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TAXES THAT KICK IN ON DEATH – Part 2: By Jonathan Hore

Welcome folks to this second instalment of taxes that kick in on the departure of an individual. Last week, I analysed taxes that would need to be determined to the date of death. Due to the stigma attached to death, I will replace that word with departure. I mentioned last week that the taxman wants his portion of the taxes up to the date of departure such as income tax, capital gains tax as well as taxes arising from past years. I also mentioned that once a person departs, an artificial person comes into being and replaces the deceased and such person is called the 'estate of the late.' That estate of the late is a taxable person per the Income Tax Act, whose affairs including taxes, are administered by an executor. In today's instalment, I want to discuss taxes that arise in the hands of those who inherit property when a person departs. In this article, words importing the masculine shall be deemed to include the feminine.

ENTER INHERITANCE TAX

Let me start by stating that one of the least known taxes in this country is what is referred to as Capital Transfer Tax. This is a tax that arises when someone inherits property from another person, including from one who would have departed. Property, for the purposes of the Capital Transfer Tax Act includes money, immovable property and movable property such as cattle as well as shares. The tax is paid by the one who receives a donation from someone, i.e. the donee pays the tax to BURS. The same tax is also payable when someone inherits property from a late person. Some of you may wonder why the taxman would want to tax someone who would have inherited property as that appears rather against our morals.

Well, to be honest with you, the person inheriting the property would have been enriched out of nowhere. As such, the taxman wants to share in that enrichment by collecting a portion of the riches. Don't you ever think that I am a taxman; not at all. I am just a tax consultant trying to simplify things for you. I will also be glad to let you know that this tax is payable in most countries worldwide as a donations & inheritance tax and it is based on the market value of the goods inherited.

The tax is determined using a tax schedule which increases the tax rates, the more the value of the inheritance. At the highest level, the tax is P16 000 plus 5% on the excess of P 500 000 but the first P100 000 is exempt. So, if you inherit your father's property worth say P1m, the taxman will want P 36 000 as inheritance tax. That tax is payable whether or not you received cash or property. If you only received assets such as beasts or immovable property, then you have to find ways of paying your taxes, even if it means getting a loan.
The Capital Transfer Tax Act does not have many exemptions. There are technically only two major exemptions under this Act, being a surviving spouse of a late person, i.e. no tax is payable on an inheritance devolving from a late person to a surviving spouse. Any other person other than a surviving spouse pays tax on the excess of P100 000.

YOU ALSO PAY TRANSFER DUTY

Transfer duty is a duty payable at 5% (in most cases) on the value of immovable property inherited in towns. In other words, properties in tribal lands are not subjected to the transfer duty. Further, citizens do not suffer this tax on the first P200 000 of the value of the property inherited. This means that if one inherits a property worth P1m, their tax will be P 40 000. The tax is payable when the property is being transferred from the late to the one inheriting it. I must be quick to mention that a surviving spouse does not pay transfer duty and the same applies to an heir or a beneficiary who gets a property transferred from a trustee into their name.

WHAT IF THERE IS NO CASH?

To be honest, the departure of most individuals usually happen after a lot of medical bills would have been incurred. As such, chances are high that most estates of the late will not be well resourced, cash-wise. This complicates the work of the executor as they may fail to honour the tax obligations arising from the inheritance. However, the absence of cash with which to settle the taxes does not exonerate the taxable persons from paying the applicable taxes. But I must admit that besides the lack of cash in the estate of the late, the biggest challenge is probably the fact that most people are not aware that there are taxes that kick in when a person departs.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him.