

Wills and estates – workshop series
**The calculation of and accounting for
deceased estate taxes**

Workshop 2

Provisional content

1 The taxpayers

- 1.1 The deceased
 - a. South African residents
 - b. Non-residents
- 1.2 The estate

2 The deceased – South African residents

- 2.1 Normal income for tax period to date of death
 - a. Salary and pension - IRP5 certificates
 - b. Interest and investment income, and realised capital gains – IT3(b)/IT3(c) certificates
 - c. Other income – rental, farming, business, et
- 2.2 Deemed capital gains at date of death - Section 9HA(1)
 - a. Not to be confused with realised capital gains
 - b. How to identify assets subject to capital gains
 - c. How to calculate the capital gains
 - d. How to account for the capital gains to SARS
 - e. Where to include capital gains in the L&D

3 The estate

- 3.1 Registration (coding as deceased) with SARS
- 3.2 The tax periods
- 3.3 Taxable income and allowable deductions
- 3.4 Referencing to the Income and Expenditure Account in the L&D

4 Estate duty

4.1 Property

- a. immovable, movable, corporeal, or incorporeal
- b. fiduciary, usufructuary and like interests
- c. annuities – not be confused with retirement annuities

4.2 Not property

- a. Benefits from retirement funds
- b. Non-residents:
 - Immovable property outside South Africa
 - Movable property outside South Africa

4.3 Value of property

- a. Gross proceeds of property sold - Section 5(1)(a)
- b. Fair market value by sworn appraisal – Section 5(1)(g)
- c. Shares in non-listed companies – Section 5(1)(f)bis
- d. Farmland – Section 1 “fair market value” (b)
- e. Usufructs and limited rights – Section 5(1)(b)

4.4 Deemed property

- a. Domestic policies – Section 3(3)(a)
- b. Claim against surviving spouse – Section 3(3)(d)
- c. Property competent to dispose of – Section 3(3)(e)

4.5 Not deemed property

- a. Policies under antenuptial or postnuptial contract
- b. Policies effected by partners under buy-and-sell agreements
- c. Policies not effected by the deceased

4.6 Value of deemed property

- a. Domestic policies

4.7 Deductions – the deductions below will be discussed

- a. Funeral expenses – marriage in community of property - Section 4(a)
- b. Debts due by the deceased - Section 4(b)
- c. Administration costs allowed by the Master - Section 4(c)
- d. Expenditure incurred in carrying out the Master’s requirements - Section 4(d)
- e. Bequests to any public benefit organisation; institutions which are exempt from tax; the state or municipality - Section 4(h)
- f. Accrual claim by the surviving spouse - Section 4(IA)
- g. Accruals to the surviving spouse - Section 4(q)

4.8 Section 4A rebate

- a. Deceased was a spouse of one or more previously deceased persons – Section 4A(2)
- b. Deceased was one of the spouses of a previously deceased person – Section 4A(3)

4.9 Rebate on successive deaths – Proviso to the First Schedule of the Act

4.10 Apportionment of estate duty

- a. The executor – the estate – Section 12
- b. The persons to whom a usufruct accrues – Section 11(a)
- c. The persons to whom an insurance benefit accrues – Section 11(b)

4.11 REV267 Estate Duty Return

- a. Completing the REV267 return based on the comprehensive example used in the Workshop