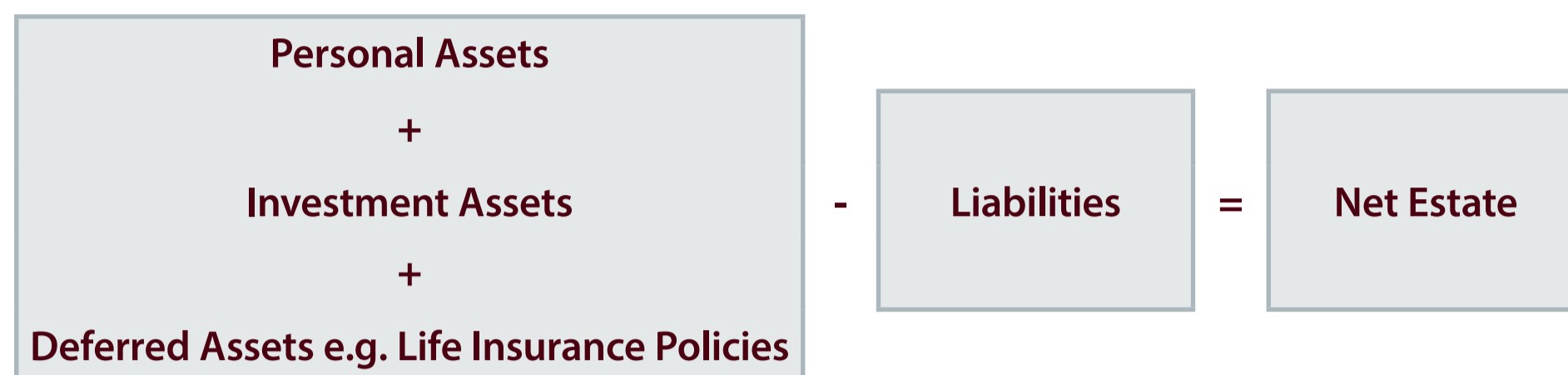


## Your Last Will and Testament

Your Last Will and Testament is one of the most important documents that you will ever draft, as it represents the final expression of your wishes and stipulates how you would like your estate (your assets minus your liabilities) to be distributed.



### The importance of having a Last Will and Testament

During your lifetime, you will build up assets and liabilities, which will form part of your estate. Your estate will be wound up and distributed according to your Last Will and Testament when you die.

If your Last Will and Testament is out of date or unsigned, this can cause numerous practical problems for surviving family members. It can also put those closest to you under immense financial pressure. When you pass away without a valid Last Will and Testament, the law of intestate succession applies. This causes a delay in appointing an executor. Once an executor has been appointed, your assets will be divided on the basis of very rigid and inflexible legal regulations. In many cases, this has led to relatives being drawn into feuds over the apportionment of the estate.

### Drafting of a Last Will and Testament by a professional

A Last Will and Testament can be declared defective for a number of reasons, amongst others, if it is not signed and witnessed correctly, if it contains unenforceable instructions, etc. It is therefore important that your Last Will and Testament is drafted by a suitably qualified person. As part of this process, an estate plan is recommended to clarify estate expenses and the financial impact of your wishes in your Last Will and Testament.

### What is intestate succession?

If you die without leaving a valid Last Will and Testament, your estate will devolve according to the Intestate Succession Act. This means that your estate will be divided amongst your surviving spouse, children, parents or siblings according to a set formula.

### How will my estate be divided if I do not have a Last Will and Testament?

The spouse or spouses inherit the **greater of R250 000** per spouse or a child's share, and the children the balance of the estate. A child's share is determined by dividing the deceased's estate by the number of surviving children of the deceased and deceased children who have left issue, plus the number of surviving spouses.

#### Example of the child's share and the spouses share:

*The value of the intestate estate is R2 000 000. The deceased is survived by a spouse and three children. A child's share amounts to R500 000 (being R2 000 000 divided by four: the three children and the spouse). The child's share is greater than R250 000. Therefore, the spouse will inherit R500 000, and each child will inherit R500 000 (R2 000 000 less R500 000 to the spouse, divided by three).*

### Where will my children's money be invested if I do not have a Last Will and Testament?

Your children's money will be invested in the Guardians fund. The Guardian's Fund is established to protect and manage money on behalf of certain persons, such as children (persons below the age of 18 years), those who are not able to manage their own affairs or those who could not be found. The Guardian's Fund forms part of and is being regulated by the Master of the High Court, the money in the Guardian's Fund is invested with the Public Investment Commission and audited annually. The High Court appoints a guardian, who can then claim maintenance for the person whose money is held in the fund. The Master of the High Court may pay all accrued interest, as well as up to R100 000 from the invested capital, for maintenance, like school and university fees, clothes, medical fees, boarding and lodging and any other needs that can be motivated. Any money left in the Guardians fund can be paid out to beneficiaries (on application) once they reach the age of 18.

### How do I best protect my children's interests?

Even though we do not always want to contemplate the inevitable i.e., death, lack of planning could leave your children destitute and without the care and guidance. A testamentary trust can be established through your Last Will and Testament. It will list your specific instructions to trustees in terms of how your children's inheritance is to be used. A testamentary trust protects your assets until your minor beneficiaries can take over ownership when they reach age of majority, for example 18, 21 or 25 years.



#### Wynand Gouws CFP®

Certified Financial Planner (UFS), Adv. PG. Dip Investments & Estate Planning (UFS), MBA (USB), Adv. PG. Dip Future Studies (USB)

Author to 100 and Beyond

Tel: 021 204 2920

Cell: 082 450 7386

Email: wynand@gminvestments.co.za

**Johannesburg Office:** 28 Fricker Road, Illovo, 2196

**Durban Office:** 25 Richefond Circle, Ridgeside Office Estate, Umhlanga

**Cape Town Office:** A10, Grosvenor Square, 10 Park Lane, Century City

T 010 448 2200 E info@gminvestments.co.za

[www.gminvestments.co.za](http://www.gminvestments.co.za)