Frequently Asked Questions

Deceased Estates

Issue 4



Income Tax and Estate Duty

Frequently Asked Questions: Deceased Estates

The frequently asked questions (FAQs) in this document have been compiled on the basis of questions that executors and the public at large have about the tax treatment of deceased estates.

These FAQs are drafted purely to assist executors and the public at large to obtain clarity and to ensure consistency on certain practical and technical aspects relating to estate duty and the income that may arise after the date of death. They are therefore not intended to be used as legal reference. More information about some of the aspects discussed in this document are available in the *Guide to the Individual Income Tax Return for Deceased and Insolvent Estates – External Guide* and the *Comprehensive Guide to Capital Gains Tax* (Issue 9).

These FAQs are also intended to solicit further questions regarding the practical aspects and tax treatment of deceased estates. They will therefore be updated periodically to address these questions, as well as any changes to the legislation..

All other forms, guides and interpretation notes referred to in these FAQs are available on the **SARS website**. Unless indicated otherwise, the latest issues of these documents should be consulted.

Estate Segment
SOUTH AFRICAN REVENUE SERVICE
19 November 2026

General

<table>
<tr><th colspan="2">Question</th><th>Answer</th></tr>
<tr><td colspan="3">Estate duty</td></tr>
<tr><td>1.</td><td>What is estate duty?</td><td>Estate duty is the duty levied under the Estate Duty Act, 1955 (the ED Act) on the dutiable amount of an estate of a deceased person.</td></tr>
<tr><td>2.</td><td>What is the estate duty rate?</td><td>The duty is levied on the dutiable amount of an estate that does not exceed R30 million at a rate of 20%. Estate duty is levied at a rate of 25% on the dutiable amount of an estate that exceeds R30 million.</td></tr>
<tr><td colspan="3">Estate duty calculation</td></tr>
<tr><td>3.</td><td>How is estate duty calculated?</td><td>The following table illustrates how estate duty is calculated:
<table>
<tr><td></td><td>R</td></tr>
<tr><td>Value of property [section 3(2)]</td><td>xx</td></tr>
<tr><td>Plus the value of deemed property [section 3(3)]</td><td>xx</td></tr>
<tr><td>GROSS VALUE OF THE ESTATE</td><td>XXX</td></tr>
<tr><td>Less allowable deductions/expenses (section 4)</td><td>(xx)</td></tr>
<tr><td>NET VALUE OF THE ESTATE</td><td>XXX</td></tr>
<tr><td>Less section 4A rebate</td><td>(xx)</td></tr>
<tr><td>DUTIABLE AMOUNT OF THE ESTATE</td><td>XXX</td></tr>
<tr><td>Estate duty @ 20% on value of property not exceeding R30 million</td><td>X</td></tr>
<tr><td>Estate duty @ 25% on value of property exceeding R30 million</td><td>X</td></tr>
</table></td></tr>
<tr><td>4.</td><td>What is included in an estate?</td><td>The estate of any person consists of all the property and deemed property (situated in and outside South Africa) of the deceased person as at the date of death. However, for a deceased person who was not ordinarily resident in South Africa, any property situated outside South Africa is excluded.</td></tr>
<tr><td>5.</td><td>What is the meaning of “property”?</td><td>“Property” is defined in section 3(2) of the ED Act to mean any right in or to property, movable or immovable, corporeal or incorporeal. The definition is comprehensive and includes real rights such as the rights attached to fixed or moveable property as well as personal rights (for example, any fiduciary, usufructuary or like interest in property and any right to an annuity (other than a right to an annuity charged on property)).

Crypto assets are regarded as movable, incorporeal property in the estate of the deceased person and is included for estate duty purposes (see Questions 42 to 44).</td></tr>
</table>

		Section 3(3) of the ED Act further includes certain property as *deemed* property in the estate. The following property is regarded as deemed property: • Domestic policies on the life of the deceased, subject to exclusions. • Exempt donations under section 56(1)(*c*) or (*d*) of the Income Tax Act. • An accrual claim on behalf of the deceased person against the surviving spouse under the Matrimonial Property Act, 1984. • Any property that the deceased was before his or her death competent to dispose of for his or her own benefit or for the benefit of his or her estate. Section 3(3)(*e*) of the ED Act specifically includes any contributions made by the deceased person to an approved South African retirement fund that was allowed as a deduction under section 5 of the Second Schedule to the Income Tax Act, in determining the lump sum benefit payable to the deceased person.
6.	What property is excluded from an estate?	A distinction should be made between a person who is ordinarily resident at the time of death and a person who is not. *Ordinarily resident*: Section 4(*e*) of the ED Act provides that property acquired before becoming ordinarily resident in South Africa may under certain circumstances be excluded from the estate. If the deceased is ordinarily resident in South Africa at the date of death, his/her property in South Africa as well as his/her property situated outside South Africa, subject to certain exclusions, is taxable. *Not ordinarily resident*: Property situated outside South Africa as provided for in section 3(2)(*c*) – (*h*) of the ED Act is excluded from the deceased estate in South Africa. If the deceased person was ordinarily resident outside South Africa at the time of death, but had assets in South Africa, the deceased person will have a South African estate for estate duty purposes. Furthermore, section 3(2)(*i*) of the ED Act excludes any benefit payable to the deceased from an approved retirement fund as a result of death.
7.	Are there any exemptions from estate duty?	**No**. The ED Act does not provide for any exemptions, but only for the exclusion of certain property from an estate (see **Question 6**).

8.	What impact can the matrimonial property regime have on the estate duty calculation of the deceased?	The matrimonial property regime under which the deceased person was married will impact the calculation of estate duty. In a marriage out of community of property, each spouse has his or her own estate. Where the accrual system applies to a marriage out of community of property, the spouse with the smallest accrual will have a claim against the other spouse. If the deceased person has the larger estate, a claim will be made against the deceased estate by the surviving spouse [section 4(*l*A)]. If the deceased person has the smaller estate, the estate have an accrual claim against the surviving spouse and it will be included in the deceased estate as an asset [section 3(3)(*c*A)]. In a marriage in community of property, a joint estate exists. When one spouse dies, the entire estate must be administered, but the surviving spouse has a 50% interest in the joint estate and may claim his or her half share. Additional claims may arise under the law of intestate succession. The value of the surviving spouse's estate is calculated after liabilities and administration costs have been deducted from the joint estate. The funeral costs and estate duty are paid from the deceased's half of the estate. The latter two deductions are only made after the joint estate had been divided. Although the whole amount of funeral costs is taken into consideration for administration of the joint estate, that amount is added back to establish the one-half share of the joint estate belonging to the surviving spouse and which is not subject to estate duty. The whole amount of funeral costs is then subtracted from the deceased's one-half share of the joint estate.
9.	What deductions are available to reduce the value of an estate?	The following list of expenses are available to qualify as deductions against the gross value of the estate to determine the net value: • Section 4(*a*): Funeral, tombstone and deathbed expenses. • Section 4(*b*): Debts owed in South Africa. • Section 4(*c*): Costs of administration and liquidation. Costs incurred in relation to the management and control of income accruing after the date of death is excluded from this deduction. • Section 4(*d*): Costs incurred to adhere to the requirements of the Master of the High Court (Master) or the Commissioner for the South African Revenue Service (Commissioner for SARS), for example, cost of valuing property included in the estate, legal costs in relation to disputes with SARS, security costs and fees to professional persons. • Section 4(*e*): Deductions in respect of foreign assets and rights.

		• Section 4(*f*): Deductions in relation to foreign debts. • Section 4(*g*): Limited interests received as a gift. • Section 4(*h*): Bequests to certain institutions. • Section 4(*i*): Improvements made by beneficiaries to property. • Section 4(*j*): Improvements to properties subject to a limited interest. • Section 4(*l*A): Accrual claims under the Matrimonial Property Act. • Section 4(*m*): Limited interests created by the predeceased spouse and enjoyed by the deceased. • Section 4(*o*): Value of books, pictures, statuary other objects of art. • Section 4(*p*): Deemed property and the valuation of company shares. • Section 4(*q*): Bequest to the surviving spouse.
10.	Do all funeral expenses qualify as a deduction under section 4(*a*)?	The ED Act does not provide a prescribed list for funeral expenses and the allowing of a deduction is subject to the discretion of the Commissioner. When applying the discretion in allowing any funeral expenses, it is measured against the type of expense (being critical to the burial of the deceased) AND the value of the expense and whether it can be considered as reasonable (bearing in mind the station of the person in life and the value of the estate). The following expenses are not allowed as a deduction under section 4(a): • Flowers • Wreaths • News advertisements • Catering/Food/Drinks/Snacks/Tea/Coffee • Marquee hiring/Chairs and tables • Restaurant bills • Transport of people/attendees/family members to the grave • Premiums paid prior to death in respect of a funeral policy
11.	How is the dutiable amount of an estate determined?	The net value of the estate is calculated by deducting from the gross value of all property and deemed property the amounts provided for in section 4. Once the net value is determined, an amount of R3,5 million is deducted under section 4A to determine the dutiable amount of the estate. Estate duty is then calculated on the dutiable amount, if any (see **Question 3**).

<table>
<tr>
<td>12.</td>
<td>What is the value of the section 4A abatement?</td>
<td>The value of the section 4A abatement has increased over time as follows:
<table>
<tr><th>Period</th><th>Value (R)</th></tr>
<tr><td>Prior to 1 March 2005</td><td>1,5 million</td></tr>
<tr><td>1 March 2006 to 28 February 2007</td><td>2,5 million</td></tr>
<tr><td>1 March 2007 to date</td><td>R3,5 million</td></tr>
</table>
</td>
</tr>
<tr>
<td>13.</td>
<td>What is the impact on the section 4A abatement if the deceased had a predeceased spouse at the time of death?</td>
<td>An abatement of R3,5 million is available in respect of every estate, however, where a deceased person has a predeceased spouse, the deceased person is entitled to a rebate of R7 million (R3,5 million × 2) less any amount used by the predeceased spouse’s estate. The maximum that the latter dying spouse can have is R7 million.

Example: A died in January 2020 but had a predeceased spouse, B, who died in 2019 and used R3 million of the section 4A abatement. What is the value of the section 4A abatement in A’s deceased estate?

= (R3,5 million × 2) less any amount used by predeceased spouse

= R7 million less R3 million

= **R4 million** is available to A’s deceased estate.</td>
</tr>
<tr>
<td>14.</td>
<td>If the section 4A abatement entitlement was less than R3,5 million at the time of the predeceased spouse’s death, how is the section 4A abatement calculated in the latter dying spouse’s estate?</td>
<td>The fact that the allowable section 4A abatement was worth less than the R3,5 million (for example R2,5 million in September 2006), does not affect the starting point of R7 million in the second dying spouse’s hands.

Example: A died in June 2020 but had a predeceased spouse, B, who died in September 2006 when the section 4A abatement was only R2,5 million. The full R2,5 million was used in B’s deceased estate. What is the value of the section 4A abatement in A’s deceased estate?

The section 4A abatement will be calculated as follows:

= (R3,5 million × 2) less any amount used by predeceased spouse

= R7 million less R2,5 million

= R4,5 million qualify as the section 4A abatement in A’s deceased estate.</td>
</tr>
</table>

15.	Can a deceased person claim a section 4A(2) abatement in respect of a previously deceased spouse who was not ordinarily resident in South Africa?	**Yes**. The ED Act does not require the predeceased spouse to be ordinarily resident for the latter dying spouse to make use of any unused portion of the R3,5 million. The only requirement is that there must be a predeceased spouse. The fact that the predeceased spouse ended up having no estate does not disqualify the R3,5 million to be rolled over to the latter dying spouse's estate.
16.	What documentation is required to qualify for the section 4A(2) abatement?	A stamped copy by the Master of the liquidation and distribution account (L&D account) or a stamped copy by the Master of the predeceased's estate duty return (REV267) together with the other estate documentation, is required to qualify for the section 4A(2) abatement. The deduction will not be allowed if the L&D account or REV267 is not submitted or is not stamped by the Master's office. Alternatively, the Commissioner may request any other relevant material that the Commissioner may regard as reasonable in relation to the estate of the predeceased spouse.
17.	Does an estate qualify for the R7 million under section 4A(2) if the pre-deceased's estate was not reported at the Master?	**Yes**. The requirements under the ED Act are not dependent on whether the predeceased spouse's estate was reported at the Master. Alternative documentation can be requested to confirm whether or not the R3,5 million was used.
18.	Who qualifies as a "spouse" for estate duty purposes?	A spouse includes any partner in – • a marriage or customary union recognised in the Republic; • unions recognised as marriages under tenets of religion; or • a same sex or heterosexual union, which the Commissioner is satisfied is intended to be permanent. Under section 13 of the Civil Union Act, 2006 read with the definition of "spouse" in the ED Act, a civil union partner is also included as a spouse.
19.	If the deceased was in a life partnership at the time of death what documentation would be required to satisfy the Commissioner's discretion that the relationship was intended to be permanent?	Before the Commissioner can consider the life partner of the deceased to qualify as a "spouse" under section 1 of the ED Act, SARS needs to be provided with three affidavits from different parties to confirm the relationship. The following guidelines may be regarded as proof in support of a life partnership: • An affidavit in which neighbours, relatives or professional people confirm that the deceased and his or her partner had such a relationship. • A cohabitation agreement.

		• A joint bank account. • The will of the deceased in which the partner is appointed as a beneficiary. • Proof of joint ownership of immovable property or other assets. • Life policies, retirement annuity fund (RAF) or pension fund benefits of which the partner is a beneficiary. • Membership of a medical scheme reflecting the partner as a dependant. • The period of such relationship.
Income tax of the deceased estate after death		
20.	Is there a distinction between a deceased person and the deceased estate for income tax purposes?	**Yes**. The deceased person's liability for tax and year of assessment come to an end at the date of death and a new taxpayer, namely, the deceased estate comes into existence in respect of any income and liabilities that arise after the date of death. Although the deceased estate is treated as a **natural person**, it is *not regarded as the same natural person as the deceased person*.
21.	What is a deceased estate?	In general, a deceased estate is not a person but simply a collection of rights and obligations of the deceased person administered by an executor. However, **for income tax purposes**, a deceased estate is regarded as a "person" by way of the inclusion of such an estate in the definition of a "person" as defined in section 1(1) of the Income Tax Act.
22.	What rate of tax applies to a deceased estate?	A deceased estate is treated as a natural person for income tax purposes, *except* for the application of sections 6, 6A and 6B of the Income Tax Act. Therefore, the rate of tax applicable to individuals also apply to a deceased estate. The exclusion of deceased estates from the application of section 6 of the Income Tax Act means that the tax thresholds applicable to individuals do not apply to a deceased estate.
23.	How is the year of assessment determined for a deceased estate?	The first year of assessment for the deceased estate commences on the day after the date of death and ends on the last day of February. If the L&D account becomes final before the end of the year of assessment, the year of assessment will end on such date. For subsequent years of assessment, the executor of a deceased estate must continue to submit income tax returns for each year of assessment until the L&D account becomes final.
24.	Can a deceased estate be a provisional taxpayer?	**No**. A deceased estate is specifically excluded from the definition of "provisional taxpayer" as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act. A deceased estate cannot settle a tax liability by way of provisional tax.

25.	How is the residence of a deceased estate determined?	The residence of a deceased estate in South Africa for income tax purposes follows the residence of the deceased person at the time of death. This determination of residence for income tax purposes is wide and can be by way of physical presence or by being ordinarily resident in South Africa. For estate duty purposes, the concept of residence is narrow and determined by whether the deceased person was *ordinarily resident* in South Africa.
26.	What happens if the deceased person was a resident for income tax purposes by way of physical presence, but not ordinarily resident?	For income tax purposes, the worldwide income of the deceased person would be subject to tax in South Africa, however, for estate duty purposes, only the property situated in South Africa is included in the deceased estate.
27 .	What types of income is taxable in the deceased estate?	The following types of income are taxable in the deceased estate: • All local and foreign income, except for a non-resident deceased estate where only the income earned in South Africa is subject to tax. • Investment income (including local interest income exceeding R23 800). • Rental income from immovable property. • Trading income. • Farming income. • Trust income. • Capital gains on assets disposed of by an executor. • No IRP5/IT3a type income, for example, lump sums or vesting of share options. • Any income received after the date of death, for example, a bonus, relating to a period before death accrues to the deceased person as at date of death and not to the deceased estate. This income must be declared in the deceased person's last return. Any income (investment, rental or trade) that have accrued over a period of time that relates to a period before and after the date of death must be split between the deceased person and the deceased estate. The income that accrued up to the date of death must be included in the return of the deceased person and the income that accrued after the date of death, must be included in the income and expenditure account of the L&D account.

28.	How is the interest exemption applied to the interest received by the deceased estate?	The exemption available to the deceased estate per year of assessment is R23 800. Previously, it was not apportioned if the year of assessment was less than 12 months. However, from 1 March 2023 (that is, the 2024 year of assessment) if the year of assessment is less than 12 months, the R23 800 exemption shall be apportioned according to the same ratio as the number of days in that year of assessment bears to 365 or 366 days. **Example:** The deceased died on 31 October 2023 and the interest income that accrued to the deceased estate from the date of death up to 29 February 2024 amounts to R30 000. The taxable portion of the interest is calculated as follows: The period of assessment from 1 November 2023 to 29 February 2024 amounts to 121 days (30 + 31 + 31 + 29). The available interest exemption is R7 868 (121 / 366 × R23 800). The taxable portion of the interest income for the 2024 year of assessment in the deceased estate amounts to R22 132 [R30 000 – (R23 800 but limited to R7 868)]. **Note:** The same rule applies when the estate is deregistered during a year of assessment where the interest exemption must be apportioned pro-rata.
29.	What is the impact on the income and expenditure that arise after death if the deceased person was married in community of property?	Where the deceased person was married in community of property and income (investment and rental income) is earned by the deceased estate, 50% of such income must be declared by the deceased estate and the surviving spouse must declare the other 50%. All income, both local and foreign (including investment and rental income) as well as capital gains and foreign credits must be reflected as 50%. For a non-resident estate, only local income is included. Income derived from the carrying on of a trade (except rental income) only forms part of the estate of the person carrying on the trade. The 50/50 split therefore does not apply to trade income. A capital gain up to R1 million in respect of the disposal of a primary residence may be claimed in the deceased estate, the balance must be reflected in the spouse's return.
30.	How often should an income tax return be submitted on behalf of the deceased estate?	An income tax return should be submitted for each year of assessment until such time as the estate becomes distributable. Even when an estate is finalised during the year of assessment, an income tax return must be submitted for the full year of assessment during which the liquidation process was finalised.

31.	If a deceased estate takes more than one year of assessment to be finalised, how should the income and expenditure be allocated?	The income earned and expenditure incurred after the date of death must be allocated to each relevant year of assessment until the deceased estate is finalised.
32.	How is the income and expenditure that arise after death proven?	The L&D account must be submitted in order to prove any of the following: • Income received by the executor. • Assets acquired by the deceased estate from the deceased person. • Assets disposed of by the deceased estate to an heir or legatee. • Assets disposed of by the deceased estate to a resident surviving spouse. The assessment of this income up to the date of the final L&D account as approved by the Master will form part of the expenditure in the income and expenditure account of the deceased estate and is due and payable by the executor. The usual expenses as in the income and expenditure account are allowed to be claimed by the deceased estate.
33.	Who is responsible for the tax liability that arise in respect of the income and expenditure that arise during the advertisement period up to the date the Master approves the L&D account?	The deceased estate is liable for any tax applicable to income earned during the advertisement period up to approval. Any income earned during the advertisement period up to approval must be declared in the deceased estate's final income tax return although not reflected in the income and expenditure account of L&D account.
34.	Who is responsible for the tax liability that arises for the period after the Master approved the L&D account?	Any income earned after approval of the L&D account accrues to the beneficiaries (if any). The executor must inform the beneficiaries to declare such income in their respective tax returns.
35.	What deductions or exemptions apply to the deceased estate?	The following deductions and exemptions are available to the deceased estate: • The interest exemption for a taxpayer below 65 years of age applies to the deceased estate even if the deceased person was older than 65. • Any capital gain on the disposal of a primary residence, where the gain does not exceed R2 million, will be disregarded.

		• No capital gains tax implication on property that is inherited by a surviving spouse. Roll-over will apply. • The capital gains tax exclusions on personal use assets. • The deceased estate will be taxed at the same rates and enjoy the same inclusion rate for capital gains tax as is applicable to natural taxpayers. • The exclusion and inclusion rates as per the current tax year of assessment. The following are not applicable to a deceased estate: • Medical and travelling deductions • Provisional tax • Any normal tax rebates • Estate duty
36.	Can accounting fees be claimed as a deduction for the period after death?	Only professional fees that were actually paid or are payable for the completion of the income tax return, can be considered as a deduction. Refer to paragraph 7.2.1 of the *Guide to the Individual Income Tax Return for Deceased and Insolvent Estates* and Practice Note 37 "Deduction of Fees Paid to Accountants, Bookkeepers and Tax Consultants for the Completion of Income Tax Returns".
37.	Is a deceased estate entitled to a deduction under section 18A for a bequest in terms of a will paid to a qualifying public benefit organisation?	**No**. The bequest is not considered to be a donation made by the deceased estate for purposes of section 18A. However, a bequest in terms of a will made to a qualifying public benefit organisation may qualify for a deduction under section 4(*h*) of the ED Act for estate duty purpose.
38.	Is the section 18A carried-forward balance for excess deductible donations made by the deceased taxpayer available to the deceased estate?	**No**. The carried-forward balance for excess deductible donations made by the deceased taxpayer up to the date of death is forfeited at death. No carried-forward balance is carried over to the deceased estate as it is a separate taxpayer from the deceased person.
39.	Which expenses are not allowed as a deduction in the deceased estate?	No expenses may be claimed relating to – • advertisement costs for debtors and creditors; • advertisement costs for the L&D account; • Master's fees; • executor's remuneration (3,5%); • value-added tax (VAT) on the executor's remuneration; and • postage and petties.

40.	How is an assessed loss treated?	An assessed loss, including a capital gains tax assessed loss, may not be carried over from the deceased person to the deceased estate. The deceased estate will be allowed to carry over any losses incurred in the deceased estate, until the L&D account becomes distributable.
41.	Can a deceased estate register for PAYE and apply for voluntary disclosure relief (VDP)?	The executor, as the representative taxpayer of the deceased person and the deceased estate, acts as the "representative employer" for PAYE purposes. If the deceased person should have registered as an employer but failed to do so, the executor can act in a representative capacity on behalf of the deceased person to apply for voluntary disclosure relief.
Crypto assets		
42.	Is a crypto asset regarded as an asset in the deceased estate?	**Yes**. A crypto asset is regarded as a movable asset in the deceased estate.
43.	How is a crypto asset treated for tax purposes in the deceased estate?	For **estate duty purposes**, the crypto asset must be included as property in the deceased estate and is valued at the fair market value at the date of death. For **income tax purposes**, depending on the facts and circumstances applicable, a crypto asset is regarded as a capital asset or trading stock for tax purposes. If the crypto asset is treated as trading stock, normal tax will apply and if it is treated as a capital asset, capital gains tax may apply.
44.	How must a crypto asset be declared to SARS?	The crypto asset must be declared in the deceased person's income tax return. The executor or agent must also declare the crypto asset in the tax return of the deceased estate (if applicable) as well as in the L&D Account.
The role of the executor		
45.	Who can act as an executor?	The person appointed by the Master by way of a letter of executorship (or a letter of authority) is the executor (or administrator) of the estate.
46.	Who is the representative taxpayer at SARS for the deceased person and the deceased estate?	The appointed executor is the representative taxpayer of the deceased person and the deceased estate. If the executor appointed an agent with a Power of Attorney, such agent may act on behalf of the executor to fulfil the necessary duties, but the executor remains the legally responsible person.

47.	Who is responsible for the administrative duties regarding a deceased person and the deceased estate?	The executor as the representative taxpayer is required to act on behalf of the deceased person and the deceased estate. The executor is required under the Administration of Estate Act, 1965 to fulfil all duties and obligations in finalising the estate. As noted above in **Question 46**, an agent with a Power of Attorney may assist an executor.
48.	What duties do the executor have at SARS?	The executor is responsible for all tax duties at SARS that include: • The reporting of the deceased person's death (if the deceased was registered for tax or earned taxable income or had a dutiable estate). • All returns for all taxes (including estate duty) the deceased person was registered for must be submitted and all tax liabilities must be settled. • The registration of the deceased estate for tax purposes should any post-death taxable income arise. • Submission of all the tax returns of the deceased estate and settling of any tax liabilities. Act as the representative employer (PAYE) or vendor (VAT) where applicable.
49.	Can an executor be held personally liability?	**Yes**. The executor is personally liable for tax payable in his or her representative capacity if – • a tax liability remains unpaid, and the executor disposes of the amounts in respect of which the tax is chargeable; or • an executor disposes of funds that he or she possesses in a representative capacity or that came into his or her possession after a tax liability is due and the funds could legally have been applied to settle the tax liability. An exception to the general rule is that an executor cannot be held personally liable for the tax liability in respect of an asset over which the executor had no control.

Operational aspects

Question		Answer
Coding of the death of a person		
50.	How to report the death of the deceased person to SARS?	SARS must be notified of the death of the person, even if no estate duty is payable. If the deceased was not registered for tax purposes, it still needs to be reported to SARS. An executor must notify SARS of the death by sending it through the **SARS Online Query System**, by selecting **Submit an Estate Query**, and the **Report New Estate** option.

51.	Which documents are required by SARS for the deceased person to be coded as such?	The following documents are required for a deceased person to be coded as such with SARS: • Copy of the death certificate • Copy of Letter of Executorship (Form J238) • Copy of the Letter of Authority (Form J170) (in cases where the estate is less than R250 000) • Copy of the ID of the deceased person and executor/administrator • Copy of ID of the executor/administrator • Power of Attorney if there is an appointed agent • Copy of ID of the agent • The name, physical address, e-mail address and telephone number of the executor/administrator and his or her agent (if an agent is appointed).
52.	How are the details of the representative taxpayer updated?	The following steps should be taken on eFiling to update the representative taxpayer's (referred to as the Registered Representative) details: • Open link: **Registered Representatives** • Select <SARS Registered Details> from the menu on the left • Select <Activate Registered Representative> • If you are the appointed registered representative for an entity, you must activate the status on eFiling in order to transact on behalf of your client. **The following steps should be taken to activate the Registered Representative:** • Select <Organisations> from the menu on the top • Select <SARS Registered Details> from the menu on the left • Select <Activate Registered Representative> • Select the applicable option (i.e Tax Practitioner or Registered Representative) • Agree to the declaration confirming that you are the authorised representative for the taxpayer and click on <Continue> • Complete the applicable fields and select the representative capacity (e.g. accounting officer, curator, public officer, parent guardian etc) • Click on the activate button at the bottom.

53.	What is the process flow to finalise a deceased estate?	There are two processes to follow before a deceased estate can be finalised. The first step is that the estate must be reported to the Master. After the letter of executorship has been issued by the Master, the following should be done: • The executor must, together with the letter of executorship, inform SARS through **the SARS online query system** available on the **SARS website**, by selecting **Submit an Estate Query**, and the **Report New Estate** option. • The details of the executor must be updated and verified so that it can be linked to the deceased estate. • Once the deceased person has been coded and the executor's details are updated on the SARS system, all outstanding tax returns should be submitted up to the date of death. This applies to all tax types: income tax, VAT, PAYE, SDL, UIF contributions and estate duty. • As soon as the L&D account, together with the REV267, have been submitted to the Master, a copy thereof must be provided to SARS. • The L&D account will be audited. • If the estate was dutiable, the estate duty audit will be conducted and the REV250 (estate duty assessment) will be issued. • As soon as all the tax liabilities have been paid in full, the Deceased Estate Compliance (DEC) letter will be issued. The DEC letter is issued for all taxes including estate duty. Once the letter has been issued, it must be submitted to the Master (see **Questions 89 to 92**). • The DEC letter has to be submitted to the Master before the executor will be granted the discharge letter to indicate that all the requirements were met, and the executor has been released.
Submission of deceased person's tax return up to date of death		
54.	Should an income tax return be submitted for the deceased person in the year that the deceased person dies?	**Yes.** The last return up to the date of death must be submitted if the deceased person was registered for income tax and/or received taxable income. The return must also disclose any property that is sold for purposes of the deemed disposal of assets for capital gains tax purposes at the date of death.
55.	If the deceased person was not a registered taxpayer, is he or she still required to submit an income tax return in the year of death?	If the deceased person is not registered for income tax, earned no taxable income and does not own property to be sold for capital gains purposes at the date of death, the income tax return in the year of death is not required.

56.	When should the deceased person's last tax return, in the year of death, be submitted?	A public notice under section 25 of the Tax Administration Act is published annually to provide the filing season due dates. However, once the deceased person is coded as an estate at SARS, the executor can proceed to submit the tax return without waiting for the filing season to start.
The registration of a deceased estate as a taxpayer (second registration)		
57.	How to register a deceased estate as taxpayer for income tax purposes? (Also referred to as the second registration.)	This process is applicable only to deaths on or after 1 March 2016 where the deceased estate is required to register as a separate taxpayer with SARS. The assessment of income applies only to the new number that is issued by SARS. **If there is no taxable income after date of death, there is no need to register for the second registration.** • The deceased person's income tax number must be registered and coded by SARS as a deceased person before the second registration can be done. • The deceased estate registration may be done via eFiling. • SARS will issue a new number to the deceased estate that will be linked to the existing income tax reference number of the deceased person. • The executor must request for registration of the deceased estate as soon as there is taxable income after date of death **(see Questions 20 to 41)**. • It is not necessary that the deceased person's tax reference number be deactivated at SARS before a deceased estate may be registered. • The deceased person's tax reference number must be coded as a deceased person on the SARS system before a deceased estate can be registered. Where an executor has not registered a deceased estate, a SARS auditor may register the deceased estate while auditing the deceased person when it has been determined that there is relevant or qualifying income after date of death as per the income and expenditure account that requires a deceased estate to be registered.
58.	What documentation is required to register a deceased estate?	The following documentation is required to register a deceased estate with SARS: • Death certificate • Letter of executorship • Certified copy of the executor's ID • Proof of the physical address and contact details of the executor or agent • Power of Attorney (if applicable) • L&D account (when it becomes available)

59.	When should a deceased estate be registered?	SARS should always be notified that a taxpayer has passed away to code such taxpayer as a deceased person. A deceased estate should be registered when taxable income arises after the date of death or any capital gains that may arise subsequent to the date of death for the deceased estate.
60.	How can the banking details of a deceased estate be changed?	Change of bank details can be requested via one of the following channels: • On eFiling, by completing the Registration, Amendment and Verification form (RAV01) in the SARS Registered Details tab, Maintain SARS Registered Details menu; • For Personal Income Tax: individuals may change banking details when completing and submitting an individual Income Tax Return (ITR12); • SARS Mobile Tax units; • By e-mail for Exceptional Circumstances Only; and • In person at a SARS service centre, where it is impossible for the requestor to use electronic means (you may be required to make an appointment). If the taxpayer is coded as a deceased estate, only the person appointed by the Master with the letter of Authority or letter of Executorship can request the changes. However, authority can be delegated to a registered tax practitioner or an agent to act on behalf of the executor. The tax practitioner or agent must have a Power of Attorney from the executor, and all required supporting documents for the change of banking details and authenticating the tax practitioner or agent. An agent may include an attorney, auditor or trust company, which in turn may nominate an employee to administer the estate. The nominated employee is required to present a Power of Attorney to act on behalf of the executor. For more information on how to change the estate's banking details, refer to the *Change of Banking Details External Guide* available on the SARS website.

Estate duty

Question		Answer
Returns and assessments for estate duty		
61.	Is an estate duty return required to be submitted?	Section 7 of the ED Act requires a return to be submitted by an executor. The contents of the estate duty return reflect in principle the content of the L&D account, specifically the estate duty addendum. The estate duty return is submitted together with the L&D account to the Master. A copy of the L&D account and estate duty return can also be submitted to SARS through the **SARS online query system** available on the **SARS website**, by selecting **Submit an Estate Query**, and the **Submit Estate Duty Return** option.
62.	Is estate duty a SARS or self-assessment?	Estate duty is a SARS assessment as section 9(1) of the ED Act requires the Commissioner to issue an assessment in respect of each estate. Section 9(4)(*a*) and (*b*) of the ED Act provides for exceptional cases where an assessment is deemed to have been issued under section 9(3).
63.	When will the estate duty assessment (REV250) be issued ?	The estate duty assessment will be issued once the L&D account and REV267 are submitted through the **SARS online query system** available on the **SARS website**, by selecting **Submit an Estate Query**, and the **Submit Estate Duty Return** option.
64.	May the estate duty assessment be objected against?	**Yes**. The normal dispute resolution process as provided for under Chapter 9 of the Tax Administration Act, 2011 (TA Act) applies to estate duty assessments. The objection can be submitted through the **SARS online query system** available on the **SARS website**, by selecting **Submit an Estate Query**, and the **Object against Estate Duty Assessment** option
Payment of estate duty		
65.	Who is liable for estate duty?	Estate duty is calculated on the dutiable amount of an estate and the executor in his or her representative capacity is liable for the duty. However, where property accrues to a specific person or where a policy was paid out directly to a beneficiary, such person or the beneficiary is liable for the proportional share of the estate duty payable.
66.	Can a beneficiary be held liable to pay estate duty?	A beneficiary who receives a policy that is directly paid out from an insurance company is liable to pay the estate duty payable on the policy if the deceased estate is a dutiable estate. The same principle applies in respect of a personal right that accrues to a beneficiary as the estate duty payable thereon is payable by the beneficiary.

67.	When is estate duty payable?	The liability to pay estate duty arises upon the death of the deceased and consequently only the position as at the date of death is taken into consideration in the assessment of duty. Estate duty is due within one year from the date of death or 30 days from the date of assessment if assessment is issued within one year from the date of death. Currently, interest is levied at 6% per annum on late payments.
68.	How to pay estate duty?	Estate duty payments can only be made via eFiling. There is no electronic funds transfer (EFT) option available for estate duty. To make a payment on the eFiling system: 1) Select 'Additional Payments' and then 'Create Additional Payment'. 2) Under 'Tax Type', select 'Estate Duty (ESD)'. 3) Type taxpayer's (deceased's) name. 4) Under 'Type of Payment', select 'Estate Duty Normal Payment'. 5) Under 'Reference Number', type in the deceased's tax reference number. (Estate Duty Normal Payment: Please be aware that registration for income tax purposes is required in order to make a payment for the selected tax type. The reference number provided with this payment must be the income tax Reference number.) If the deceased was not registered for income tax, the executor will have to apply for an income tax registration in respect of the deceased. 6) Enter the amount. 7) Select 'Make Payment'. Please also confirm the payment with the bank.
69.	Under what circumstances will an extension for payment of estate duty be granted?	An extension will be considered if the executor applied in writing for an extension within the prescribed period and paid a reasonable deposit (see **Question 81**).
70.	Can deferred arrangements be entered into for estate duty purposes?	**Yes**. A deferred arrangement may be entered into, provided the requirements under section 168 of the TA Act are met.
71.	Can an application for a compromise be made in respect of estate duty?	**Yes**. An application for a compromise of a portion of tax debt will be considered provided the requirements of section 201 of the TA Act are met. The approval will depend on whether it results in the highest return from the recovery of the tax debt and it must be consistent with considerations of good management of the tax system and administrative efficiency.

72.	Can estate duty be written off?	**Yes**. SARS may authorise a write off of an estate duty liability, whether temporarily or permanently, provided the relevant legislative requirements are met. SARS may decide under section 195 of the TA Act to temporarily write off an amount of a tax debt when satisfied that it is uneconomical to pursue the collection of such debt at that time. SARS may also authorise a permanent write off of an amount of a tax debt under section 197 of the TA Act if the tax debt becomes irrecoverable after the available legislative provisions have been exhausted.
Refunds for estate duty		
73.	Which form should be completed to submit a refund of estate duty?	The executor must submit the completed Part A of the REV16 to **estateduty@sars.gov.za**.
74.	Which documentation should be submitted when requesting a refund?	The following documents should be submitted when requesting a refund: • Letter of executorship • A Power of Attorney letter in the case of a representative or tax practitioner • Contact details of the executor (to request vouchers etc) • Proof of payment of all payments made for estate duty • Copy of all estate duty assessments • Signed L&D accounts, including the final signed L&D account • The last will and testament of the deceased • Copy of the signed pre-deceased spouse's L&D account (if applicable)
75.	What bank details and documentation should be provided when requesting a refund?	The deceased person's bank details up to the date of death must be replaced with the Estate Late bank details. The Estate Late bank details also apply to any refunds that may arise in the deceased estate in respect of the period after the date of death. The following details should be provided: • An original stamped letter from the bank (including an electronic letter) not older than three months confirming the account holder's legal name; account number, account type and branch code. **OR** An original bank statement or ATM or Internet generated statement or eStamped statement not more than three months old that confirms the account holder's legal name, bank name, account number, account type and branch code.

76.	What bank details should be provided in the case of a section 18(3) estate?	In the case of a section 18(3) estate where the money in hand (including the refund due by SARS) is more than R1 000, the bank details of the Estate must be provided. In the case of a section 18(3) estate where the money in hand (including the refund due by SARS) is less than R1 000, the bank details can be changed to that of the Administrator as reflected on the letter of authority provided that all the required supporting documents can be provided. Where a letter of authority cannot be provided, bank details cannot be changed to a surviving spouse or beneficiary. If a letter of authority was not issued, the surviving spouse or beneficiary must request such letter from the Master.
77.	Where should the request and supporting documentation for a refund be sent to?	All documentation for the refund request should be e-mailed to **estateduty@sars.gov.za**. **Please take note:** All other taxes must be up to date; all accounts must have zero balances and all outstanding returns should have been submitted and processed before any estate duty refund will be released.
Interest on estate duty		
78.	When is interest payable on estate duty?	Interest is payable after one year from the date of death or after 30 days if SARS issued an assessment and the estate duty remined unpaid. Interest will be levied at 6% per annum.
79.	How is the interest calculation displayed to the executor?	The interest is reflected on the Statement of Account (REV249).
80.	When will the interest be calculated?	The interest calculation is done once the full estate duty liability has been paid. No interest calculation can be done beforehand as the interest continues to run until the estate duty liability is paid in full.
81.	May an interest-free extension to pay estate duty be requested?	**Yes**. The Commissioner may grant an extension under section 10(2) of the ED Act for late payments of estate duty without interest. If a SARS official is satisfied that the delay in the payment of the duty is not occasioned by the executor or person responsible for payment, the SARS official may allow an interest-free extension for the payment for any part or the whole outstanding amount.
82.	Where should the request for an interest-free extension to pay estate duty be sent?	All requests should be submitted through the **SARS online query system** available on the **SARS website**, by selecting **Submit an Estate Query**, and the **Request Interest-Free Extension** option.

83.	What conditions should be met to request an interest-free extension to pay estate duty?	The request for the extension must comply with the following: • An application in writing • A reasonable deposit is paid The application is made within the timeframes set out in section 10(2) of the ED Act
84.	Are there any supporting documents that must be submitted together with the written request for the interest-free extension to pay estate duty?	The following supporting documents must be submitted together with the written request: • A copy or draft signed L&D account • Proof of payment(s) • Reason(s) for the request • Extension date required • Any correspondence relating to the request • Letter of executorship A Power of Attorney letter in the case of a representative or tax practitioner
85.	Under what circumstances may an interest-free extension to pay estate duty be granted?	An extension may be granted for the interest-free payment of estate duty in the following circumstances: • If the estate is experiencing a cash shortfall (proof such as bank statements must be provided) • If there are assets outside South Africa and there is no liquidity to make a payment • Exceptional circumstances beyond the control of the executor and proof that reasonable steps were taken to make the payment in time The merits of each case must be considered in relation to the nature of the request and the history of the estate to ensure a clean track record exists relating to previous payments, returns and requests for information. **Note:** If there is cash available in the estate (based on the recapitulation account) and there is no circumstance outside of the executor's control to make the payment, the full payment may be requested.
86.	Can SARS reject a request for an interest-free extension to pay estate duty?	**Yes**. The request for extension can be declined if the requirements to apply for an interest-free extension have not been adhered to. The executor is entitled to the reasons for arriving at a decision.

87.	Can a taxpayer lodge an objection or appeal against a decision from SARS not to extend payment for estate duty?	**No**. Neither the ED Act nor the TA Act provides for an objection against the decision to not grant an extension.
88.	If no extension was granted and interest was payable, can SARS remit interest levied on estate duty?	**No**. Interest on estate duty is levied under section 10(1) of the ED Act. Section 10(2) of the ED Act does not provide for the remission of interest but merely allows the Commissioner to extend the period in which estate duty is payable, to be interest-free (a delayed commencement date for the imposition of interest). Therefore, no requests for the remission of interest are permissible under section 10(2). Section 187(6) of the TA Act cannot be relied on to remit interest levied under the ED Act, as interest can only be remitted under section 187(6) of the TA Act if the interest was levied under section 187(1) of the TA Act.
Deceased estate compliance letter		
89.	What is a deceased estate compliance (DEC) letter?	A DEC letter is a letter issued by the Commissioner in respect of all taxes (including estate duty). The letter provides confirmation that all tax liabilities are secured or paid.
90.	When can the DEC letter be requested?	The DEC letter may only be requested once all outstanding returns are submitted, assessments are issued, and duties or taxes are paid or secured to the satisfaction of the Commissioner.
91.	How to request the DEC letter?	An executor can request the DEC letter through the **SARS online query system** available on the **SARS website**, by selecting **Submit an Estate Query**, and the **Apply for DEC Letter** option. Please note that the DEC letter will only be issued if **ALL** taxes are paid in full (including estate duty).
92.	When may an executor distribute an estate?	An executor is only allowed to deliver or transfer property to an heir or legatee once the executor satisfied the Commissioner that due provision has been made for the payment of any estate duty payable and the Master grants approval.