



FROM THE DESK OF HENK VENTER

Gray Matters insights

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Understanding AGOS vs AGON: key differences for non-residents

Key differences at a glance

Offshore investing isn't one-size-fits-all - and when it comes to choosing between the Allan Gray Offshore Platform (AGOS) and the Allan Gray Offshore Endowment (AGON), the implications stretch beyond just structure. From tax treatment to estate planning, and reporting obligations, each structure carries distinct considerations - **especially for non-resident investors**.

Below, we unpack the key differences to help you guide clients more effectively when structuring offshore portfolios.

	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Tax implications	Individual tax rates apply Max 45% on income Max 18% on CGT Excludes rand depreciation Accumulation funds (mostly) – excl. AG Aus & AG Money market	Only subject to income tax from South African source (e.g., AG money market for fee payments) Funds domiciled offshore on AGOS platform not subject to tax in South Africa for non-resident investors Taxation of investment returns and CGT is governed by the investor's country of tax residence	Taxed by Life Co. according to Five Fund Approach Flat 30% on income (individuals) Flat 12% on CGT (individuals) Excludes rand depreciation	Taxed by Life Co. according to Five Fund Approach Flat 30% on income (individuals) Flat 12% on CGT (individuals) Excludes rand depreciation

	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Tax implications continued		<p>The holding via Allan Gray nominees does not make the asset a “South African” asset</p> <p>Foreign income and realised gains are not subject to tax in South-Africa in the hands of non-SA tax residents - even if these assets are administered by a SA platform.</p>		<p>The tax is automatically deducted within the product by AG Life Guernsey - so a non-resident investor would only have to consider the tax implications in their home country.</p>

	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Double taxation agreement	N/A	<p>The double taxation agreement (DTA) between the funds' country of domicile and the country in which the investor is resident for tax purposes helps guide the tax rights of each country to avoid possible double taxation.</p>	N/A	<p>No DTA would apply – two different taxpayers</p>

	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Tax certificates	<p>Tax certificates issued (IT3b – where applicable or IT3c) The disclosure of income and proceeds and payment of taxes to SARS is the investor’s responsibility.</p>	<p>Tax certificates issued (IT3b – where applicable or IT3c)</p> <p>As the AGOS Platform was designed with South African tax residents in mind, Allan Gray will distribute tax certificates to all clients, irrespective of their tax residency status.</p> <p>Allan Gray is required to report this information to the South African Revenue Service (SARS) for all clients, given that the administrator (AGIS) is a South African tax resident entity.</p> <p>This also enables SARS to share this information with other tax authorities in line with FATCA/CRS reporting requirements</p>	<p>No tax certificates issued</p>	<p>No tax certificates issued</p>

	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Death Implications	<p>Local or offshore will (no probate)</p> <p>Estate duty is taxed at a rate of 20% where the value of the deceased estate is less than R30 million and 25% for estates valued over R30 million. Assets bequeathed to a spouse will be excluded from the Estate in accordance with s4(q) of the Estate Duty Act but will still be subject to executor fees.</p> <p>Deemed disposal (CGT) triggered at death (unless transferred to the spouse and the spouse is a tax resident of SA</p> <p>Funds don't need to be repatriated</p> <p>No additional foreign inheritance taxes (SITUS)</p>	<p>The investment will not be included in the South African estate duty calculation, if any, of a non-resident</p> <p>Non-residents will not be subject to CGT upon their death for any offshore domiciled investments held through an SA domiciled platform. Additional tax consequences on transfer of death will be dependent on the relevant tax jurisdiction of the investor</p> <p>If the investor has included the investment in a foreign will, their foreign executor will require a grant of probate or the equivalent.</p>	<p>No will be required – if beneficiaries are nominated</p> <p>Estate duty</p> <p>CGT not triggered at death if transferred to beneficiary of ownership</p> <p>Funds don't need to be repatriated</p> <p>No additional foreign inheritance taxes (SITUS). Owning an offshore endowment avoids the risk of SA residents' assets being subject to foreign situs tax upon their death. By investing offshore via offshore endowment wrappers, ownership of the underlying investments is not held directly by the policyholders, but instead by the life company.</p>	<p>The policy will not be included as "property" for the purposes of calculating estate duty in South Africa for a non-resident plan holder.</p> <p>However, it may fall within the definition of "deemed property" in terms of the Estate Duty Act.</p> <p>An AGON policy that is structured as an endowment, may be a deemed asset in the estate of the last life assured (whether they are the plan holder or not) - if the proceeds of the policy are payable in South Africa.</p> <p>Where a policy constitutes deemed property, the Estate Duty Act provides that the beneficiary will be liable for the estate duty in respect of the policy.</p>

	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Death implications continued				<p>Where beneficiaries are foreign residents, they should be aware that some jurisdictions levy inheritance tax for which the beneficiary receiving the inheritance will be liable.</p> <p>Some jurisdictions do not impose any inheritance tax on beneficiaries but will impose tax on the cash proceeds received on a withdrawal from an endowment policy, either as income or as a capital gain</p> <p>There are no situs tax implications for non-residents who invest in SA resident offshore endowment wrappers.</p>
	AGOS SA residents	AGOS Non-residents	AGON SA residents	AGON Non-residents
Executor's fees	Yes	Yes	No - If the benefit becomes payable to the deceased plan holder's estate for some reason, then the executor will administer this estate and be entitled to charge executor's fees.	No - If the benefit becomes payable to the deceased plan holder's estate for some reason, then the executor will administer this estate and be entitled to charge executor's fees.

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Minor beneficiaries	<p>SARB approval required to retain the investment offshore</p> <p>A guardian will need to be appointed to act on their behalf</p>	Where the beneficiary is a non-resident, a guardian will need to be appointed to act on their behalf.	<p>Where a minor is appointed as a beneficiary for ownership, the plan can continue in the name of the minor, but the guardian must act on their behalf until the minor attains the age of majority.</p> <p>A South African minor will have to apply for SARB approval to retain the plan offshore, which means they will have to be registered for tax with SARS, as approval will only be granted if they are tax compliant.</p> <p>Where a minor is appointed as a beneficiary for proceeds, we will act on instruction of the guardian as to where to pay the proceeds i.e. into the bank account of the guardian or the minor (if they have one) including into an offshore bank account provided SARB approval has been obtained.</p> <p>Payment to a guardian constitutes an acceptable third-party payment.</p>	<p>Where a minor is appointed as a beneficiary for ownership, the plan can continue in the name of the minor, but the guardian must act on their behalf until the minor attains the age of majority.</p> <p>Where a minor is appointed as a beneficiary for proceeds, we will act on instruction of the guardian as to where to pay the proceeds i.e. into the bank account of the guardian or the minor (if they have one) including into an offshore bank account.</p> <p>Payment to a guardian constitutes an acceptable third-party payment.</p>

A quick reminder: general differences between AGOS and AGON

	Offshore platform (AGOS) Discretionary unit trust / flexible option	Offshore endowment / sinking fund (AGON)
Investment minimum	US\$3 500 / R50 000 lump sum Additional contribution US\$400 / R5 000	US\$25 000 / R475 000 lump sum Additional contribution US\$5 000 / R90 000
Domicile / administration	South Africa (invested in foreign currency and foreign fund managers/domicile)	Guernsey
Fund currency	Foreign (USD, EUR, GBP, AUD, JPY)	Foreign (USD, EUR, GBP)
Fund choice	Orbis Allan Gray Australia Third party offshore funds (Distributing and accumulation/roll-up funds)	Same funds as available on AGOS excl. Allan Gray Australia (Accumulation/roll-up funds only)
Foreign allowance utilised	Individual R11m per year (R1m without tax clearance + R10m with tax clearance)	Individual R11m per year (R1m without tax clearance + R10m with tax clearance)
Steps to expatriate funds	Tax clearance and conversion to foreign currency required > R1m Allan Gray can assist with foreign exchange at preferential rates (only first R1mil - SDA)	Tax clearance and conversion to foreign currency required > R1m Allan Gray can assist with foreign exchange at preferential rates (Full R11 mil) Allan Gray cannot assist with tax clearance
Creditor protection	No	Yes, on endowment. Section 63 criteria to apply

Should a client create a foreign will?

In considering whether to create separate wills for your client’s offshore assets, the value and nature of the assets and the law of succession in the jurisdiction where the assets are held must be considered.

In South Africa, there is freedom of testation. This means that an individual can specify what must happen to his assets after his death. However, there are jurisdictions that apply forced heirship, which may override the terms of the will regarding how certain assets are distributed. It is important to get advice from experts in the jurisdictions where the assets are situated to understand these possible unintended consequences. Make sure that offshore wills comply with the requirements of the jurisdictions where the assets are situated.

Advantages	Disadvantages
<ul style="list-style-type: none">• Executors in difference jurisdictions can act separately• Executors can proceed without delay• Would be compliant with legislation in the relevant jurisdiction	<ul style="list-style-type: none">• Possible additional costs• Ensuring that will correspond with each other and comply with succession laws in the relevant jurisdiction• Incorporating the testator / testatrix’s worldwide estate• Not unintentionally revoking the other will

Eligibility

Who can invest	Who cannot invest
<ul style="list-style-type: none">• South African resident individuals• Non-resident individual investors• Foreign trusts• Foreign companies	<ul style="list-style-type: none">• US residents or citizens• SA residents under the age of 18 without SARB approval• SA trusts or companies without SARB approval