HAMMOND POLE

ATTORNEYS

THE EXECUTOR'S GUIDE

Deceased Estate & SARS

A quick guide for executors

When a person passes away, their assets and liabilities are consolidated into what is known as a deceased estate. An executor, appointed by the Master of the High Court, is responsible for identifying assets, paying creditors and ultimately distributing the remaining estate to beneficiaries.

One of the executor's key responsibilities is ensuring that the deceased's tax affairs are brought up to date. This guide outlines the steps required to meet your obligations with SARS.

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STEP
01

Notify SARS

- [ ] Notify SARS of the death.
- [ ] Submit all outstanding tax returns before the estate can be finalised.

STEP
02

Understand What SARS Can Claim

SARS is entitled to recover any taxes that remain unpaid. Depending on the circumstances, SARS may claim:

- [ ] Outstanding income tax
- [ ] Capital gains tax
- [ ] VAT
- [ ] Estate duty
- [ ] Interest and penalties on unpaid taxes

NOTE

South African tax legislation generally treats a deceased person as having disposed of their assets on the date of death, which can trigger a capital gains tax liability. While certain exemptions and rollovers may apply, the tax implications can be significant and should be carefully assessed during the estate administration process.

STEP

03

Work With a Tax Practitioner

The tax compliance process within a deceased estate is typically overseen by a qualified tax practitioner working together with the executor. The tax practitioner assists in ensuring that:

- [ ] All outstanding tax returns are submitted.
- [ ] Any tax liabilities are correctly calculated.
- [ ] All SARS requirements are met.

This helps ensure that the estate remains compliant, reduces the risk of delays arising from outstanding tax issues, and assists the executor in obtaining the necessary tax clearances required to finalise the administration of the estate.

STEP

04

Settle Creditors Before Distributing Assets

Before beneficiaries can receive their inheritance, all creditors must be paid from the estate. SARS is regarded as a creditor, and its claims must be settled before assets can be distributed.

- [ ] Confirm all creditor claims against the estate.
- [ ] Settle SARS claims in full before any distribution to beneficiaries.

NOTE

Beneficiaries are generally not personally responsible for the deceased's tax debts simply because they are heirs. The debts remain obligations of the estate itself.

STEP
05 Obtain Tax Clearance From SARS

The executor is required to obtain confirmation from SARS that the deceased's tax affairs are in order. Without this clearance, the administration of the estate cannot be completed.

- [ ] Obtain tax clearance from SARS confirming all tax affairs are settled.
- [ ] Retain this clearance as part of the estate administration record.

IF THE ESTATE IS INSOLVENT

When debts exceed the value of the estate

Where an estate is insolvent, assets may need to be sold, and creditors are paid according to a prescribed legal order. Beneficiaries will only inherit if there are sufficient funds remaining after all creditors, including SARS, have been paid.

NEED ASSISTANCE?

Administering a deceased estate can be a complex process, particularly where property, investments, businesses or outstanding tax liabilities are involved. Delays in resolving tax matters with SARS can significantly prolong the winding up of an estate and delay distributions to beneficiaries.

At Hammond Pole Attorneys, we assist families and executors with deceased estate administration, tax-related estate matters and succession planning.

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