



MELVILLE DOUGLAS

A member of Standard Bank Group



Estate Taxes for Offshore Assets

Guidance Note

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 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 per cent. 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” is defined as “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. As South Africa taxes the value of the dutiable estate at 20 per cent, South Africa will only grant a tax credit to the extent that double tax has been imposed. Should the other jurisdiction impose a tax in excess of 20 per cent, that excess is taxed in the foreign jurisdiction only, and no tax relief is available in South Africa for the excess above 20 per cent. The current inheritance tax rate in the UK is 40 per cent, and in the US it is 40 per cent (maximum), subject to certain limits. The current Inheritance tax threshold in the UK is £ 325 000, and \$ 60 000 in the US. 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 per cent of the dutiable estate. No tax credit will be allowed for assets subject to tax at a rate higher than 20 per cent on the offshore tax jurisdiction.

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

DISCLAIMER

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. This guidance note is not to be relied upon as independent professional advice. The Standard Bank of South Africa Limited ("Standard Bank") and its affiliates, subsidiaries and holding company, (collectively "Standard Bank Group") does not offer any advice or recommendations in this document and you are advised to liaise with an independent tax and/or legal advisor. Melville Douglas is part of the Standard Bank Group. Please note in particular that the tax rates and thresholds contained in this may change at any time, and this may have a material impact on the guidance provided above. Information presented in this guidance note was obtained or derived from sources which Standard Bank considers reliable, but Standard Bank makes no warranties or representations (implied or otherwise) as to the accuracy, completeness or fitness for purpose of this information or that it is free from errors or omissions. Standard Bank Group and its employees, agents and representatives accept no liability for any loss arising from the use of the material presented in this guidance note. Information and estimates contained in this guidance note are subject to change without prior notice. This guidance note may provide the addresses of, or contain hyperlinks to, websites. Standard Bank Group has not reviewed any linked site in its entirety and takes no responsibility for the security or content of those sites. Such addresses or hyperlinks are provided solely for your convenience and Standard Bank Group makes no warranties or representations as to the accuracy thereof. Accessing such website/s or following such link/s through this guidance note shall be at your own risk.

This document, its contents and attachments may not be used, disclosed, reproduced or transmitted in any form, electronic or otherwise, in whole or in part, without the prior written consent of Standard Bank.