



LEGAL NEWSLETTER

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COMPANY OR CLOSE CORPORATION WHERE THERE IS ONLY ONE SHARE HOLDER OR INTEREST HOLDER

WHAT HAPPENS UPON THE DEATH OF THE SHARE HOLDER OR INTEREST HOLDER?

1. The executor obtains:
 - 1.1 The financial statements of the company or close corporation as at date of death and for the two years of the existence of the company or close corporation prior to date of death.
 - 1.2 An auditor's valuation of the shares of the company or a valuation of the interest in the close corporation by the accountant of the corporation as date of death.
 - 1.3 A certificate by the auditor of the company or accountant of the close corporation reflecting any amounts *due to or due by* the deceased by the company or close corporation as the date of death.
2. The executor in an estate normally does not get involved in the business of the company or close corporation and only handles with the shares in the company or interest in the close corporation and any loan accounts.
3. Should the estate be solvent, the heir of the shares in the company or interest in the close corporation takes control of the company or close corporation after death of the deceased.
4. GENERAL PROBLEMS WHICH MAY ARISE:
 - A. The heir may have no or little knowledge of the business.
 - B. New signing powers on the bank account of the company or close corporation must be arranged immediately which may cause problems as there needs to be adhered to the requirements of the bank.
 - C. Should the bank for whatever reason not be satisfied for the account to continue, problems may arise to continue with the business of the company or close corporation.
5. WHAT SHOULD SOLE OWNERS OF COMPANIES OR CLOSE CORPORATIONS DO?
 - a. Decide what must happen with your company or close corporation upon your death, in other words must the company or close corporation continue or be sold.

- b. Should the company or close corporation continue, ensure that your heir is able and has knowledge to continue with the business.
 - c. Identify someone during your lifetime to whom you can make over a few shares or small percentage of the interest in the close corporation.
 - d. Consider a Buy-and-Sell Agreement with the person to enable such person to purchase your shares in the company or interest in the close corporation upon your death, especially if your heir has no knowledge to continue with the business. Insurance can be arranged on each other's lives to provide funds to purchase the shares or interest in the close corporation upon the death of the first dying.
 - e. Make provision for funds either in your own name or in the name of the company or close corporation for repayment of any loan accounts.
 - f. Make provision in the company or close corporation for liabilities to be repaid for which you signed surety as it may happen that the creditor (bank) claim against your estate if the creditor is not satisfied that the business will be able to pay the debt.
6. VERY IMPORTANT:

To provide for the above mentioned by way of insurance is much cheaper than having to borrow money.

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