

ESTATE DUTY PAYABLE ON THE DEATH OF A MEMBER

The Murray & Roberts Retirement Fund provides for a lump sum to be payable on the death of a member. In addition, in some cases, a pension is payable to a qualifying spouse and to qualifying children.

The benefit from the retirement fund

The lump sum benefit from the retirement fund is distributed in terms of Section 37C of the Pension Funds Act. Should the Trustees of the Retirement Fund not trace any dependant of the member, and should there also be no designated nominee to pay the benefit to, the lump sum will be payable to the deceased's estate.

Section 3(3) of the Estate Duty Act deals with property deemed to be the property of the deceased. In terms of section 3(3)(a)bis of the Estate Duty Act, lump sum benefits from a pension fund are estate dutiable. To the extent that a portion of the lump sum benefit is payable to the surviving spouse, a deduction in terms of section 4Q of the Estate Duty Act will be allowable. Should an annuity (and not a lump sum) be payable in consequence of membership or past membership of the retirement fund, no estate duty will be levied (section 3(3)(a)bis(i)) in respect of the annuity.

The Trustees of the Retirement Fund have to act in accordance with the rules of the Retirement Fund and in terms of the Pension Funds Act. The Trustees will therefore not take cognisance of any estate duty implications in determining how to distribute the lump sum benefit.

General

After the estate has been wound up the Commissioner shall assess the duty payable and issue a notice of assessment to the executor. The executor shall then ensure that the estate duty is paid.

In the above the term "surviving spouse" does not include an "ex spouse". Thus, lump sum benefits payable to an ex spouse will be estate dutiable.