

## **THE HANDLING OF A FOREIGN BENEFICIARY**

Beneficiaries in a deceased estate who live abroad, fall into one of the following categories:

- ❖ Pure Non-resident – that is, the individual was never a resident/citizen in South Africa at any stage;
- ❖ A South African who has formally/financially emigrated and therefore is classified as a non-resident (their status as a non-resident has been regularised with the South African Exchange Control);
- ❖ A South African resident temporarily abroad, that is they live and work abroad and have not formally/financially emigrated.

### **Dealing with the inheritance of a pure Non-Resident.**

The cash amount of the inheritance due to the non-resident is freely remittable and no restrictions or additional requirements on the part of the executor apply. Once the First and Final Liquidation and Distribution Account has lain open for inspection, free from objection and all claims have been paid, the Executor may proceed to give instructions for the payment of the cash inheritance. This transaction will need to be processed by an authorised dealer. The Executor, in order to effect the transaction, will submit a personal questionnaire completed by the beneficiary, a certified copy of the beneficiaries passport/ proof of identity or birth certificate, proof of his/her bank details and certain standard cross border transfer forms.

Assets, other than cash can be exported on condition that customs requirements have been met and the necessary statement has been made.

### **Dealing with the inheritance of a South African Resident who has formally/financially emigrated**

This heir will be viewed as a pure non-resident given that they have formally emigrated, as such the Executor will be able to transfer the inheritance freely and without much delay. However, some additional information/documents will be required, the most important of which are:

1. The date on which the beneficiary left South Africa;
2. The specific bank branch that handled the emigration formalities and the Reserve Bank reference number;
3. Proof of Citizenship in the new country in the form of a Certificate of Citizenship/Permanent Housing Certificate;
4. Certified copy of his/her passport;
5. Proof of his/her foreign bank details.

## **Dealing with the inheritance of a South African Resident who did not formally/financially emigrated**

If the heir to the estate has not formally/financially emigrated, he/she is regarded as a resident "temporarily abroad" by the South African Reserve Bank. The heir is therefore considered to be subject to the tax and financial regulations that apply to a person who lives in South Africa.

In terms of the rules applied by the South African Reserve Bank Exchange Control, a South African resident is currently entitled to transfer funds offshore in the form of two allowances, provided the individual still has a Green Barcoded Identity Document or the New Identity Card:

- ❖ Up to R1 million per year discretionary allowance and no tax clearance certificate required from the South African Revenue Service;
- ❖ Up to R10 million per year investment allowance but a tax clearance certificate is required from the South African Revenue Services;
- ❖ To transfer more than R10 million you will need a tax clearance certificate and you must submit an application to the Financial Surveillance Department of the South African Reserve Bank for approval.

If the heir does not have a green barcoded identity document or new Identity card or does not plan to return to South Africa and wishes their inheritance to be transferred offshore, he/she will have to apply to finalize his/her emigration and properly regularise their status as a non-resident with the South African Reserve Bank in order to receive his/her inheritance. Should a decision in this regard not be taken early in the estate administration process it has the potential to delay the payment of inheritance by between 6-8 weeks.