Frequently asked questions on Offshore Endowments:

This document is aimed at answering some of the questions that we have received from our clients pertaining to offshore Endowments.

Who can invest in an offshore Endowment?

The offshore Endowment is designed for South African investors with a long-term investment horizon who require a tax-efficient investment vehicle. It is available to natural persons, companies, trusts and other corporations. The investment is available to investors who want to make use of their South African offshore investment allowance (individuals) or invest money that is already legitimately held offshore.

Do the restrictions applicable to local endowment policies also apply in respect of the foreign endowments?

When investing in an endowment policy governed by the Long-Term Insurance Act, the normal rules pertaining to the restriction period and access to funds apply. Endowments have a minimum investment term of 5 years.

Which tax legislation will apply to the product?

In most instances, an investor's tax residency will dictate the tax legislation as mostly, the tax legislation where the person resides applies, subject to double taxation agreements. Various countries have double taxation agreements in place to determine where income or capital gains are taxable if the income or gain could be subject to tax in both jurisdictions.

SA has a residency-based tax system. This means that, if a person is a SA tax resident, all worldwide income is subject to tax in SA, provided the double taxation agreement does not dictate otherwise.

From an estate duty point of view, natural persons who die in SA will be subject to estate duty on their local and worldwide assets in SA, subject to certain exclusions and estate duty agreements concluded between SA and the country in question.

Who will pay income tax on any income generated from the investment products and the capital gains tax, on any capital gains realised?

The SA tax legislation applicable to long-term insurance policies and the Long-Term Insurance Act will apply. Therefore, the five-fund approach will apply to the underlying investments and the insurer will be the taxpayer. All interest, dividends and capital gains will be taxed in the individual policyholder fund, taxed at a marginal tax rate of 30% and an effective capital gains tax rate of 12%.

When the policy proceeds pay out to the policyholder after the restricted investment term, no further income tax is payable.

What happens if the investor dies?

This investment allows for unlimited contract owners and unlimited lives insured. The lives insured can be the same as, or different to, the contract owner/s. The investment also allows for a joint and survivorship option (only between spouses). The structure of the investment will therefore determine the outcome in the event of death of a role player.

Where the joint and survivorship option is selected (where the joint owners on a contract are spouses), both parties are lives insured on the contract. When a joint owner dies on a contract on which the joint and survivorship option has been selected, the surviving owner (spouse) automatically continues as sole owner of the contract. In this instance, the surviving spouse can add additional lives insured and also nominate a successor contract owner, which will ensure the continuance of the investment.

Where there is only one contract owner with no other life insureds and that person dies, the investment will come to an end and the proceeds will be payable, either to the deceased’s estate or to the beneficiary nominated for proceeds.

Where there is one contract owner and multiple lives insured and the contract owner dies, the investment will continue to exist, but the ownership of the investment has to pass onto another. This can happen either by way of a nomination of a successor contract owner (in which case the ownership will pass to this nominated person), or as provided for in the will of the deceased contract owner. Where the contract owner is alive and one of the lives insured dies while there are other lives insured remaining, there will be no impact on the investment and it will continue as is.

Where there are multiple contract owners, they are automatically also lives insured on the contract and upon the death of any one of them, the contract will continue.

Upon death of the investor, where the investment is terminated as a result, do the proceeds have to return to SA or can they remain offshore?

The general rule is that SA residents may retain foreign inheritances and any growth and income generated thereon abroad. This does not absolve beneficiaries from other obligations such as tax obligations, etc. In practice, where a SA resident inherits the offshore estate of another SA resident which has been built up by way of the deceased’s SA offshore allowances, it is good practice to notify an authorised dealer who will advise on whether they wish to place the details of the inheritance on record with the Reserve Bank or not.

What will the estate duty implications be when an investor and/or the life insured (that is not the investor/policyholder) dies?

For purposes of this question it is assumed we are dealing with a person that dies in SA and that the funds in the investment are forthcoming from SA.

Where the owner or co-owner of this investment dies while there is another live insured still alive, the market value of the deceased’s portion of the investment will be an asset in the deceased’s estate. If the joint and survivorship provision applies to the investment and it goes to the deceased’s spouse, the section 4(q) provisions will apply. If this provision does not apply and the ownership goes to the successor contract owner nominated by the deceased contract owner and that nominated person is not a spouse, then it will be part of the dutiable estate. The abatement will still be applied to determine the eventual dutiable estate.

If the deceased is the last life insured on the investment, that investment will come to an end and pay out. Irrespective of whom it pays to, the total proceeds will be a deemed asset in the estate of that deceased life insured. If the proceeds are payable to the spouse of that deceased life insured, the section 4(q) deduction will apply. If not, it will be part of the dutiable estate that is still subject to the abatement.

Should you have any further questions on offshore endowments please contact Global & Local Investment Advisors.