

## Deceased estates and the law

Death is a difficult and emotional subject to handle. While we can't take away the pain, we can make the experience a little easier by helping you prepare for the practical realities that need to be in place.

### What is a deceased estate?

A deceased estate refers to all the property, possessions and assets that legally belonged to a person who has died.

An inheritance is what a living person is legally given from the deceased person's estate. Usually, the person who died would have written up a will that lists how he/she wants to share out his/her possessions after death.

### Laws that impact a deceased estate

There are three sets of laws in South Africa that relate to a deceased estate and inheritance.

1. The [Administration of Estates Act](#): This states the legal rules for the disposal of the deceased's estate. The disposal of an estate means arranging to close off all the deceased's financial and legal affairs. This can include paying off any debt and selling or giving away his/her property, usually according to the will.
2. The [Wills Act](#): This affects all testators with property in South Africa.
3. The [Intestate Succession Act](#): This governs the devolution (the legal transfer) of estates for all deceased persons who have property in South Africa but who die without a will.

### Tax implications for a deceased estate

In South Africa, there is no tax payable by the heirs who get an inheritance.

Capital Gains Tax (CGT) is a tax paid from any profit made after selling an asset. It is not payable by those who receive an inheritance. However, the costs of Estate Duty – a percentage of the value of the estate that is legally due to the government, as well as CGT, are usually payable by the estate. This means the amount needed to pay these taxes will come out of the money left by the person who died.

Donations for individuals are subject to a Donations Tax of 20%, with an annual exemption of up to R100 000 of the value of all donations made during the tax year.

Donations between spouses are exempt from Donations Tax, as are donations made to certain public benefit organisations.

## **How to register a deceased estate**

Visit the [SARS website](#) for full details. You will need the following documents:

- 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)
- Liquidation and distribution account

## **Need help navigating the legal and tax implications of a deceased estate?**

Clearly, the ways in which taxes and the law affect death are complicated.

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