

# Mauritius: A country to die in

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When thinking of Mauritius, one usually thinks of golden, sun drenched beaches, azure water, a lifestyle of leisure, and friendly people. Not to mention a very stable electricity grid, with no power blackouts, except the ones caused by the occasional cyclone . . .



Mauritius also has a very attractive fiscal regime for individuals which includes income tax of only 15%, no dividend tax, no withholding tax on interests and dividends, no capital gains tax, no property tax, and free repatriation of profits.

If this isn't attractive enough, South Africa established a double taxation agreement with Mauritius in 2015. The purpose of a double taxation agreement between the tax administrations of two countries is to enable the administrations to eliminate double taxation. Simply put, it means that the country of origin is entitled to tax and the individual isn't taxed in both countries.

Thinking of island living doesn't usually equate to thinking of dying and paying taxes because of it, but there it is. It is a fact of life. Or in this instance, death.

In Mauritius there is no inheritance tax . . . although it is worth noting that Mauritius follows the forced heirship rules as found under the Code Civil Mauricien which is based on French law. As such, the succession of a deceased one is different from other common law countries such as South Africa and the United Kingdom where there is the concept of freedom of testation, which allows a person to distribute their assets to anyone they wish after their death through a will.

## **Estate Duty:**

On death, South African residents are liable for estate duty based on their worldwide assets, according to Ken Newport, national manager Succession Planning at Capital Legacy. Estate duty is currently levied at a rate of 20% in the case of an estate less than R30m, and at a rate of 25% on the value above R30m.

However, not so commonly known is that on death, most other countries also levy an estate duty on certain situs assets, i.e., certain assets that are physically situated within their jurisdiction.

Double taxation agreements (DTAs) between South Africa and other countries provide relief in this area as well. South Africans have considerable investments in the United Kingdom (UK) and the United States (US) and therefore we will briefly discuss them too.

### **United Kingdom:**

South Africa seems to have a propensity to have DTAs where islands are concerned. This island is a wee bit colder though.

The UK also levies an estate duty on certain situs assets. In the UK this is known as inheritance tax. Situs or inheritance tax will be levied on situs assets over the value of £325,000. Any amount falling below the £325,000 threshold is known as the “nil rate band” and is free from situs tax.

Everyone receives this £325,000 exemption. There will be no situs tax levied on any situs assets left to a surviving spouse. In addition to this, if the situs assets are left to the spouse, which results in the £325,000 exemption not being used, the exemption will roll over to the spouse. The spouse will then have a £650,000 exemption on their death.

### **United States:**

The tax levied on situs assets in the United States is called federal estate tax. The threshold for situs tax in the US is \$60,000. In the US, situs assets are taxed on a sliding scale with a maximum tax of 40%.

However, the US does not provide this same rollover relief unless both spouses are US citizens. This means that the deceased spouse and surviving spouse must both be US citizens to qualify for the rollover relief. If neither spouse, or only one spouse is a US citizen, then federal estate tax will apply and be levied on the value of the assets above US\$60,000.

### **Credits and executors:**

When a South African owning assets in a foreign country dies, the estate is double taxed, in South Africa and the country where the situs assets are. The good news is that because of the DTAs, the executor may apply for credits payable on the estate.

Let us take South Africa and the UK as an example. In South Africa, a maximum of 20% tax is payable on a deceased Estate under the value of R30m and in the UK inheritance tax of 40%. If the value of the situs assets exceeds £325,000, your estate might be liable for 20% tax in South Africa and 40% in the UK. But because SA has a DTA with the UK, South Africans will be able to apply for a credit on the taxes paid in the UK.

A credit is not automatically applied, and it is the responsibility of the executor to ensure that the credit is applied for through Her Majesty's Revenue and Customs (HMRC) and applied. This is one of the reasons that makes the role of a professional executor of such crucial importance.

On the one hand your estate may pay too much tax if your executor is not a professional, and on the other hand, the executor may be held personally liable if all the taxes are not paid.

### **Wills and assets abroad:**

One must keep in mind that different legislation might come to bear on wills, situs assets and estates, in different countries in the world.

It might be a more complex process to make separate [wills](#) if you have assets in South Africa as well as other parts of the world. It is better though if your estate is administered simultaneously, according to the concurrent wills and in accordance with the different applicable laws of the countries where your situs assets are.

This will promote avoidance of difficulties and unintended consequences regarding the distribution of your estate in

different countries. It is clearly in your best interest to obtain professional help in drafting concurrent wills. It is also advisable if your local legal advisor and overseas legal advisor consult with each other during the estate planning process.

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