

## **CHECKLIST TO BE USED A GUIDELINE**

### **DECEASED ESTATE with TESTAMENT - Section 9(1)(e) or 9(1)(f) or 9(1)(i) exemption**

Last Will and Testament

L & D account

Letter of executorship

Redistribution agreement if applicable

Adiation / Repudiation if applicable

Where the estate has been massed, we require a 2 applications to be made. The first, from the Estate. This application will be exempt as it constitutes property of the deceased. The second application will be from the surviving spouse and this will attract Transfer Duty as the property does not constitute property of the deceased. We therefore require 2 x Signed Detailed Independent Estate Agent Valuations OR 1 x sworn valuation.

### **DECEASED ESTATE without TESTAMENT - INTESTATE - same exemption applies**

Copy of death notice

Next of Kin affidavit

Letter of executorship

L & D account

Redistribution agreement if applicable

Adiation / Repudiation if applicable

### **SERVITUDE**

Notarial Deed of Servitude

### **USUFRUCT / BARE DOMINIUM**

Notarial Deed of Usufruct OR Deed of Sale (whichever applicable)

2 x Signed Detailed Independent Estate Agent Valuations OR 1 x sworn valuation of FULL PROPERTY

### **HABITATIO**

Notarial Deed of Habitatio OR Deed of Sale (whichever applicable)

2 x Signed Detailed Independent Estate Agent Valuations OR 1 x sworn valuation of IMPROVEMENT VALUE or Rental valuations

### **DONATION**

Deed of Donation

2 x Signed Detailed Independent Estate Agent valuations OR 1x sworn valuation

### **PUBLIC BENEFIT ORGANIZATION - Exemption ito Section 9(1)(c)**

Deed of Sale or Deed of Donation

Letter from SARS (PBO Unit) stating that the PURCHASER is regarded as a PBO and that exemption

ito Section 10(1)(cA) (i) OR section 30(3) is applicable - ONLY then can section 9(1)(c) apply

Affidavit by PURCHASER stating the exact purpose for which property will be used

### **RECTIFICATION - Exemption ito Section 9(2)**

Rectification agreement

Copy of Deeds Search from the Deeds Office to confirm info as per agreement

Original deed of sale or applicable agreement

**NOTE:** Section 9(2) only applies where there have been an error in the registration of the property in Deeds Office and provided that duty payable was paid in full

### **DIVORCE - Exemption ito Section 9(1)(i) as from 25.07.2006**

Court Order

Settlement Agreement

### **DIVORCE - PRIOR TO 25.07.2006**

Court Order

Settlement Agreement

2 x Signed Detailed Independent Estate Agent valuations OR 1 x sworn valuation as at date of court order

### **SECTION 9(20) Transfer of property by Company/CC on after 1 October 2010 but no later than 31 December 2012**

- TDC01;
- Source document;
- An affidavit, verifying the following:
  - That natural person who resided in the property is a connected person in relation to the company or CC (describe the relationship.)
  - The affidavit is to set out the marital status of the party/parties and, if married, whether such is in or out of community of property.
  - The residence is mainly used for domestic purposes during the period commencing on 11 February up to the date of disposal by one or more natural persons who are connected persons in relation to the company or trust at the time of that disposal.
    - A copy of the share register of the company/CK1(CK2) of the CC, with an affidavit by the public officer that the information supplied reflects the position as at 11 February 2009
    - A copy of the municipal account as proof of residence
    - A Deed search as proof of date of registration in the name of the company/CC
    - Certified copy of the Transfer Duty receipt in cases where the shares/members interest was acquired:
      - On/after 13 December 2002; and
      - After the property was registered at the Deeds Registry.
    - Certified copy of stamped CM 42 in cases where the shares were acquired:
      - Prior to 13 December 2002; and
      - After the property was registered in the name of the Company in the Deeds Registry.

- Proof of the intention to terminate a company/CC
- 📎 Copy of the required special/written resolution/statement; and
- 📎 Proof of all outstanding issues with SARS has been resolved, or an extension has been granted.
- 📎 **Please provide reason why there was a delay in the submission of the application**

**SECTION 9(20) Transfer of property by Trust on or after 1 October 2010 but no later than 31 December 2012**

- TDC01;
- Source document;
- An affidavit, verifying the following:
  - The residence is mainly used for domestic purposes during the period commencing on 11 February up to the date of disposal by one or more natural persons who are connected persons in relation to the company or trust at the time of that disposal.)
  - The affidavit is to set out the marital status of the party/parties and, if married, whether such is in or out of community of property.
  - That natural person who resided in the property is a connected person in relation to the trust (describe the relationship.).
- The trust deed
- A copy of the municipal account as proof of residence
- A Deed search as proof of date of registration in the name of the trust
- Certified copy of the Transfer Duty receipt in cases where the rights to the trust were acquired by the persons seeking the exemption:
  - On/after 13 December 2002; and
  - After the property was registered at the Deeds Registry.
- Where the property has been disposed of to that trust by way of a donation, settlement or other disposition:
  - A certified copy of the deed of donation, deed of settlement or other deed of alienation must be submitted and ensure exemption only applies in favour of the same person who donated or otherwise alienated it to the trust.
  - Proof of the intention to terminate the trust
- Copy of the required special/written resolution/statement; and

**Please provide reason why there was a delay in the submission of the application**

Proof of all outstanding issues with SARS has been resolved, or an extension has been granted.

**NORMAL SALE TRANSACTION**

Deed of Sale

Nomination agreement if applicable

Letter of authority if applicable

Power of attorney if applicable

2 x Signed Detailed Independent estate agent valuations OR 1 x sworn valuation where **CONNECTED** persons

**NOTE:** Where sale in execution or by public auction NO valuations are required

**LAND REFORM PROJECTS - special exemption applies - i/o Provision of Land and Assistance Act 1993 ( Act 126 of 1993) - Section 9(1)(n) i/o Transfer Duty Act or Section 9(15) where seller is a VAT vendor and property a VAT asset**

Deed of Sale

Letter i/o Land Reform form the Department of Rural Development and Land Affairs to confirm the above

**NOTE:** Please note that any amount payable by the purchaser and NOT subsidised, will be subject to either Transfer Duty or VAT, whichever is applicable

**EXCHANGE**

Exchange Agreement

2 x Signed Detailed Independent Estate Agent Valuations OR 1 x sworn valuation i/o BOTH properties

TDE number for the other leg of the exchange transaction

**NOTE:** Where both the seller and purchaser are registered vendors and the assets is regarded as a VAT asset, no valuations will be required

**VATABLE TRANSACTION - Exemption i/o Section 9(15) read with VAT Act**

Deed of Sale / Deed of Donation

Nomination agreement if applicable

Letter of authority if applicable - where purchaser a Trust?

Power of attorney if applicable

Lease Agreement where applicable - *if too many leases please upload a schedule with the following information: land lord / tenant / property and property extent / starting and ending date*

2 x Signed Detailed estate agent valuations where CONNECTED persons and purchaser is NOT a VAT vendor

**NOTE:** Where sale in execution or by public auction NO valuations are required

**NOTE:** Standard rate - connected parties - i/o section 5(6) of the TD Act read with section 10(4) of the VAT Act and the purchaser is NOT a VAT vendor, valuations will be required

**NOTE:** Developer selling residential property - declaration whether within the ambit of section 18B of the VAT Act - also provide starting and ending date of lease agreements as well as date construction was finalized

**NOTE:** Where the seller is non-compliant with regard to their tax affairs at SARS, a fully completed signed TD-VAT undertaking will be required OR the client can visit their nearest SARS Branch and resolve all their tax issues - **IMPORTANT:** where a TD-VAT undertaking are submitted to SARS to obtain the receipt, the conveyancer is required to pay the VAT directly to SARS within 5 days from date of registration from the proceeds of the sale - under these circumstances the conveyancer undertook to make payment to SARS and should this be honoured

**EXTENSION OF A SECTION**

Resolution by Body Corporate

**NEGATIVE SERVITUDE**

Signed Power of Attorney OR Notarial deed if been drawn up (Notarial deed not required if POA uploaded)

**LEASEHOLD - no receipt issued as NOT IN TERMS OF TRANSFER DUTY ACT**

Note that IF VAT is applicable, then a receipt must be issued

**NOTARIAL TIE - no receipt is issued as no acquisition is applicable**

Property tied together as you cannot access one property without access to the other property