

## Last Will and Testament for Non-Residents

In April 2010, we distributed a circular on the need and benefits of preparing a Will to provide for the distribution of your assets after your death.

In the case of persons not ordinarily resident in South Africa, it is probable that they will have executed a Will in their home country and that Will covers their worldwide assets.

Although such a Will would normally be legally acceptable and valid in South Africa, that is **NOT** always the case. In any event, the process that has to be undertaken to have such foreign Will accepted by the South African authorities is very time consuming and can be unnecessarily expensive.

It would be far more practical for a simple Will to be prepared and executed in South Africa in terms of South African law. Such Will would specify that it relates solely to South African assets and, to that extent, overrides the provisions of any other Will. It would further provide that it can only be nullified or revoked by the execution of another Will in South Africa or by a Will executed subsequently outside of South Africa which specifically records the revocation of the South African Will.

Obviously, if the non-resident natural person owns the assets in South Africa through a company, trust or other entity registered outside of South Africa, no South African Will is necessary as such entity does not cease by virtue of the death of the natural person. The South African assets will continue to be held or disposed of by the foreign entity.

It is our strong advice that a natural person not ordinarily resident in South Africa and owning South African assets should have a Will executed in terms of South African law to deal with those assets in the case of death.

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## Fringe Benefit for Private Use of Company Cars

Currently a monthly fringe benefit of 2,5% of the vehicle's determined value is added to an employee's salary for tax purposes. If there is more than one vehicle, 4% per month is added for each extra vehicle. To the extent that expenses are paid by the employee for fuel and maintenance, the taxable portion of the fringe benefit is reduced. It is also reduced if the private use of the vehicle is less than 10,000 km per year.

With effect from 1 March 2011, it is proposed that the percentage rate for all employer provided vehicles will be 4% per month of the determined value for each vehicle. This percentage is based on the assumption that there is no business use and all expenses are incurred by the employer. The determined value will include the cost of a maintenance plan as well as VAT

This calculated amount will be reduced on proof of actual business kilometres (presumably by maintenance of a logbook). There is also a reduction in the case of employee paid expenses such as insurance, licence, fuel and actual maintenance costs.

Further details will be available later in the year.

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