ESTATE PLANNING ESSENTIALS

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Estate planning for farmers

Estate planning is specifically important where a family business is involved, especially when the family business is a farm. Certain practical issues are often not taken into consideration when dealing with the complexities of the estate of a farmer as a business owner. The following three-part series of Estate Planning Essentials will look at these issues and the impact thereof on the farmer's estate.

PART 1

VALUE OF FARMING ASSETS AT DATE OF DEATH

The value of farming assets during the lifetime of the farmer, as provided to SARS for income tax purposes, is not the value that is used at death for estate purposes and determining the gross value on the estate for estate duty/capital gains tax purposes.

The value of assets such as immovable property, produce (crops), livestock and implements and the accompanying taxes could have effects on the available liquidity in the farmer's estate. The value of these assets and the impact thereof on the administration of the estate will be looked at more closely.

Immovable Property

- *For estate duty purposes of a bona fide farmer, the MARKET VALUE LESS 30% is used as the value of the farming property in the estate.*
- *Capital gains tax is calculated as proceeds [market value of the asset less 30%] minus base cost.*
- *All other assets are valued at the market value.*
- *Where the farm was registered for VAT, the following must be taken into consideration: (i) whether the heir is a connected person, (ii) whether the heir is a registered vat vendor, and (iii) whether the usufructuary is a registered vat vendor. In this instance the usufructuary can continue with the enterprise at a zero rate and the bare dominium value to the trust will be at the standard rate.*

Produce (Crops)

"Produce" is what the farmer grows or what is produced by the livestock of the farmer, for example wool, milk, etc. Regarding produce, the time of death of the farmer could have an impact on the value of the assets in the estate of the farmer and the liquidity available in the estate.

- Unharvested crops at date of death are valued together with the farming land and form part of the farming land value. These crops for income tax purposes are taxed in the hands of the heir or usufructuary who will receive the farming land.
- Valuation of crops as soon as possible after the death of the farmer is therefore important.
- Income from crops after the date of death of the farmer will be taxed in the hands of the heir and not the estate.
- Income from harvested crops before the date of the death of a farmer will be taxed in the hands of the executor, therefore the estate.

Movable Assets

For income tax purposes, the tax year of the farmer ends at date of death. A distinction must be made between, for example, machinery and implements that can be recouped in full under paragraph 12 (1B) and vehicles, office equipment etc that are recouped in terms of section 8(4)(a). In the case of the moveable assets not falling under paragraph 12 - the farmer will claim normal section 11 wear and tear deductions on these assets.

The recoupment in the deceased's return will be for the deceased's year of assessment ending on date of death. The market value of the movable assets is used for calculating estate duty payable by the estate.

Livestock

Livestock refers to those animals that a farmer actually farms and not only farms as a hobby. The impact of livestock is often not fully disclosed to the farmer in an estate planning discussion.

For *income tax* purposes the standard value of livestock is used. However, at death, the market value and not the standard value is used for calculating the farmer's dutiable estate. This increase in the value of the estate could significantly influence the liquidity of the farmer's estate.

CGT on Livestock

Disposal is at the market value of the livestock and the base cost is nil. The reason for the nil base cost is that pre 1.10.2001 animal values would have been written down and progeny have no base cost expenditure.

Estate duty

The market value and not the standard value is also used to determine the value of the livestock for estate duty purposes. The correct value of farming assets therefore needs to be obtained and used when dealing with the estate and financial planning and advice regarding a farmer's estate.

The next edition will look at the farmer and his will.

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