



## **Davis Tax Committee – Few Shocks On Estate Duty and Trusts Expected In 2017**

### **Herman van der Merwe**

On 13 July 2015 the Davis Tax Committee brought out its first interim report on estate duty (and trusts).

The attribution principle used for many years in trusts will come to an end on 28 February 2017. No longer will it be possible to use the conduit benefit vesting taxable income like interest, capital gains taxes etc in the hand of beneficiaries at a lower tax rate. Trusts will have to pay its taxes at its own high rates and the may vest after tax income in the hands of beneficiaries if the trustees so wish. This will have diverse and far reaching implications for those using trusts to save taxation.

Estate duty and donation taxes are currently the only wealth taxes in South Africa. Our country is underperforming in these area and the committee wants the income from these taxes to increase ten foldly. The committee fell short in providing answers suffice to say that the estate duty system could achieve many of its objectives outlined without resorting to the drastic measure of implementing Capital Transfer Tax. This tax should be postponed and not scrapped. (page 6 and 8 of the DTC report).

All distributions from foreign trusts will be taxed as income.

Donations between spouses were exempt but will now not be exempt for interests in companies and fixed property donated between spouses.

The primary rebatement of R3,5m will be increased to R6m and with spouse rollover for husband and wife the last dying will get up to R12m relief on the death of the second spouse dying. Previously this was R7m.

The annual R100000 donation exemption will stay, as well as the practice of journal entries on loans as a result of a donation of this kind.

Tax planners will need to restrategize for some of the vestings done through trusts. Wills have to be relooked, as well as some trust deeds' wording. Trusts will however still play a large roll in larger estates above R15m assets per family.