

ADMINISTRATION PROCESS AND PROCEDURE

2012 COURSE NOTES PAGE 34 ONWARDS

PARTIES INVOLVED

2012 Page 37

- THE MASTER
- THE EXECUTOR
- THE CONVEYANCER
- THE REGISTRAR OF DEEDS
- SARS
- THE FAMILY
- THE SURVIVING SPOUSE
- THE HEIRS

THE MASTER

- STATUTORY CREATION ito SECTION 2
- FUNCTIONS :
 - **SUPERVISORY**
 - SUPERVISES DECEASED ESTATES
 - **ADVISORY**
 - PUBLIC SERVICE
 - **ADMINISTRATIVE**
 - PUBLIC RECORD OFFICE
 - **JUDICIAL (LIMITED)**
 - RULE ON OBJECTIONS TO L/D Acc

MASTER HAS OFFICE AT HIGH COURT

- CAPE TOWN
- BLOEMFONTEIN
- GRAHAMSTOWN
- KIMBERLEY
- MMABATHA / MAFIKENG
- NELSPRUIT
- PIETERMARITZBERG
- PRETORIA
- UMTATA
- BISHO
- THOHOYANDOU
- JOHANNESBURG
- POLOKWANE
- DURBAN
- PORT ELIZABETH

THE EXECUTOR 2012 Page 37

PERSON APPOINTED TO ADMINISTER THE DECEASED ESTATE APPOINTED IN TERMS OF A WILL = EXECUTOR TESTAMENTARY

INTESTATE ESTATES – MASTER APPOINTS = EXECUTOR DATIVE

IF SECTION 18(3) ESTATE – EXECUTOR IS CALLED THE MASTER'S REPRESENTATIVE

THE EXECUTOR IS SOLELY RESPONSIBLE FOR THE ADMINISTRATION OF THE ESTATE.

SECTION 18(6) – MASTER CANNOT GRANT LETTERS OF EXECUTORSHIP TO A PERSON WHO IS LEGALLY INCAPACITATED TO ACT AS AN EXECUTOR

CERTAIN PERSONS ARE DISQUALIFIED & CAN BE REMOVED BY MASTER / COURT - SECTION 54

EXECUTOR'S REMUNERATION

- AS PER THE WILL
- STATUTORY RATE
= 3,5% GROSS ASSETS
+ 6% INCOME

NOMINATED EXECUTOR CAN

- APPOINT AN AGENT TO ACT ON HIS BEHALF (BUT THE EXECUTOR IS STILL RESPONSIBLE & LIABLE FOR THE ESTATE) – SIGNS A POWER OF ATTORNEY
- ASSUME SOMEONE AS A CO-EXECUTOR – IF THE POWER OF ASSUMPTION HAS BEEN GRANTED IN THE WILL (SHARING RESPONSIBILITY & LIABILITY) – SIGN A DEED OF ASSUMPTION

CONVEYANCER & REGISTRAR OF DEEDS

WHERE THE DECEASED OWNS IMMOVABLE PROPERTY

- TRANSFER TO HEIRS
- SELL & TRANSFER TO PURCHASER
- SALE DURING DECEASED'S LIFETIME

SECTIONS 39, 40, 41 & 42

SECTION 39

REGISTRATION OF IMMOVABLE PROPERTY IN DECEASED ESTATE

SECTION 40

ENDORSEMENT OF TESTAMENTARY TRUSTS AGAINST TITLE DEEDS & BONDS

SECTION 41

PRODUCTION OF TITLE DEED OR BOND TO EXECUTOR

SECTION 42

DOCUMENTS TO BE LODGED BY EXECUTOR WITH REGISTRATION OFFICER

SARS

INCOME TAX

- HAS TO BE PAID UP TO DATE OF DEATH

ESTATE DUTY

25% ← 1 OCTOBER 2001 → 20%

SECTION 4A REBATE

R1m ← 1 MARCH 2002 → R1,5m

1 MARCH 2006 → R2,5m

1 MARCH 2007 → R3,5m

FAMILY

SURVIVING SPOUSE, CHILDREN, PARENTS, HEIRS

- UNDERSTANDABLY THEY ARE GRIEVING
- THEY WANT THE DECEASED'S AFFAIRS WRAPPED UP QUICKLY
- THEY WANT THEIR INHERITANCE
- THEY CANNOT UNDERSTAND WHY THIS SHOULD TAKE LONGER THAN A FEW MONTHS

WHO MUST REPORT A DEATH ? 2012 Page 39

SECTION 7 - WHEN A PERSON DIES - LEAVING PROPERTY - OR A WILL

THE DEATH MUST BE REPORTED WITHIN 14 DAYS TO THE MASTER BY :

- ▶ THE SURVIVING SPOUSE OR NEAREST RELATIVE OR CONNECTION RESIDING IN THE DISTRICT WHERE THE DEATH OCCURRED
- ▶ THE PERSON WHO HAS CONTROL OF THE PREMISES WHERE THE DEATH OCCURRED

HOW IS THE DEATH REPORTED ?

2012 Page 39

BY COMPLETING THE FORM – **DEATH NOTICE** - & SUPPLYING SAME TO THE MASTER. IF THE PERSON SIGNING THE DEATH NOTICE WAS NOT PRESENT AT THE TIME OF DEATH OR DID NOT IDENTIFY THE BODY, THEN THE DEATH CERTIFICATE MUST BE GIVEN TO THE MASTER AS WELL

- PENALTY FOR NOT REPORTING - SECTION 102

ANY PERSON WHO CONTRAVENES OR FAILS TO COMPLY WITH SECTION 7 SHALL BE GUILTY OF AN OFFENCE & LIABLE ON CONVICTION TO A FINE OR TO IMPRISONMENT FOR A PERIOD OF NOT EXCEEDING 3 MONTHS

ADMINISTRATION PROCESS

A CLIENT PHONES YOU & ADVISES THAT HIS FATHER HAS DIED. HE NEEDS TO COME TO SEE YOU AS HE HAS NO IDEA WHAT NEEDS TO BE DONE.

MAKE AN APPOINTMENT WITH HIM

- SCHEDULE AT LEAST ONE HOUR
- TELL HIM TO BRING ALONG OTHER FAMILY MEMBERS
- GIVE HIM A LIST OF WHAT TO BRING WITH HIM

List of documents for first consultation 2012 Page 131

LIST

- DEATH CERTIFICATE
- FATHER'S IDENTITY DOCUMENT
- MARRIAGE CERTIFICATE
- ANTENUPTIAL CONTRACT
- IDENTITY DOCUMENT OF SURVIVING SPOUSE
- IDENTITY DOCUMENT OF EXECUTOR
- IDENTITY DOCUMENTS OF FAMILY
- FATHER'S INCOME TAX NUMBER

- TESTATE / INTESTATE

DID THE DECEASED HAVE A WILL ??

IF SO, PLEASE BRING THE ORIGINAL WILL

IF NOT, NEED DETAILS OF ALL FAMILY MEMBERS TO ESTABLISH INTESTATE HEIRS

LIST OF ASSETS OF DECEASED :

- PROOF OF OWNERSHIP & APPROXIMATE VALUES AS AT DATE OF DEATH
- BANK STATEMENTS
- INVESTMENT STATEMENTS
- TITLE DEEDS FOR IMMOVABLE PROPERTY
- BROKER'S NOTES FOR JSC SHARES
- MV REGISTRATION PAPERS
- INSURANCE POLICIES
- CC / CO DOCUMENTATION

LIABILITIES :

- RATES ACCOUNT
- BANK BOND ACCOUNT
- FUNERAL ACCOUNT
- MEDICAL ACCOUNTS
- STORE ACCOUNTS e.g. EDGARS, WOOLWORTHS
- MV FINANCING ACCOUNT
- BANK ACCOUNT – LOANS & O/D
- OTHER INFORMATION REQUIRED IN ORDER TO COMPLETE FORMS

* FULL NAME S OF DECEASED

* IDENTITY NUMBER

* MARITAL STATUS & DETAILS IF MARRIED – DATE & PLACE OF MARRIAGE

* ORDINARY RESIDENCE FOR PAST 12 MONTHS

* INCOME TAX NUMBER

* DETAILS OF PREDECEASED SPOUSE

* NAMES OF PARENTS

* NAMES OF CHILDREN & AGES

- ALSO NEED
INCOME TAX INFORMATION
COPY OF LAST TAX RETURN
DETAILS OF ACCOUNTANT

SECTIONS 7 to 27 PRESCRIBE THE FORMAL REQUIREMENTS RE REPORTING THE ESTATE

LIST OF POSSIBLE FORMS :

- * DEATH NOTICE
- * SECTION 9 PRELIMINARY INVENTORY
- * NOMINATION OF EXECUTOR
- * ACCEPTANCE OF TRUST AS EXECUTOR
- * UNDERTAKING & ACCEPTANCE OF MASTER'S DIRECTIONS
- * BOND OF SECURITY
- * NEXT-OF-KIN AFFIDAVIT

FORMS : REPORTING THE ESTATE & COMPLETION OF FORMS

2012 Pages 100 onwards

All forms are available on Master's website

- PREPARE ALL FORMS :
- REGARDLESS AS TO WHETHER :
 - TESTATE / INTESATE
 - VALUE OF ESTATE

ALWAYS NEED TO COMPLETE :

1. DEATH NOTICE
2. SECTION 9 PRELIMINARY INVENTORY (THIS WILL INDICATE THE VALUE OF THE ESTATE)

IF THERE'S A WILL

IF THE ESTATE IS WORTH MORE THAN R125.000-00

▶ YOU WILL NEED TO COMPLETE AN ACCEPTANCE OF TRUST AS EXECUTOR FORM (IN DUPLICATE)

IF THE ESTATE IS WORTH LESS THAN R125.000-00 (SECTION 18(3))

▶ YOU WILL NEED TO COMPLETE AN UNDERTAKING & ACCEPTANCE OF MASTER'S DIRECTIONS FORM (IN DUPLICATE)

IF THERE'S NO WILL ... NEED TO :

(1) APPOINT AN EXECUTOR :

GET FAMILY MEMBERS TO NOMINATE – SIGN NOMINATION OF EXECUTOR FORM (MAY NEED SECURITY)

(2) ESTABLISH INTESTATE HEIRS

- COMPLETE AN AFFIDAVIT OF NEXT-OF-KIN - ANYONE WHO CAN SWEAR POSITIVELY TO THE INFORMATION CAN SIGN AFFIDAVIT – USUALLY FAMILY MEMBER

Some MO's require :

- Confirmation that Estate not been reported to any other MO
- Declaration of Subsisting Marriages &/or Cohabitation Relationships

- COMPLETE ALL FORMS & GET FAMILY TO SIGN
- EXPLAIN TO FAMILY BRIEFLY THE PROCEDURES INVOLVED & THAT THEY CAN EXPECT THE ESTATE TO TAKE A YEAR TO BE WOUND UP, DEPENDING ON THE COMPLEXITIES INVOLVED
- ADVISE ALSO OF POSSIBLE DELAYS INVOLVED

IN THIS INSTANCE, LET'S ASSUME THE DECEASED LEFT A WILL & THAT HIS ESTATE IS WORTH MORE THAN R125.000-00

- STEP 1 – REPORT DEATH TO MASTER

PRECEDENT LETTER :

THE MASTER OF THE HIGH COURT
CAPE TOWN

RE : ESTATE LATE WILLIAM KNIGHT

We advise that William Knight died at Cape Town on 15 July 2008.
His son, Tom Knight, has been nominated as the executor in terms of the Deceased's Will dated 8 September 2002. He has instructed us to assist him in the administration of the estate.

We enclose herewith :

1. Original Will dated 8 September 2002
2. Death Certificate
3. Death Notice
4. Section 9 Inventory
5. Acceptance of Trust as Executor (in duplicate)
6. Identity Document, Marriage Certificate & ANC of the Deceased

We look forward to receiving your Letters of Executorship at your earliest convenience.

Yours faithfully
C R FIELD
FIELD'S ATTORNEYS

IF THE CORRECT DOCUMENTATION IS SUBMITTED TO THE MASTER – CAPE TOWN MASTER'S OFFICE HAS A TURN-AROUND TIME OF APPROXIMATELY 4 WEEKS - YOU CAN EXPECT TO RECEIVE THE LETTERS OF EXECUTORSHIP IN A MONTH'S TIME.

ONCE YOU RECEIVE THE LETTERS OF EXECUTORSHIP, GET THE EXECUTOR TO SIGN A POWER OF ATTORNEY IN YOUR FAVOUR APPOINTING YOU TO ACT AS HIS AGENT.

UNTIL SUCH TIME AS THE EXECUTOR IS APPOINTED – NOBODY IS AUTHORISED TO ACT ON BEHALF OF THE DECEASED ESTATE & NOBODY WILL SUPPLY YOU WITH INFORMATION OR ACCEPT YOUR INSTRUCTIONS.

BUT, YOU CAN NOTIFY PEOPLE OF THE DEATH OF THE DECEASED & SEND A COPY OF THE DEATH CERTIFICATE.

GOOD IDEA TO NOTIFY :
THE BANK - SO AS TO FREEZE THE ACCOUNT
DEBIT ORDER PEOPLE
INSURANCE COMPANY
PENSION DEPARTMENT
CREDITORS

ONCE LETTERS OF EXECUTORSHIP ARE RECEIVED & EXECUTOR HAS SIGNED
POWER OF ATTORNEY - NOTIFY THE FAMILY & START WITH THE
ADMINISTRATION PROCESS

- WHAT IS IT THAT WE HAVE TO DO ? 2012 Page 45

IN VERY SIMPLE TERMS :

- COMPLY WITH CERTAIN FORMALITIES
- GATHER TOGETHER ALL THE ASSETS
- PAY ALL THE LIABILITIES
- WHAT IS LEFT OVER – DISTRIBUTE TO THE HEIRS
- SECTION 29 ADVERTISEMENT

ORGANISE PUBLICATION OF SECTION 29 ADVERTISEMENT – NOTICE TO
DEBTORS & CREDITORS IN THE NEWSPAPER & GOVERNMENT GAZETTE
FILL OUT A FORM & SEND TO LOCAL NEWSPAPER & GOVERNMENT PRINTER –
THE FRIDAY BUT ONE BEFORE PUBLICATION
CREDITORS HAVE 30 DAYS TO SUBMIT CLAIMS

NEXT STEP - ESTABLISH THE VALUE OF EACH ASSET 2012 Page 46

WRITE TO INSTITUTIONS :

RE : BANK ACCOUNTS – WRITE TO THE BANKS & REQUEST CERTIFICATES OF
BALANCE AS AT DATE OF DEATH IN RESPECT OF EACH ACCOUNT & ASK FOR
TAX CERTIFICATES - IT(3)(B)

PRECEDENT LETTER TO BANK

STANDARD BANK
CAPE TOWN BRANCH

Dear Sirs

RE : ESTATE LATE WILLIAM KNIGHT, IDENTITY NUMBER : 280603 5012 986
MASTER'S REFERENCE NO. 3289/2008

We advise that Mr William Knight died at Cape Town on 15 July 2008. His son, Tom Knight, has been appointed as Executor of his deceased estate by the Master of the High Court, and we have been instructed by the said Executor to assist him in the administration of his late father's estate.

We understand that the deceased held the following accounts at your bank, namely :

1. Cheque Account Number 07 085 413 2;
2. Plusplan Savings Account Number 07 987 617 2; and
3. Fixed Deposit Account Number 07 235 983 3.

Would you kindly :

1. Check your records & ascertain whether the deceased held any other accounts at your bank.
2. Furnish us with Certificates of Balance as at date of death in respect of each such account.
3. Close each account, make payment & provide us with Certificates of Balance as at date of closure of each account.
4. Provide us with tax certificates.

The Estate bank account details are :
STANDARD BANK, CAPE TOWN BRANCH
BRANCH CODE : 02-00-09
ACCOUNT NAME : E/L W KNIGHT
ACCOUNT NUMBER : 07 067 8972

For your records, we enclose herewith certified copies of the following :

1. Letters of Executorship
2. ID of Executor
3. Utility account of Executor
4. Power of Attorney
5. ID & utility account of the writer hereof
6. Death certificate.

Kindly acknowledge receipt hereof & advise if there is any further information which you require.

Yours faithfully
C R FIELD
FIELD'S ATTORNEYS

FOR IMMOVABLE PROPERTY :

OBTAIN MUNICIPAL VALUATION – FROM RATES ACCOUNT

ALSO GET AN ESTATE AGENT'S VALUATION FOR FAIR MARKET VALUE AS AT DATE OF DEATH

MAY NEED SWORN APPRAISEMENT

- WHERE A MINOR IS A BENEFICIARY
- WHERE THE ESTATE IS DUTIABLE

FOR JSE SHARES

REQUEST FROM STOCK BROKER – VALUE OF ALL SHARES AS AT DATE OF DEATH

INSURANCE POLICIES

OBTAIN INFORMATION FROM DECEASED'S FINANCIAL ADVISOR OR WRITE DIRECTLY TO THE INSURANCE COMPANY FOR DETAILS OF ALL POLICIES, AMOUNTS & NOMINATED BENEFICIARIES

PENSIONS

WRITE TO THE DECEASED'S EMPLOYER & OBTAIN DETAILS AS TO COMPANY PENSION SCHEMES, CONTRIBUTIONS & PAY OUTS

AD LIABILITIES

- CANCEL DEBIT ORDERS
 - PENSION FUND CONTRIBUTIONS
 - INSURANCE CONTRIBUTIONS
 - MWEB / DSTV INSTALMENTS
 - NOTIFY CREDITORS OF DEATH & ADVISE THEM TO SUBMIT CLAIMS

MORTGAGE BONDS & MV FINANCING

WRITE TO BANK / FINANCIAL INSTITUTION TO ESTABLISH OUTSTANDING BALANCES & SETTLEMENT FIGURES

LIQUIDITY

- DETERMINE WHETHER YOU HAVE ENOUGH CASH IN THE ESTATE TO COVER PAYMENT OF LIABILITIES
- IF NOT, DETERMINE WHAT ASSETS WILL HAVE TO BE SOLD – LIAISE WITH FAMILY

PAYMENT OF LIABILITIES

THERE IS NO OBLIGATION ON THE EXECUTOR TO PAY OUT BEFORE THE L/D ACCOUNT HAS LAIN FOR INSPECTION & ALL OBJECTIONS HAVE BEEN DISPOSED OF. *BUT* THERE IS ALSO NO OBLIGATION NOT TO MAKE PAYMENT BEFORE THIS TIME – SAVE THAT IF AN EXECUTOR MAKES AN INCORRECT PAYMENT HE MAY INCUR PERSONAL LIABILITY TO MAKE GOOD IF HE CANNOT RECOVER THE OVERPAYMENT.

WHERE AN EXECUTOR IS SATISFIED THAT THE ESTATE IS SOLVENT & HAS FUNDS ON HAND HE MAY MAKE PAYMENT OF LIABILITIES.

IT CAN OFTEN BE TO THE ADVANTAGE OF THE ESTATE TO HAVE INTEREST-BEARING DEBTS PAID AS SOON AS POSSIBLE.

OPEN ESTATE BANK ACCOUNT

2012 Page 46

SECTION 28

IN TERMS OF THE ACT, AS SOON AS YOU HAVE R1.000-00 YOU HAVE TO OPEN AN ESTATE BANK ACCOUNT

IN TERMS OF THE ACT, YOU **MAY** INVEST ANY MONEY THAT IS NOT IMMEDIATELY REQUIRED

CLOSE ACCOUNTS & DEPOSIT MONEY INTO ESTATE BANK ACCOUNT
PAY LIABILITIES & REQUEST RECEIPTS

CONTACT SARS

NOTIFY SARS OF DEATH & REQUEST TAX CLEARANCE

REQUEST COPY OF LAST TAX RETURN

IF FINANCIAL AFFAIRS ARE COMPLICATED, USE DECEASED'S TAX ADVISOR OR
APPOINT AN ACCOUNTANT

START DRAFTING L/D ACCOUNT

PUT TOGETHER :

- LIST OF ASSETS
- LIST OF LIABILITIES
- CASH ASSETS
- INCOME BEFORE / AFTER DEATH

DEAL WITH WHATEVER ITEMS ARE OUTSTANDING IN ORDER TO COMPLETE
THE L/D ACCOUNT

- COMPLETE L/D ACCOUNT
- SEND TO EXECUTOR / HEIRS TO CHECK
- IF IN ORDER, SIGN
- COMPLETE ESTATE DUTY RETURN
- SUBMIT TO ORIGINAL L/D ACCOUNT TO MASTER WITH COPY OF ESTATE
DUTY FORM
- SUBMIT TO SARS, COPY OF L/D ACCOUNT & ORIGINAL ESTATE DUTY FORM
TOGETHER WITH LATEST TAX RETURN
- MASTER WILL SEND QUERY FORM
- ATTEND TO MASTER'S QUERIES
- IF IN ORDER, ATTEND TO SECTION 35 ADVERTISEMENT

MASTER'S QUERY SHEET

2012 Page 121 - Example of a Master's Query Sheet

SECTION 35 ADVERTISEMENT

ADVERTISEMENT IN NEWSPAPER, GOVERNMENT GAZETTE & MAGISTRATE'S COURT ADVISING THAT THE L/D ACCOUNT IS LYING FOR INSPECTION FOR 21 DAYS & ANYONE MAY INSPECT SAME & SUBMIT OBJECTIONS TO EXECUTOR

IF NO OBJECTIONS TO L/D ACCOUNT - PROCEED TO DISTRIBUTE ESTATE & PAY OUT TO HEIRS

DRAW CHEQUES / EFTs ACCORDING TO DISTRIBUTION ACCOUNT, DEPOSIT FUNDS & GET HEIRS TO SIGN AN HEIR'S RECEIPT

IF IMMOVABLE PROPERTY INVOLVED :

- IF TRANSFERRING TO HEIRS – THE TRANSFER WILL BE IN ACCORDANCE WITH THE L/D ACCOUNT – CONVEYANCER HAS TO CERTIFY TO THIS EFFECT - I.E. L/D ACCOUNT MUST HAVE LAIN FOR INSPECTION FREE OF OBJECTION
- IF IMMOVABLE PROPERTY IS SOLD - THE MASTER'S CONSENT HAS TO BE OBTAINED – MASTER ENDORSES THE POWER OF ATTORNEY TO PASS TRANSFER - I.E. YOU DO NOT HAVE TO WAIT FOR L/D ACCOUNT TO BE FINALISED

SEND TO MASTER :

- HEIRS' RECEIPTS
- BANK STATEMENTS
- AFFIDAVIT BY EXECUTOR THAT ALL CREDITORS HAVE BEEN PAID
- CONVEYANCER'S CERTIFICATE THAT TRANSFER OF IMMOVABLE PROPERTY HAS BEEN REGISTERED

MASTER WILL THEN SEND FINAL REQUIREMENTS
ATTEND TO MASTER'S FINAL REQUIREMENTS
CLOSE BANK ACCOUNT, TAKE FEES & ANY BALANCE – DISTRIBUTE TO HEIRS
REQUEST DISCHARGE FROM MASTER

LIQUIDATION & DISTRIBUTION ACCOUNTS

2012 COURSE NOTES - PAGES 51 TO 75

SECTION 35 REFERS TO REGULATION 5

REGULATION 5 – PAGES 129 & 130

REGULATION 5 SETS OUT PRECISELY HOW TO DO LIQUIDATION AND
DISTRIBUTION ACCOUNTS

FORMAT AND CONTENT - FRAMEWORK

1. HEADING
2. LIQUIDATION ACCOUNT
3. CASH RECAPITULATION STATEMENT
4. DISTRIBUTION ACCOUNT
5. INCOME AND EXPEDITURE ACCOUNT
6. FIDUCIARY ASSETS ACCOUNT
7. ESTATE DUTY ACCOUNT
8. EXECUTOR'S CERTIFICATE

HEADING

PURPOSE : TO INTRODUCE THE DECEASED TO THE MASTER

SET OUT DECEASED'S PERSONAL DETAILS

- NAME, ID NUMBER, MARITAL STATUS
- DATE OF DEATH
- MASTER'S REFERENCE NUMBER

LIQUIDATION ACCOUNT

PURPOSE : **TO DETERMINE DISTRIBUTABLE AMOUNT**

ASSETS MINUS LIABILITIES

ASSETS REFLECTED AT FAIR MARKET AS AT DATE OF DEATH OR SALE PRICE
(GROSS FIGURE)

CASH RECAPITULATION STATEMENT

PURPOSE : **TO DETERMINE LIQUIDITY**

SET OUT CASH ITEMS

CASH ASSETS

MINUS – LIABILITIES, LEGACIES, ESTATE DUTY

= CASH SURPLUS / SHORTFALL

DISTRIBUTION ACCOUNT

PURPOSE : **TO SET OUT WHO GETS WHAT**

AMOUNT & IN WHAT FORM (CASH / ITEMS)

WHY – IN TERMS OF THE WILL / INTESTACY / REDISTRIBUTION AGREEMENT

INCOME AND EXPENDITURE ACCOUNT

PURPOSE : **TO SET OUT INCOME ACCRUED AFTER DEATH AND EXPENDITURE
INCURRED AFTER DEATH**

EXAMPLES OF INCOME

INTEREST ON DECEASED'S BANK ACCOUNTS

INTEREST ON ESTATE BANK ACCOUNT

DIVIDEND INCOME

RENTAL INCOME

FIDUCIARY ASSETS ACCOUNT

WHERE DECEASED IS THE "MIDDLE MAN"

PURPOSE : **TO REFLECT AS AN ACCOUNT WITHIN AN ACCOUNT – THE VALUE
OF THE FIDUCIARY INTEREST, THE LIABILITIES ATTACHING TO IT AND TO
REFLECT TO WHOM IT DEVOLVES**

ESTATE DUTY ACCOUNT

PURPOSE : **TO DETERMINE THE DUTIABLE AMOUNT**

I.E. WHAT ESTATE DUTY TAX IS TO BE PAID TO SARS

GROSS ASSETS + DEEMED ASSETS

LESS DEDUCTIONS

LESS REBATE = DUTIABLE AMOUNT

X 20%

EXECUTOR'S CERTIFICATE

PURPOSE : **TO CONFIRM THAT ALL ASSETS AND LIABILITIES AS AT DATE OF DEATH AND AS AT DATE OF ACCOUNT HAVE BEEN DISCLOSED**

EXAMPLES : **HEADING**

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE ESTATE OF THE LATE KEITH TAYLOR, IDENTITY NUMBER 620703 5002 086, UNMARRIED WHO DIED INTESTATE ON 15 JUNE 2011

MASTER'S REFERENCE NUMBER : 3457/2011

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE JOINT ESTATE OF THE LATE ROY JONES IDENTITY NUMBER 721001 5263 083 AND SURVIVING SPOUSE WENDY JONES IDENTITY NUMBER 740512 0029 086 MARRIED IN COMMUNITY OF PROPERTY TO EACH OTHER, WHO DIED ON 12 DECEMBER 2011

MASTER'S REF NO : 3456/2012

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE ESTATE OF THE LATE SUSAN WINDSOR IDENTITY NUMBER 580712 0376 082, MARRIED OUT OF COMMUNITY OF PROPERTY (WITH ACCRUAL), AND WHO DIED AT CAPE TOWN ON 30 MAY 2010

MASTER'S REFERENCE NO. : 1234/2010

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE MASSED ESTATE OF THE LATE SCOTT SMITH IDENTITY NUMBER 580612 5009 086 AND SANDRA SMITH IDENTITY NUMBER 620713 0059 083, SPOUSES WHO WERE MARRIED OUT OF COMMUNITY OF PROPERTY TO EACH OTHER (NO ACCRUAL) WHO DIED ON 3 MARCH 2009. SURVIVING SPOUSE ADIATED
MASTER'S REF NO. : 3458/2009

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE PARTIALLY MASSED ESTATE OF THE LATE SAM RYAN ID 481216 5001 083 AND DOTHORY RYAN, SPOUSES MARRIED IN COMMUNITY OF PROPERTY TO EACH OTHER, WHO DIED ON 3 JULY 2009. SURVIVING SPOUSE ADIATED
MASTER'S REF NO : 8743/2009

COLUMNS :

ITEM NO.	DESCRIPTION	VOUCHER NO	-	+
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LIQUIDATION ACCOUNT ASSETS AND LIABILITIES

ASSETS IMMOVABLE AND MOVABLE

FOR ALL ASSETS : DISCLOSE SALE PRICE OR VALUE AS AT DATE OF DEATH

FOR ALL ASSETS

1. PROPER DESCRIPTION
2. AMOUNT
3. WHERE THAT AMOUNT COMES FROM
4. WHAT ARE WE DOING WITH IT
5. WHY ?

4 & 5 = DIVESTMENT NOTE

IF ASSET SOLD / IS CASH – 4 & 5 REPLACED WITH
SALE PRICE / CASHED IN / COLLECTED

IMMOVABLE PROPERTY

DESCRIPTION AS PER TITLE DEED

ERF 1234 CAPE TOWN
SITUATE IN THE CITY OF CAPE TOWN
CAPE DIVISION, PROVINCE OF THE WESTERN CAPE
In extent : 639 square metres
HELD BY DEED OF TRANSFER 5678/2002
(Also known as 32 Belmont Avenue, Gardens, Cape Town)
Fair market value
Valued by Remax Estate Agents

R850.000-00

(Awarded to Catherine Howard, surviving spouse
of the Deceased in terms of Clause 4.2. of the
Deceased's Will dated 23 July 2001)

- or if sold

ERF 1234 CAPE TOWN
SITUATE IN THE CITY OF CAPE TOWN
CAPE DIVISION, PROVINCE OF THE WESTERN CAPE
In extent : 639 square metres
HELD BY DEED OF TRANSFER 5678/2002
(Also known as 32 Belmont Avenue, Gardens, Cape Town)

Sold by private treaty to William Kent in terms
Deed of Sale dated 12 January 2012
SALE PROCEEDS

R850.000-00

Remember the liabilities that attach to the asset, namely

- Costs of valuation
- Agent's commission
- Brokerage fee
- Amounts outstanding on assets – mortgage bond, motor vehicle finance
- Conveyancing costs of transfer for transfer Estate to Heir (no transfer duty)
- No conveyancing costs if selling & transferring to buyer (buyer pays transfer duty & conveyancing costs)

MOVABLE PROPERTY

PROPER DESCRIPTION

MOTOR VEHICLE

2007 BMW 530 d

REGISTRATION NUMBER CA 106 302

Valued by Auto Atlantic Dealers

R120.000-00

(Awarded to JACKY HOWARD, major daughter of the Deceased, unmarried in terms of Clause 4 of the Deceased's Will dated 23 July 2001)

⇒ Liability attaching = valuation cost

⇒ Motor vehicle financing

JSE SHARES

ANGLO GOLD

100 Ordinary Shares @ 500000 cps R500.000-00

HULAMIN

2000 Ordinary Shares @ 10000cps R200.000-00

Sold by Standard Equities

SALE PROCEEDS

R700.000-00

⇒ Liability attaching = brokerage fees

• **PROPER DESCRIPTIONS - IDENTIFIABLE**

JEWELLERY :

PLATINUM RING INSET WITH 5 DIAMONDS

DOUBLE STRAND PEARL NECKLACE WITH

ANTIQUÉ ROSE GOLD CLASP

SOLITAIRE 3 CARAT DIAMOND RING

Valued by Murdocks Jewellers

R205.000-00

(Awarded to – DIVESTMENT NOTE)

PERSONAL ITEMS :

SILVER CANDLESTICKS

Valued by Max Antique Dealers
(Awarded to)

R 50.000-00

LEATHER BOUND LAW REPORTS

Valued by PJ Bookbinders
(Awarded to)

R250.000-00

STAMP COLLECTION

Valued by Bill Setag Philatelist
(Awarded to)

R300.000-00

EBONY DINING TABLE WITH 6 CHAIRS

Sold by Sotherby's on auction

R160.500-00

IRMA STERN PAINTING ENTITLED "CAT EATING TUNA"

Valued by Northern Art Dealers
(Awarded to)

R990.000-00

50% MEMBERS INTEREST IN LIMELIGHT INVESTMENTS CC

Valued by Joe Kahn Accounting Officer
(Awarded to)

R450.000-00

CLAIMS IN FAVOUR OF THE ESTATE

THINGS OWING TO THE DECEASED :

AMOUNT OWING BY S K BRINK IN TERMS
OF AGREEMENT OF LOAN DATED
25 SEPTEMBER 1998
COLLECTED

R X

BANK ACCOUNTS :

STANDARD BANK
CURRENT ACCOUNT
ACCOUNT NUMBER 07 086 7626
CAPITAL R X
INTEREST ACCRUED
TO DATE OF DEATH R X

R XX

TOTAL UP ALL THE ASSETS = **GROSS ASSETS**

LIABILITIES

FUNERAL, ADMINISTRATIVE & “NORMAL”

ADMINISTRATIVE COSTS

Executor's remuneration - 3,5% gross assets plus vat

Master's Fee - Maximum R600-00

Costs of advertising Section 29

Provision for advertising Section 35

Costs of bond of security

Costs of valuing assets

- Immovable property – estate agent / sworn appraiser
- Assets in general – accountant, jeweller, auctioneer, stockbroker

Commissions for selling assets – agent's commission, brokerage fee, auctioneer's commission

FUNERAL COSTS & TOMBSTONE COSTS

Funeral costs – generally as presented to you by the undertaker & cemetery.

Tombstone costs.

“NORMAL LIABILITIES” / CLAIMS AGAINST THE ESTATE

- Bank overdraft
- Loans
- Credit cards
- Mortgage bond
- Motor vehicle financing
- Money owing to Woolworths / Edgars
- Rates
- Income tax
- Doctor's account
- Maintenance claims

DESCRIPTION OF LIABILITIES –PROPER DESCRIPTION

Standard Bank
Account number 345 987 358
Mortgage bond over Item 1
Amount outstanding R234.500-00

Wesbank
Account number 234 090
Financing in respect of Item 6
Amount outstanding R 25.000-00

Dr Ethan Ness
Specialist oncologist
Account 14/12/2011 R 12.500-00

Doves Funeral Parlour
Funeral costs R 8.000-00

J J Cameler
Tombstone R 12.000-00

SARS
Income Tax iro periods
1 March 2010 to 28 February 2011 R 5.000-00
1 March 2011 to 25 January 2012 R 3.250-00

GROSS VALUE OF ESTATE

BOOKKEEPING ENTRY :

GROSS ASSETS MINUS TOTAL LIABILITIES

MINUS ESTATE DUTY IF APPLICABLE

= BALANCE FOR DISTRIBUTION

GROSS ASSETS		XXX
LIABILITIES	XXX	
BALANCE FOR DISTRIBUTION	<u>XXX</u>	
	<u>XXX</u>	<u>XXX</u>

**LIQUIDATION ACCOUNT CHANGES ACCORDING TO MATRIMONIAL PROPERTY
SYSTEM OF DECEASED**

MARRIED OUT WITH ACCRUAL

WHO HAS ACCRUAL CLAIM AGAINST WHOM ?

ASSET / LIABILITY ?

- IF SURVIVING SPOUSE OWES DECEASED = ASSET

ADD THE ACCRUAL AMOUNT TO THE DECEASED'S ASSETS IN THE
LIQUIDATION ACCOUNT

▶ ALSO = DEEMED ASSET FOR ESTATE DUTY PURPOSES

- IF DECEASED OWES SURVIVING SPOUSE = LIABILITY

ADD THE ACCRUAL AMOUNT TO LIABILITIES IN THE LIQUIDATION ACCOUNT

▶ ALSO QUALIFIES AS DEDUCTION FOR ESTATE DUTY PURPOSES – SECTION
4(LA)

(be careful not to deduct it twice under normal liabilities (4(b) and 4(LA))

MARRIED IN COMMUNITY OF PROPERTY

JOINT ESTATE – HAVE TO INCLUDE ASSETS & LIABILITIES OF *BOTH* SPOUSES
AS AT DATE OF DECEASED'S DEATH

BUT : ESTATE DUTY ONLY PAYABLE ON DECEASED'S SHARE

ESTATE DUTY ACCOUNT FOR MARRIAGE IN COMMUNITY OF PROPERTY

HALF ASSETS

HALF LIABILITIES

ESTATE DUTY ACCOUNT

ASSETS AS PER LIQUIDATION ACCOUNT

(JOINT ESTATE)

R3 606.000-00

PLUS : DIFFERENCE IN SHARES		
(between value & sale price)		R 50.000-00
		<hr/>
		R3 656.000-00
LESS : HALF – MARRIAGE IN COMMUNITY		<u>R1.828.000-00</u>
		R1.828.000-00
PLUS : DEEMED ASSETS (OLD MUTUAL POLICY)		<u>R1.000.000-00</u>
<i>GROSS ASSETS FOR ESTATE DUTY PURPOSES</i>		R2.828.000-00

LESS : ALLOWABLE DEDUCTIONS

(1)	Section 4(a) – FUNERAL, TOMBSTONE & DEATHBED		
	FUNERAL	R10.000-00	
	TOMBSTONE	R12.000-00	
	DEATHBED	<u>R38.000-00</u>	R60.000-00
(2)	Section 4(b) & (c) – NORMAL LIABILITIES		
	FULL LIABILITIES		R724.479-40
	EXCLUDE : FUNERAL, TOMBSTONE		
	& DEATHBED	<u>R60.000-00</u>	
			R664.479-40
	HALF BALANCE LIABILITIES :		R332.239-70

(3) Section 4(q) – SURVIVING SPOUSE

Inheritance - R1.440.760-30

Old Mutual – R1 000.000-00

R2.440.760-30

-R 5.000-00

LESS SECTION 4A PRIMARY REBATE

R3.500.000-00

-R3.505.000-00

THEREFORE ESTATE DUTY @ 20% = NIL

CASH RECAPITULATION ACCOUNT

GO BACK TO LIQUIDATION ACCOUNT & EXTRACT ALL CASH ASSETS & ASSETS
REDUCED TO CASH

TAKE TOTAL LIABILITIES

INCLUDE OTHER CASH THINGS THAT HAVE TO BE PAID

LEGACIES

ESTATE DUTY

CASH ASSETS

Item 1 – house

xxx

Item 3 – motor vehicle

xxx

Item 6 – Nedbank

xxx

Item 7 – FNB

xxx

LESS :

TOTAL LIABILITIES

xxx

LEGACIES

xxx

ESTATE DUTY

xxx

CASH SURPLUS / CASH SHORTFALL

DISTRIBUTION ACCOUNT

BALANCE AVAILABLE FOR DISTRIBUTION

XXX

AWARDED :

DEDUCT **LEGACIES** FIRST

xxx

THEN INHERITANCES – WHO, HOW MUCH, WHAT FORM

TO KALLIE BROWN, surviving spouse of
the deceased, in terms of Clause 5 of the
Deceased's Will dated 2 July 2005

AWARD COMPRISES :

Item 1 – house –

Rxxx

Item 4 – JSE shares –

Rxxx

Balance CASH -

Rxxx

XXX

TO DUKE KENT, major son of Deceased
In terms of Clause 6.2. of Deceased's Will
dated 2 July 2005

XXX

AWARD COMPRISES : CASH

WHY

In terms of the Deceased's Will

In terms of the Deceased's Will AND Redistribution Agreement

In terms of intestate succession

In terms of intestate succession AND Redistribution Agreement

INCOME & EXPENDITURE ACCOUNT

ALL INCOME ACCRUED / EARNED AFTER DEATH

ALL EXPENDITURE INCURRED AFTER DEATH

- INCOME

1. INTEREST ON DECEASED'S BANKS ACCOUNTS EARNED BETWEEN
DATE OF DEATH AND CLOSURE OF ACCOUNT
2. INTEREST EARNED ON ESTATE BANK ACCOUNT
3. DIVIDENDS EARNED ON JSE SHARES
4. RENTAL INCOME

- AFTER DEATH EXPENSES

TELEPHONE ACCOUNTS

RATES ACCOUNTS

INSURANCE OF IMMOVABLE PROPERTY

HOUSE ALARM ACCOUNTS

CONTINUED EXPENSES FOR PROPERTIES

DOMESTIC SERVANTS

6% EXECUTOR'S REMUNERATION ON GROSS INCOME + VAT

TOTAL INCOME LESS TOTAL EXPENDITURE = SURPLUS / SHORTFALL INCOME

ITEM 6 DECEASED'S BANK ACCOUNT
NEDBANK - INTEREST ACCRUED
AFTER DEATH

X

ESTATE BANK ACCOUNT
FNB ACCOUNT NUMBER 3456 9867
INTEREST ACCRUED

X

ITEM 8 DIVIDENDS EARNED

X

BANK CHARGES & SERVICE FEES

X

EXECUTOR'S COMMISSION
6% GROSS INCOME + VAT

X

X X

FIDUCIARY ASSETS ACCOUNT

ESTATE DUTY ACCOUNT

EXECUTOR'S CERTIFICATE

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ESTATE DUTY

ESTATE DUTY ACT 45/1955

2012 COURSE NOTES PAGES 78 TO 98

SECTION 2 – LEVY OF ESTATE DUTY

THERE SHALL BE CHARGED, LEVIED & COLLECTED

IN RESPECT OF THE ESTATE OF EVERY PERSON

A DUTY KNOWN AS ESTATE DUTY.

ESTATE DUTY SHALL BE CHARGED ON THE DUTIABLE AMOUNT OF THE
ESTATE.

SECTION 3 – WHAT CONSTITUTES AN ESTATE

AN ESTATE CONSISTS OF

ALL PROPERTY OF THE DECEASED AT THE TIME OF HIS DEATH

+

PROPERTY DEEMED TO BE PROPERTY IN TERMS OF THIS ACT

PROPERTY

= ANY RIGHT IN / TO PROPERTY, MOVABLE / IMMOVABLE, CORPOREAL / INCORPOREAL, & INCLUDES :

- ANY FIDUCIARY, USUFRUCTUARY OR OTHER LIKE INTEREST HELD BY THE DECEASED IMMEDIATELY PRIOR TO HIS DEATH
- ANY RIGHT TO AN ANNUITY ENJOYED BY THE DECEASED IMMEDIATELY PRIOR TO HIS DEATH WHICH ACCRUES TO ANOTHER PERSON ON THE DEATH OF THE DECEASED

(I.E. WHERE THE DECEASED WAS NOT ENTITLED TO THE CAPITAL THAT PRODUCED THE ANNUITY INTEREST)

DEEMED PROPERTY

= ANY BENEFIT RECEIVED BECAUSE OF THE DEATH OF THE DECEASED

(a) PROCEEDS OF DOMESTIC POLICY ON LIFE OF DECEASED

ALL LIFE INSURANCE POLICIES ON LIFE OF DECEASED

WHERE DECEASED HAD LIFE POLICY ON HIS OWN LIFE

+ DECEASED PAID ALL THE PREMIUMS HIMSELF

+ BENEFICIARY = SOMEONE ELSE / ESTATE

THEN, FULL POLICY PROCEEDS = DEEMED PROPERTY

BUT : WHERE PREMIUMS ARE PAID BY THE PERSON ENTITLED TO RECEIVE THE BENEFIT , THEN PROCEEDS OF POLICY LESS TOTAL PREMIUMS PAID PLUS 6% INTEREST = DEEMED PROPERTY.

EXCEPTIONS :

SOME POLICIES ARE NOT DEEMED PROPERTY

- (a) PROCEEDS OF POLICY ON LIFE OF DECEASED RECOVERABLE BY A SURVIVING SPOUSE OR CHILD IN TERMS OF AN ANTENUPTIAL CONTRACT.

(b) PROCEEDS OF POLICY TAKEN OUT BY CO-SHAREHOLDERS, CO-MEMBERS OR PARTNERS

AS LONG AS DECEASED DID NOT PAY PREMIUMS + PROCEEDS ARE USED TO BUY DECEASED'S SHARE OF BUSINESS.

(c) KEYMAN POLICIES

AS LONG AS DECEASED DID NOT PAY PREMIUMS + PROCEEDS ARE NOT FOR BENEFIT OF DECEASED'S RELATIVES OR DEPENDANTS

(a) bis FUND BENEFITS

DELETED BY REVENUE LAWS AMENDMENT ACT 60/2008

EFFECTIVE FROM 1 JANUARY 2009

(cA) ACCRUAL CLAIM (ASSET)

AMOUNT OF ANY CLAIM ACQUIRED BY THE DECEASED UNDER SECTION 3 OF THE MATRIMONIAL PROPERTY ACT AGAINST THE SURVIVING SPOUSE

I.E. IN FAVOUR OF DECEASED AGAINST ESTATE OF SURVIVING SPOUSE

SUMMARY OF SECTION 3

ESTATE

=

PROPERTY

+

DEEMED PROPERTY

=

=

"NORMAL" PROPERTY

1. LIFE POLICIES

INCLUDING FIDUCIARY USUFRUCTUARY INTEREST & ANNUITY

2. ACCRUAL CLAIM

SECTION 4 – NET VALUE OF ESTATE

I.E. ALLOWABLE DEDUCTIONS

NET VALUE OF AN ESTATE SHALL BE DETERMINED BY MAKING THE FOLLOWING DEDUCTIONS :

(a) FUNERAL, TOMBSTONE & DEATH-BED EXPENSES

FULL AMOUNT IS DEDUCTABLE, AS LONG AS REASONABLE

(b) DEBTS DUE BY DECEASED DISCHARGED FROM DECEASED'S PROPERTY I.E. NORMAL LIABILITIES

**NOTE : WHERE DECEASED WAS MARRIED IN COMMUNITY OF PROPERTY, ONLY HALF THE LIABILITIES OF THE JOINT ESTATE MAY BE DEDUCTED UNDER THIS SECTION.
(REASON = HAVE ALREADY MINUSED OFF A HALF SHARE OF ASSETS)**

(c) ADMINISTRATION EXPENSES

COSTS OF WINDING UP ESTATE

E.G. EXECUTOR'S FEES, MASTER'S FEES, BANK CHARGES, ADVERTISING CHARGES.

(d) ADMINISTRATION EXPENSES

EXPENSES INCURRED IN GIVING EFFECT TO PROVISIONS OF ESTATE DUTY ACT

E.G. VALUATION COSTS OF USUFRUCTUARY / FIDUCIARY INTERESTS.

(e) FOREIGN ASSETS

WHERE DECEASED ACQUIRED ASSETS PRIOR TO BECOMING RESIDENT IN SA

WHERE DECEASED ACQUIRED ASSETS BY DONATION / INHERITANCE FROM A PERSON NOT ORDINARILY RESIDENT IN SA

(h) DONATIONS TO ACCEPTABLE INSTITUTIONS

CHARITABLE

EDUCATIONAL

RELIGIOUS INSTITUTIONS

OF A PUBLIC CHARACTER

& SOUTH AFRICAN

- PUBLIC BENEFIT ORGANISATIONS

+ STATE OR ANY LOCAL AUTHORITY WITHIN SA

+ ANY COMPANY, SOCIETY OR ASSOCIATION EXEMPT FROM TAX

(i) AMOUNT BY WHICH THE VALUE OF DECEASED'S PROPERTY HAS BEEN ENHANCED

ENHANCEMENTS MUST HAVE BEEN MADE & PAID FOR BY HEIR

MUST HAVE BEEN MADE DURING LIFETIME OF DECEASED

& WITH HIS CONSENT

E.G. DECEASED BEQUEATHS HOUSE TO SON

SON, WHO WILL INHERIT HOUSE, MAKES & PAYS FOR RENOVATIONS

(j) AMOUNT BY WHICH THE VALUE OF FIDUCIARY OR USUFRUCTUARY INTEREST, WHICH CEASES ON DECEASED'S DEATH, HAS BEEN ENHANCED BY IMPROVEMENTS

ENHANCEMENTS MUST HAVE BEEN MADE & PAID FOR BY PERSON TO WHOM THE BENEFIT ACCRUES

MUST HAVE BEEN MADE DURING LIFETIME OF DECEASED & WITH HIS CONSENT

E.G. X BEQUEATHED HOUSE TO Y SUBJECT TO USUFRUCT IN FAVOUR OF D. Y DOES IMPROVEMENTS WITH D'S CONSENT

D DIES

(L A) VALUE OF ACCRUAL CLAIM WHICH THE SURVIVING SPOUSE HAS AGAINST THE DECEASED (LIABILITY)

MUST FIRST DEDUCT THE ACCRUAL CLAIM FROM NORMAL LIABILITIES (Section 4(b))

(BE CAREFUL NOT TO DUPLICATE DEDUCTION)

(o) OBJECTS OF ART

VALUE OF CERTAIN ASSETS (BOOKS, PICTURES, ARTWORK) LENT UNDER NOTARIAL DEED TO THE STATE FOR A PERIOD OF NOT LESS THAN 30 YEARS, AND DECEASED DIES DURING SUCH PERIOD

(q) VALUE OF ANY BENEFIT RECEIVED BY THE SURVIVING SPOUSE AS A RESULT OF THE DEATH OF THE DECEASED

INCLUDES INSURANCE POLICIES PAID DIRECTLY TO SURVIVING SPOUSE AS NOMINATED BENEFICIARY

INCLUDES BENEFIT PUT IN TO A TRUST, IF SOLELY FOR SPOUSES'S BENEFIT

E.G. IF DECEASED BEQUEATHED HOUSE TO SURVIVING SPOUSE, SUBJECT TO CONDITION THAT ON HER DEATH, THE HOUSE MUST GO TO THE CHILDREN (FIDEICOMMISSUM), THEN ALLOWABLE DEDUCTION IS REDUCED BY SUCH AMOUNT. I.E. THE SECTION 4(q) DEDUCTION IS LIMITED TO THE VALUE OF THE FIDUCIARY INTEREST.

E.G. H BEQUEATHS R1M TO S/S -- QUALIFIES AS A DEDUCTION

BUT, H BEQUEATHS R1M TO S/S, WHICH MONEY IS TO BE SPENT ON AN OVERSEAS HOLIDAY FOR THE CHILDREN -- DOES NOT QUALIFY AS A DEDUCTION

E.G. H BEQUEATHS R1M INTO A TRUST FOR THE BENEFIT OF HIS S/S -- QUALIFIES AS A DEDUCTION

BUT, H BEQUEATHS R1M TO A TRUST FOR THE BENEFIT OF S/S & CHILDREN, GIVING TRUSTEES DISCRETION TO ALLOCATE FUNDS AS THEY DETERMINE - DOES NOT QUALIFY AS A DEDUCTION

SECTION 4A – DUTIABLE AMOUNT OF ESTATE

HAVE NOW DETERMINED *NET VALUE* OF ESTATE

NOW DEDUCT SECTION 4A PRIMARY REBATE OF R3,5m

THEN, WE ARE LEFT WITH THE DUTIABLE AMOUNT OF THE ESTATE

ESTATE DUTY = 20% OF DUTIABLE AMOUNT

ESTATE DUTY

25% ← 1 OCTOBER 2001 → 20%

SECTION 4A REBATE

R1M ← 1 MARCH 2002 → R1,5M

1 MARCH 2006 → R2,5M

1 MARCH 2007 → R3,5M

SUMMARY OF ESTATE DUTY FORMULA

GROSS ASSETS AS PER LIQUIDATION ACC XX

ADJUSTMENTS

PLUS : DEEMED ASSETS XX

GROSS VALUE OF THE ESTATE XX

LESS : SECTION 4 DEDUCTIONS XX

NET VALUE OF ESTATE XX

LESS : SECTION 4A REBATE 3,5m

DUTIABLE AMOUNT OF ESTATE XX

20% OF DUTIABLE AMOUNT = ESTATE DUTY PAYABLE

SECTION 5 – VALUE OF PROPERTY IN ESTATE

GENERAL RULE = VALUE PROPERTY AT FAIR MARKET VALUE

“NORMAL” PROPERTY, IF SOLD = SALE PRICE

USUFRUCTS, FIDEICOMMISSA, ANNUITIES

PFMV x 12% x F of person to whom benefit accrues

CALCULATION OF LIMITED INTERESTS

2012 COURSE NOTES – PAGES 82 TO 90

2 “SPECIAL CASES” : PRIVATE SHARES SOLD & FARM PROPERTY NOT SOLD

SHARES IN PRIVATE COMPANIES = VALUE OF SHARES AS AT DATE OF DEATH OF DECEASED AS VALUED BY THE COMPANY ACCOUNTANT

REGARDLESS AS TO THE FACT THAT THE SHARES WERE SOLD FOR A DIFFERENT AMOUNT

E.G. SHARES VALUED AT R150 000,00

BUT SOLD FOR R100 000,00

LIQUIDATION A/C WILL REFLECT R100 000,00

ESTATE DUTY ACCOUNT WILL ADD R50 000,00

FARMING PROPERTY

IF SOLD – REFLECT SALE PRICE

IF NOT SOLD – REFLECT FAIR MARKET VALUE LESS 30%

SECTION 11 – PERSON LIABLE FOR DUTY

GENERAL RULE = ESTATE IS LIABLE FOR ESTATE DUTY, SAVE FOR :

→ WHERE THE DECEASED HELD USUFRUCTUARY / FIDUCIARY INTEREST = THE PERSON TO WHOM THE BENEFIT ACCRUES AS A RESULT OF THE DEATH OF THE DECEASED PAYS THE ESTATE DUTY

→ WHERE THE DECEASED WAS RECEIVING AN ANNUITY, AND ON DECEASED'S DEATH SUCH ANNUITY ACCRUES TO SOME OTHER PERSON = SUCH PERSON TO WHOM THE BENEFIT ACCRUES PAYS THE ESTATE DUTY

I.E. IN THESE 2 INSTANCES, THE DECEASED DOES NOT CREATE ANYTHING NEW – THE 'INTEREST' ALREADY EXISTS & IS BEING PASSED ON

→ DEEMED PROPERTY :

LIFE POLICY PROCEEDS PAID TO NOMINATED BENEFICIARY = THE NB PAYS ESTATE DUTY

CALCULATION – FORMULA

NET VALUE OF BENEFIT

_____ X TOTAL ESTATE DUTY PAYABLE

*NET** VALUE OF ESTATE

* **NOTE :** **NOT THE DUTIABLE AMOUNT**

I.E. BEFORE DEDUCTING THE SECTION 4A R3,5 million

FIDUCIARY ASSETS ACCOUNT

ASSETS

ERF 283 CAPE TOWN
SITUATE IN THE CITY OF CAPE TOWN
CAPE DIVISION, PROVINCE OF THE WESTERN CAPE
IN EXTENT : 175 SQUARE METRES
HELD BY DEED OF TRANSFER No. T7653/1997
VALUED BY SEEFF PROPERTIES 900.000-00

(Awarded & to be transferred to Edward Flinker, major grandson of George Flinker, as the fideicommissary heir in terms of clause 4.3. of the Will of George Flinker, Estate 2345/1987, Cape Town Master's Office)

LIABILITIES

SEEFF PROPERTIES – VALUATION COSTS	2.500-00	
CONVEYANCING COST IRO TRANSFER OF PROPERTY	7.500-00	
EXECUTOR'S REMUNERATION		
3.5%	31.500-00	
PLUS 14% VAT	<u>4.410-00</u>	35.910-00
TOTAL LIABILITIES	45.910-00	
BALANCE AVAILABLE FOR DISTRIBUTION	854.090-00	
	<hr/>	
	900.000-00	900.000-00
	<hr/>	

DISTRIBUTION ACCOUNT

BALANCE AVAILABLE FOR DISTRIBUTION 854.090-00

AWARDED TO EDWARD FLINKER, MAJOR GRANDSON OF GEORGE FLINKER, AS THE FIDEICOMMISSARY HEIR IN TERMS OF CLAUSE 4.3. OF THE WILL OF GEORGE FLINKER, ESTATE 2345/1987, CAPE TOWN MASTER'S OFFICE

854.090-00

THE AWARD CONSISTS OF :

ERF 283 CAPE TOWN	900.000-00
LESS : ADMINISTRATION EXPENSES	<u>45.910-00</u>
	<u>854.090-00</u>

ESTATE DUTY ACCOUNT

GROSS ASSETS AS PER LIQUIDATION ACCOUNT	XXX
PLUS : VALUE OF CEASING FIDEICOMMISSUM	
PFMV X 12% X FACTOR OF B (EDWARD)	
900.000-00 X 12% X 37 AGE NEXT BIRTHDAY	
900.000-00 X 12% X 8.1158	876.482-64
PLUS : DEEMED ASSETS	XXX
	<hr/>
GROSS VALUE FOR ESTATE DUTY PURPOSES	XXX
LESS : SECTION 4 DEDUCTIONS	
LIABILITIES - SECTION 4(a), (b) & (c)	XXX
FIDUCIARY EXPENSES – SECTION 4(d)	45.910-00
	<hr/>
NETT VALUE FOR ESTATE DUTY PURPOSES	XXX
LESS : SECTION 4A PRIMARY REBATE	3.500.000-00
	<hr/>
DUTIABLE AMOUNT	XXX
ESTATE DUTY AT 20%	XXX