

UNDERSTANDING ESTATE DUTY IN SOUTH AFRICA

Estate duty is a tax on the dutiable value of a deceased person's estate, governed by the Estate Duty Act No. 45 of 1955 ("the Act"). Though often misunderstood, it is a critical element of Estate Planning.

When Does Estate Duty Apply?

Estate Duty is only payable if the net value of the Estate exceeds R3.5 million (the Primary Abatement (Section 4A of the Act)). The tax is calculated as:

- 20% on the first R30 million of the dutiable Estate, and
- 25% on any amount above R30 million.

How Is It Calculated?

1. Determine the Gross Estate Value – Includes all assets as at date of death.
2. Deduct Allowable Expenses (Section 4 of the Act) – Includes:
 - Funeral costs
 - Outstanding debts
 - Executor's fees
 - Accrual claims
 - Bequests to a spouse (Section 4q of the Act)
 - Donations to public benefit organisations
3. Add Deemed Property – Such as life policies and investments, which can significantly increase the dutiable Estate unless well-planned.
4. Apply Primary Abatement (Section 4A of the Act) – A fixed R3.5 million deduction.

If a deceased spouse did not use their full R3.5 million abatement, the unused portion may roll over to the surviving spouse's Estate, allowing a combined exemption of up to R7 million.

Who Pays Estate Duty?

Typically, the Estate pays the Estate Duty, settled through the Estate's liquidity by the Executor. However, if a life insurance policy is paid directly to a named beneficiary, that beneficiary may be personally liable for the estate duty on the policy proceeds, and the Executor can recover the amount from the named beneficiary.

Why Planning Matters

Proper Estate Planning can minimise Estate Duty through the use of exemptions, deductions, and careful structuring to avoid 'deemed property' traps.

At Livingston Leandy, we offer expert assistance in Estate Planning to ensure your Estate is tax-efficient and aligned with your future plans.



Nick Williams
Director
(031) 536 7500
nickwilliams@livingston.co.za



Chelsea Jeremiah
Candidate Attorney
(031) 536 7500
chelsea@livingston.co.za

The content of this document is intended only to provide a summary and general overview on matters of interest. It is not intended to be comprehensive nor does it constitute legal or other professional advice. You should seek legal or other professional advice before acting or relying on any of the content.