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NON-RESIDENTS INHERITING MONEY FROM SOUTH AFRICAN ESTATES

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If you are a non-resident of South Africa and you inherit money from a South African estate, there are a few things you need to know.

A person who has no ties to South Africa in any way would naturally be regarded as a *bona fide* non-tax resident of South Africa. However, should such a person inherit from a South African estate, the proof of their non-residency status will need to be provided to the executor of the estate.

This can be done by furnishing the executor with a copy of your passport (with proof of exit stamp), a visa, documentary proof that you are paying tax in a foreign country, as well as a letter from your former banking institution confirming that you have formally emigrated. **Many South Africans assume that they are non-residents when they have been living abroad for many years, however, from a regulatory standpoint, this is not the case.**

It is important to note that the concept of financial emigration has fallen away completely with the implementation of tax migration which was recently introduced by SARS. Therefore, you are only formally a non-resident taxpayer if you have followed the tax migration process.

If you have not formally emigrated or undergone a tax migration since the implementation of the new regulations which came into effect on 23 February 2022, you will still be seen as a SA resident.

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This means that you are still restricted by SA exchange controls, and you are only allowed to repatriate your annual Foreign Capital Allowance (FCA) of R10m (whilst still required to obtain an Approval for International Transfer – formally known as a tax clearance certificate) or R1m Single Discretionary Allowance (SDA). This process of application has become extremely onerous since coming into effect on 25 April 2023.

In the event that you are still regarded as a SA resident for tax purposes and set to inherit more than R11m, one is able to externalise more than the R11m in allowances by applying to SARB for a special approval which is a 2-step process. It is extremely important that, if you were ever a SA resident, you should retain your green bar-coded ID or smart card, as this document will be required, no matter how long you have been living abroad, unless you formally emigrated. In the event that you are not in possession of a green barcoded ID, you will be required to apply for a smart ID card, so as to comply with SA exchange control regulations.

HERE ARE SOME ADDITIONAL THINGS TO KEEP IN MIND IF YOU ARE A NON-RESIDENT INHERITING MONEY FROM A SOUTH AFRICAN ESTATE:

1. **You may be required to pay additional tax on your inheritance in the country where you are a resident, unless a double taxation agreement is in place between SA and the country in question.**
2. **You may need to obtain an Approval for International Transfer (AIT) from the South African Revenue Service (SARS) before you can transfer the inheritance funds out of South Africa, if the amount is greater than R1 million.**
3. **You may need to pay exchange control fees when you transfer the inheritance funds out of SA.**
4. **If you have no ties to SA (meaning you were neither born in, nor resided in SA) the process is simple. A bank account would be opened in the name of the estate late, and funds will be transferred into the non-resident's elected foreign bank account.**
5. **If you were born in SA or reside overseas, but have not formally emigrated or tax migrated, a South African temporary abroad account will need to be opened in your name and you will be subject to the exchange control restrictions before inheritances may be transferred to you.**
6. **If you were born in SA and do not hold a valid barcoded ID document and have not tax migrated, you will be required to obtain a barcoded ID. This will then allow you to externalise your inheritance by utilising your R1m and R10m allowances. SARB clearance will be required for inheritance values greater than R11m.**

INHERITING OFFSHORE ASSETS AS A SOUTH AFRICAN RESIDENT ALSO HAS IMPLICATIONS

Before 23 February 2022, a SA resident had to declare offshore inheritances to the South African Reserve Bank (SARB) to indicate that they had not made use of their annual allowance. This has now changed because of CRS (Common Reporting System), a system that is in place between various countries. Therefore, SARS can easily pick up that you own/inherited an offshore asset. What is important to note is that if the inheritance of an offshore asset realised before this date, the beneficiary is still obligated to request approval from SARB in order to receive this inheritance or keep it in their name.

In the event that you do not report the asset you have inherited, you can incur penalties from SARB. You could also face difficulties should you try to remediate the problem years later.

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CERTIFIED FINANCIAL PLANNER® AND FOREIGN EXCHANGE CONSULTANT

SUZEAN is head of the Tyger Valley office as well as one of the company's key individuals.
She is a CERTIFIED FINANCIAL PLANNER® and a registered member of the Financial Planning Institute of South Africa.

She has experience in various aspects of financial planning, focusing on investment and retirement planning. Suzean is also a qualified Foreign Exchange Consultant for the company, with a wealth of knowledge in offshore investments.

Suzean joined Brenthurst Wealth in 2010 and is fully qualified to give advice on all investment matters.

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GENERAL MANAGER I WILLS AND ESTATES, LEGAL ADVISOR AND COMPLIANCE

Malissa is the General Manager of Brenthurst Wealth, is the head of our Fiduciary Services Department in the Western Cape and acts as Brenthurst's internal legal advisor and compliance officer.

MALISSA joined the Brenthurst Team in July 2014. She is responsible for general oversight and management functions for Brenthurst, will consultation and drafting, estate planning, deceased estate administration, and all matters of a legal, compliance and human resource nature. She is a qualified Attorney, admitted as such in the High Court of South Africa (Western Cape High Court), having obtained a B.Com Law degree from the University of Johannesburg, an LLB degree from the University of South Africa (UNISA), and a further certificate in Estate Planning from Milpark.

Malissa also successfully passed her FISA examination in 2017 which awarded and assigned her with the professional designation - Fiduciary Practitioner of South Africa® and has also since 2018 been an accredited member of the Fiduciary Institute of South Africa (FISA).

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