



THE POWER
OF INDEPENDENT ADVICE

IN THIS ISSUE

“ At Brenthurst Wealth our investment clients benefit from our Fiduciary Services Specialists who offer only the latest in local and offshore estate planning advice, as applicable, that ties in to the financial advice given by our qualified financial advisors. ”

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6 IMPORTANT TIPS FOR ESTATE PLANNING SUCCESS

By Rozanne Heystek-Potgieter (BA LLB) Brenthurst Wealth Management

The increased Value Added Tax (VAT) rate, announced in the 2018 National Budget dominated headlines for weeks thereafter, but was not the only tax change affecting consumers and investors. Many of these changes affect estate planning and the cost of estate administration.

We compiled a list of six important issues to consider when navigating the complex field of Deceased Estate Administration. More importantly, we have included tips on how to prepare for the inevitable and re-evaluate your existing Will, the liquidity of your estate and estate planning goals in general.

1. TAX HIKES IMPACT THE TOTAL COST OF ADMINISTERING A DECEASED ESTATE

As from 1 April 2018 VAT has increased to 15%. An Executor is entitled to remuneration as per the current set tariff of 3,5% of the gross value of the Estate's assets.

If an Executor is a VAT vendor, the vendor is entitled to claim the VAT amount due from the Estate. The VAT increase therefore increases the amount of cash needed in an Estate to cover all administration costs, not just the executor's fees – advertisements, property transfer costs, postage and petties and so forth. To cover all fees, costs and relevant taxes it is therefore important that there is sufficient cash in an estate; a consideration many overlook in estate planning.

2. ESTATE DUTY INCREASE FOR LARGER ESTATES

Estate duty increased from 20% to 25% for estates of R30 million or more, effective from March 1, 2018. Estate duty is levied on worldwide assets. Simply put, and not considering circumstances where an entire estate is bequeathed to a surviving spouse: an individual might have an extensive offshore investment and property portfolio with very few assets in South Africa.

CONT. ESTATE DUTY INCREASE FOR LARGER ESTATES

As a SA tax resident at death, that entire worldwide estate is levied for Estate duty by SARS. After taking into account all deductions and abatement, a dutiable estate up to the value of R30 million is liable for 20% Estate Duty, which is R6 million. Any amount over R30 million will be levied at 25%, for illustrative purposes a R35million estate is thereby liable for R7,25 million in Estate Duty. Part of effective estate planning is to ensure there is sufficient liquidity in the estate to cover all administration costs and duties payable on death. If the intention of the testator is to maintain offshore assets abroad without having to repatriate or liquidate those assets, you may want to consider a life policy that will pay out to the Estate and ensure Estate duty and subsequent executor's fees are provided for by the cover to avoid having to sell any international assets.

3. INVESTING OFFSHORE? BENEFIT FROM FAVOURABLE LAWS IN OFFSHORE JURISDICTIONS

Certain offshore investment jurisdictions have laws in place allowing co-ownership of investments, and how they are dealt with on the passing of one of the co-owners, is a helpful estate planning tool. For example, when money is invested in a jurisdiction such as Guernsey in the Channel Islands, include your spouse as a co-owner on the investment. This way any SA donations tax (as it is a donation between spouses) can be avoided and thus benefit from Guernsey's joint tenancy rights. In short, joint tenancy rights means passing of ownership on survivorship; the half of the investment owned by the deceased will automatically accrue to the remaining spouse. This avoids having to apply for a Guernsey grant of probate in order to transfer ownership of the investment. Keep in mind, however, that the half share of the investment still forms part of the deceased's estate for estate duty purposes; it does not bypass the South African Estate.

4. TRUSTS & ESTATE PLANNING

One can argue the latest increases in estate duty have inadvertently made the transfer of assets to a Trust, in view of immediate cost of possible capital gains tax and/or donations tax and/or interest payable on loan accounts (Sec 7C) in certain cases, the more 'affordable' option for the seriously wealthy when compared to paying 25% in Estate Duty. It seems to negate Treasury's intention of doing away with Trusts as Estate Duty avoidance purposes. Keep in mind, when utilizing an existing inter vivos trust for estate planning purposes, local South African Trusts cannot own offshore assets. If you have offshore investments or property and you have bequeathed specific assets or your entire estate to a Trust, those offshore assets will have to be liquidated and repatriated in Rand terms in order to be placed into the Trust. Make sure that the Trust in question and your estate planning outcomes as well as investment goals are consistent with each other.

5. IMPORTANT DOCUMENTS FOR SAFEKEEPING

This cannot be stressed enough - keep important documents in a safe and accessible location. Not only is it important to keep the will and testament safe, but certain documents that accompany the will when reporting an estate are just as valuable and can avoid delays for the executor winding up the estate. Important documents to keep together: ID document, marriage certificate, antenuptial contract, divorce orders and decrees, death certificate and Estate Duty return from a predeceased spouse's Estate, original title deeds, car registration papers, just to mention a few. Replacing or obtaining copies of certain documents can be costly and time consuming.

6. COMMUNICATE WITH HEIRS

The heirs of an estate, in most cases a surviving spouse, can play a vital role in the deceased administration process. Executors are only legally privy to all financial information only once they have been formally court appointed and issued the Letters of Executorship. This can occur weeks, if not months after date of death. The heirs and/or spouse become the direct line of communication in terms of the deceased's assets and liabilities. Death and money matters are not the most pleasant dinner conversations, but giving heirs or a spouse a basic outline of assets and liabilities in an estate, as well as information about life policies or annuities from which they might benefit, can greatly relieve the burden when they experience the loss of a loved one.

Avoid being the surprised surviving spouse, who assumed there were life policies paying out to the Estate on their spouse's death – only to find out there aren't any, and they have to now sell assets to cover administration costs.

7. NOMINATING AN EXECUTOR – EXPERTISE IN OFFSHORE ASSETS A MUST

You buy the latest tech, drive the newest and the best, your portfolio has been diversified with the latest offshore objectives – but your will is outdated and your executor is someone you briefly dealt with years ago. Something amiss? We definitely think so.

When drafting a will and nominating an executor, it's more than just about fees and how to avoid paying estate duty – it's about expertise. Does your executor keep up with estate planning information, changes to tax rules and trends on a global scale that is relevant to your estate? We expect this of financial advisors and other professionals like doctors; it should also be required of an Executor.

Investors often look for estate planning advice in terms of offshore assets and receive outdated, if not flat-out incorrect opinions regarding how the assets should be dealt with and what fees will in fact be deducted by the executor. The financial advice industry has changed over the last couple of years – pushed by a volatile local market and an unstable political environment.

Valuable and relevant estate planning has to be partnered with proper financial advice, local and foreign tax knowledge as well as an understanding of the estate administration laws of the jurisdictions in which the assets are held. **CHOOSE AN EXECUTOR WISELY;** question him/her on their knowledge of every specific asset in an estate and how it will be handled. If they cannot answer you comprehensively while you are still around to change that nomination in your will – they will most definitely struggle when the time comes to administer your estate. For example, you might have an investment held in Guernsey – does your executor know how to deal with this investment on your passing? Does your nominated executor know how to apply for a foreign grant of probate, or even if it's necessary? If you are unsure, or if your Executor does not have any experience with offshore assets, it might be time to rethink that nomination. Offshore assets, if handled correctly can be transferred and enjoyed by your heirs quicker than local assets. Handled incorrectly, coupled with poor estate planning – 'offshore' might become a migraine inducing term for heirs and executors alike.

Brenthurst Wealth has a team of highly qualified financial advisors to provide guidance as well as fiduciary specialists to manage the drafting of a will and assist with comprehensive estate planning and deceased estate administration.

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