



DAVEY'S Locker



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Too many cooks spoil tax broth

by Tony Davey

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I was recently accorded the fourth position in a chain of advisers to an estate, being preceded by a legal adviser, an accredited financial planner and an accountant, none of whom had been requested to confer together.

While he was alive, all my predecessors had given *bona fide* independent advice to the client, as each adviser saw fit from his particular perspective, but, considered holistically, the result made for a tale of woe, creating friction among heirs, potential additional estate duty and CGT liabilities and a corresponding shortfall in liquidity.

The accountant had recommended to the now-deceased client that he take advantage of the CGT and transfer duty reliefs to unbundle his domestic residence from a trust-held structure into his own name. This unbundling, which was duly carried out, would entitle the client to use the R2 million CGT primary-residence exemption upon the subsequent sale of his residence.

Unfortunately, some of the trust beneficiaries were not also heirs to the client's will, and thus, upon the client's

death, given that the will had not been updated so as to include them, they were effectively partly disinherited.

There were also estate duty, CGT and liquidity consequences, since the residence now formed part of the deceased's estate.

The moral of the story, aside from the need for a client to review his will and ensure that his advisers communicate with one another, is that even domestic financial restructuring invokes the oft-invisible hand of tax.

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