Death and Taxes
What Happens to Your Tax Affairs When You Die

By Charmaine Lötter, Whitfield Fintax,

Benjamin Franklin's old line — that nothing is certain except death and taxes — is more than a saying in South Africa; it's practically a compliance requirement. SARS does not close your file the moment you pass away. In some respects, your tax affairs become more complex: a final return must be filed, capital gains are triggered, and your deceased estate becomes a taxpayer in its own right. For executors and families already dealing with loss, understanding these obligations upfront can prevent costly surprises and unnecessary delays.

Your Final Income Tax Return

On the date of death, you are treated by law as having disposed of all your assets at market value — a "deemed disposal" for capital gains tax purposes. Any resulting gain (or loss) is included in your final income tax return, alongside any other income earned up to the date of death. Following the 2026 Budget, the CGT exclusion available in the year of death was increased from R300 000 to R440 000, reducing the taxable gain for many estates. The primary residence exclusion of R3 million applies on top of this. Because the calculation depends on the original base cost of each asset, accurate records — going back years or even decades — make a real difference to the final tax bill.

The Deceased Estate Becomes Its Own Taxpayer

Once you die, a new taxpayer is effectively created: the "estate late" of the deceased, with its own SARS tax reference number. Any income earned by estate assets after death — rental, interest, dividends — while the estate is being wound up falls into this separate tax record, not your personal one. The executor is responsible for registering the estate, submitting the required returns, and settling any tax due before assets can be distributed to heirs. An efficiently administered estate keeps this period short, limiting the number of tax cycles (and the professional fees that go with them).

Estate Duty — South Africa's "Death Tax"

Separate from income tax, most estates are also subject to estate duty under the Estate Duty Act. It is levied on the "dutiable estate": the gross value of your worldwide property (including certain deemed property, such as some policy proceeds), less allowable deductions, less an abatement.

- Abatement: the first R3.5 million of every estate is duty-free. Any unused portion can roll over to a surviving spouse, giving a couple a combined abatement of up to R7 million.
- Spousal deduction: assets bequeathed to a surviving spouse are fully deducted from the dutiable estate — deferring estate duty entirely until the second death.
- Rates: 20% on the dutiable amount up to R30 million, and 25% on the amount above R30 million.
- Timing: the executor must account to SARS for estate duty within a set period after death (currently 12 months), with interest accruing on any amount paid late.

Retirement Funds and Life Policies

Retirement fund death benefits generally don't pass through your will at all. Fund trustees distribute them under Section 37C of the Pension Funds Act to your dependants and nominees, and the payout is taxed separately according to the retirement lump sum tax table — the first R550 000 tax-free, then rising through 18%, 27% and 36% brackets — rather than through the deceased estate's income tax return. Life policies and retirement benefits paid directly to nominated beneficiaries can, if structured correctly, also fall outside the dutiable estate for estate duty purposes. This makes beneficiary nominations one of the most powerful — and most overlooked — estate planning tools available.

Executor's Fees and the Liquidity Squeeze

Executors are entitled to remuneration of up to 3.5% (plus VAT) of the gross value of estate assets, and 6% (plus VAT) on income collected during administration. Combined with estate duty, CGT, Master's fees and conveyancing costs, an estate can face a substantial cash requirement even though its beneficiaries inherit considerable value "on paper." This is usually a liquidity problem, not an affordability one — and it's often what forces the sale of a family home, business or farm at a time and price nobody would have chosen. Liquidity planning, typically through appropriately structured life cover, keeps that decision in your family's hands rather than the executor's.

There is also a structural way to soften this cost. Some fiduciary practitioners bill on time actually spent rather than the fixed statutory tariff, which in practice can reduce the effective executor's fee well below the 3.5% ceiling. One effective structure is to appoint a trusted family member as the nominated executor, and then appoint a fiduciary practitioner who is a member of FISA (Fiduciary Institute of South Africa) as an agent to carry out the administration on their behalf, billed on that time-spent basis. Your family keeps control of the process and the decision-making, while the technical, tax and reporting work is handled professionally, at a cost aligned to the work actually done rather than a flat percentage of the estate.

Reducing the Tax Burden While You're Alive

Because most of these costs are shaped by decisions made long before death, proactive planning has an outsized impact. Individuals can donate up to R150 000 per year free of donations tax, with amounts above that taxed at 20% (25% above R30 million, mirroring the estate duty rates). Trusts, correctly drafted bequests to a spouse, and up-to-date beneficiary nominations can all reduce the eventual estate duty, CGT bill, reduces Executors fees and the time spent on winding up of the estate — just as importantly — the time it takes to finalise an estate.

Bringing It Together

Death and taxes may both be certainties, but the size of the tax bill your family eventually faces is not. It is shaped by decisions made — or postponed — while you're alive: how your will is drafted, how your assets are structured, who your nominated beneficiaries are, and whether your estate has the liquidity to cover its own costs. Working with a fiduciary practitioner who is a member of FISA (Fiduciary Institute of South Africa), alongside your accountant and financial adviser, helps ensure these pieces are planned for together, so that when the time comes, your estate settles efficiently and your family keeps as much of what you've built as possible.

If you'd like your will and estate duty exposure reviewed as one coordinated plan, it's worth speaking to a fiduciary practitioner who is a member of FISA (Fiduciary Institute of South Africa).

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