when it has gone wrong.

- Estate plans, wills and testamentary trusts.
- Estate duty and capital gains tax modelling, including the spouse roll-over.
- Liquidity analysis and life cover structuring.
- Trusts, business succession and offshore planning.



Talk to us.

Book a consultation at www.jacc.co.za, call +27 21 554 3482, or email info@jacc.co.za.

■ Important notice

This guide does not constitute personal advice. It is general information based on South African law and practice as at June 2026, and must not be relied on as advice. Outcomes depend on the specific facts, and the law and regulatory practice change. Jansen Accountants & Auditors Inc accepts no liability for any loss arising from reliance on this guide. Obtain advice specific to your circumstances before acting.

Personal information is handled in line with the Protection of Personal Information Act 4 of 2013. Jansen Accountants & Auditors Inc is registered with the Independent Regulatory Board for Auditors (IRBA), is a member firm of the South African Institute of Chartered Accountants (SAICA), and its partners are registered tax practitioners.