




Guidance note on Estate Taxes for Offshore Assets

South African Individual investors, who are South African resident taxpayers holding individual shares with Melville Douglas, may be subject to estate taxes (or an equivalent type of tax) in the jurisdiction where those assets are located or sourced. Such taxes may be imposed over and above South African Estate Duty, subjecting those assets to double tax – once in South Africa levied on the worldwide assets of the investor, and once in the offshore jurisdiction of assets that are connected or otherwise sourced from that jurisdiction. A double taxation treaty (in the form of Estate duty Agreements) may reduce the double tax burden, as discussed further below.

In South Africa, Estate Duty is levied under the Estate Duty Act No. 45 of 1955 (the “Act”) on the dutiable amount of the estate of an individual at the time of death, at a rate of 20 percent on the first R30 000 000 of the dutiable amount of the estate and 25 percent on the amount by which the dutiable amount exceeds R30 000 000. The estate of an individual consists of all property that the deceased was competent to dispose of for his/her own benefit, or for the benefit of his estate. The Act currently makes provision for

deeming certain property to be part of the estate and allows for certain exclusions, deductions, and an abatement of R3 500 000 (three million five hundred thousand rand). At the time of death, the market value of all assets – including offshore assets - of the individual resident are included in the property of the deceased estate. This is in accordance with the residence based taxation system, whereby South African tax residents are taxed on their worldwide assets.



An equivalent type of tax to South African Estate Duty is levied in many other jurisdictions and is dependent upon the “situs” of the assets. The word “situs” simply refers to the source or location of the asset. In the United States (“US”), such tax is known as “Estate Taxes”, and in the United Kingdom (“UK”) it is known as “Inheritance Tax”. It is likely that other jurisdictions may also impose an equivalent type of tax to Estate Duty (which is applicable in South Africa) in the event of death, and investors are encouraged to seek professional legal and tax advice in this regard.

In determining the source of assets, the domestic tax laws of the relevant tax jurisdiction should be consulted. Furthermore, Estate Duty Agreements which South Africa has entered into, or enters into, with other countries should be reviewed. South Africa has concluded an Estate Duty Agreement with the UK and the US respectively. However, a comprehensive list of all Estate Duty Agreements is available on the SARS website: <http://www.sars.gov.za>.

The Estate Duty Agreements may relieve double tax. In essence, “double tax” refers to “tax that is imposed in two jurisdictions on the same assets at the time of death”. Tax relief is achieved by granting a tax credit to the South African tax resident where the other jurisdiction has taxed those assets in the event of death. The tax credit granted in South Africa will be limited to the amount of Estate Duty payable on the asset in South Africa i.e. to extent that double tax has been imposed. Should the other jurisdiction impose a tax in excess the South African Estate Duty that would be taxable that excess is taxed in the foreign jurisdiction only, and no tax relief is available in South Africa for the excess above the Estate Duty rates. The current inheritance tax rate in the UK is 40 percent, and in the US it is 40 percent (maximum), subject to certain limits. The current Inheritance tax threshold in the UK is £ 325 000, and \$ 60 000 in the US with respect to non-US citizens. Please note that these thresholds are subject to change. Different rules may apply to US or UK residents, or their domicile status. Kindly keep yourself updated on this matter, and any changes, through your tax and/or legal advisor.



Given below are general high level guidelines that apply based on the assumption that the assets are held by an individual South African tax resident.

DIRECT SHAREHOLDINGS, SHARES ISSUED BY US / UK COMPANIES

Under the Estate Duty Agreements signed between South Africa and the US and the UK, the source of the share is where the issuing company has been incorporated. Such shares, if held by an individual, will be subject to Estate Duty in South Africa, and Estate Tax in the US / Inheritance Tax in the UK, at the time of death. For example, this will include direct Exchange Traded Funds issued on the New York Stock Exchange. South Africa will grant a tax credit to the extent that those assets have been subjected to South African Estate Duty, i.e. 20 percent of the dutiable estate. No tax credit will be allowed for assets subject to tax at a rate higher than 20 percent on the offshore tax jurisdiction.

Please contact us for further information on how we can best serve your individual needs.

It's Personal.



The rules on situs are complex and can vary according to the laws (including tax laws) of the relevant jurisdictions where the assets are located, which should be read with accompanying interpretational aids. This guidance note has been circulated for information purposes only and does not constitute advice.

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