

## **MARITAL REGIMES**

Three marital regimes exist in our law. They are the following:

### **1. Marriage In Community of property**

A marriage in community of property means that each spouse will become a joint owner of an undivided share in all assets owned before the marriage as well as all the assets that you may acquire after the marriage. The spouses also share in all the liabilities arising before or after the marriage. Should you choose this option, no contract is necessary.

### **2. Marriage out of Community of property**

A marriage out of community of property means that each spouse will control his or her own estate. Each of the spouses is responsible for their own assets and liabilities arising before and after the date of marriage.

### **3. Marriage out of community of property with Accrual**

A marriage out of community of property with accrual means that spouses are married out of community of property and two separate estates exist, however the spouses will share in the accrual of each other's estates at dissolution of the marriage. The accrual of

each spouse's estate will be calculated on dissolution of the marriage by death, divorce etc. The accrual of the estate of a spouse is defined as the amount by which the net value of the estate at the dissolution of the marriage exceeds the net value of estate at the commencement of the marriage. The commencement value of each spouse's estate represents the value of the assets of the particular spouse at the commencement of the marriage. Assets may be excluded from the accrual in the antenuptial agreement.

The basic calculation of accrual is as follows:

A's commencement value = R 10 000    A's end value = R 30 000

A's Accrual = R 20 000

B's commencement value = R 20 000    B's end value = R 200 000    B's

Accrual = R 180 000

B's accrual (R 180 000) minus A's accrual (R 20 000) = R 160 000

This amount will be divided by two, which means that A's (spouse with the smallest accrual) accrual claim against B will be for R 80 000.