KEEPING YOU IN TOUCH
ca[sa] .news

In this Issue

Trustees: Your Risks, Roles and Responsibilities

- *Choosing the right trustees*
- *The Law - a trustee checklist*
- *Investing the Assets*
- *Risk and Liability*

Tax Season 2014

- *Income threshold*
- *Interest Income*
- *Tax Practitioners*
- *Documentation*
- *Due Date for submission of returns*
- *Be Aware of Scams*

Employers: Take Note of the New Remuneration Thresholds

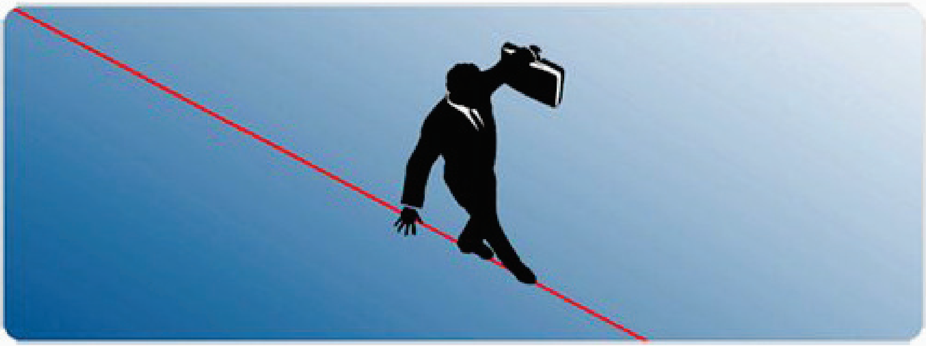
Economics 101: Can the Economy Grow at Over 5%? And How Will It Affect Us?

- *Why is it important to achieve high growth?*
- *How to achieve the growth?*
- *And in South Africa?*
- *Can the government successfully put the country on a high growth path?*

Your Tax Deadlines For August

August 2014

TRUSTEES: YOUR RISKS, ROLES AND RESPONSIBILITIES



Over the past generation, greater onus has been placed on people in authority such as directors and trustees. Much attention has been placed on directors following the new Companies Act which became effective in 2011. It is a good time to relook at trustees who are governed by the Trust Property Control Act.

Choosing the right trustees

A trustee must "in the performance of his duties and the exercise of his powers act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another".

What does this mean? This places a heavy burden on trustees. They are being benchmarked against someone who is a rational, competent trustee who would show the required –

- **Care.** They must put in the necessary hard work to reach reasonable decisions.
- **Diligence.** They must give the necessary attention to matters at hand. This requires that they have the facts and time needed to inform themselves, so they can make a rational decision.
- **Skill.** Trustees must have the experience and qualifications to be able to make a decision **in the best interests of the trust**. They need to understand the terms and intention of the trust deed, the interests of the beneficiaries, the roles and powers of the Master of the High Court and relevant legislation such as the Income Tax Act. **It is vital for trustees to understand this requirement – it means that lack of skill is no excuse.**

Thus, it is vital to select trustees who fit the above criteria.

The Law - a trustee checklist

A trustee can only act as such "if authorised thereto by the Master". Thus any action taken by a trustee is void (and our courts have held that such actions cannot subsequently be ratified) if he has not first obtained a "Letter of Authority" from the Master of the High Court.

The trustee is to take control of the assets and keep a separate and identifiable record of them. Assets need to be protected – for example, property needs to be insured where necessary. Annual financial statements are to be produced to accompany the income tax return.

Trustees are to respond to any queries or concerns the Master may have.

All necessary laws need to be complied with.

If and when the trust is wound up, the trustee must be very careful to do this correctly.

Investing the Assets

Once familiarised with the provisions of the trust deed (in particular powers of investment) and taking into account the interests of the beneficiaries, the trustee(s) must invest the assets. As this is often the cause of dispute between trustees and beneficiaries, it is important that trustees keep a record to demonstrate they have acted with "care, diligence and skill" in executing their duties.

Risk and Liability

If trustees fail in their duties and responsibilities, they risk personal liability for the losses suffered. They also risk personal liability to SARS for any failure to pay taxes due by the trust. That it is why it is important for trustees to be able to show that they acted with the required "care, diligence and skill" and in good faith in performing their duties.

Being a trustee is not something for the faint-hearted. There is much to consider as trustees are held to a high standard, there are many grey areas and many potential pitfalls. It is worth seeking professional help.

TAX SEASON 2014

> ***"People who complain about taxes can be divided into two classes: men and women" (Anonymous)***

Tax season has opened and once again we face having to complete our tax returns.

The changes from last year are -

Income threshold

TAX THRESHOLDS	
AGE	**INCOME**
Less than 65	R 67 111
65 but less than 75	R 104 611
75 or over	R 117 111
EXCEPTIONS	
1. If your sole source of income is from one employer and you earn less than R250 000 and you have no other claimable deductions	
2. Your sole income is interest income and you earn less than R23 800 (if less than 65) or R34 500 (if 65 or older)	

(If the table above does not display correctly, please see the "online version" – link above the compliments slip)

If you fall into these thresholds and the exceptions do not apply to you, you must submit a return.

Interest Income

The tax exemption for interest income is R23,800 (if you are less than 65) or R34,500 if you are 65 or older.

Tax Practitioners

Remember your tax practitioner must be registered not only with a registered controlling body, such as SAICA, but also with SARS.

Documentation

If SARS request documentation from you, it is well worth consulting your accountant before submitting the documentation. Remember, you do not want to get into an open ended process with SARS that could end up in an audit or worse.

Due Date for submission of returns

- By post or depositing it in a SARS drop box – **26 September 2014**
- Electronically at a SARS branch (provisional and non-provisional taxpayers) – **21 November 2014**
- Non-provisional taxpayers on eFiling – **21 November 2014**

- Provisional taxpayers on eFiling – **30 January 2015.**

Be Aware of Scams

There are plenty of scams going on. Be alert.

Remember it is an offence to not submit a tax return if you are required to complete one.

EMPLOYERS: TAKE NOTE OF THE NEW REMUNERATION THRESHOLDS

From 1 July 2014 the Minister of Labour amended the remuneration an employee earns to fall under certain protections (listed below) of the Basic Conditions of Employment Act (BCEA) to R205,433-30 per annum (R17,119-44 per month) - this is up from R193,805-00 per annum (R16,150-42 per month).

This figure is before deductions like PAYE, medical aid etc – in other words the gross amount paid.

This threshold is significant for businesses as most employees falling below it are afforded the BCEA protections listed below. It is worth checking how many of your employees now fall under the BCEA.

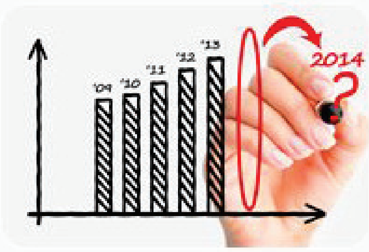
Note that certain employees such as senior management, some sales staff, and employees working less than 24 hours a month aren't eligible for some of these protections – take advice on specifics.

What are the protections?

In essence the significant ones are -

- The number of hours your employee works a week (45 hours)
- How much overtime they are allowed to work (10 hours a week)
- How much they get for overtime – at least one and a half times their normal wage
- Limitations provided for a compressed week (up to twelve hours per day including meal times) and averaging of a work week (allowable for a period up to four months)
- On Sundays employees get double time and on public holidays the hours worked plus a full day's pay
- Employees working night shift are entitled to an additional allowance (to be negotiated or their weekly working hour limit of 45 hours to be reduced), plus the employer is to pay for transport to and from work
- If your employee works consecutively for 5 hours, the employee is entitled to a one hour lunch break.

ECONOMICS 101: CAN THE ECONOMY GROW AT OVER 5%? AND HOW WILL IT AFFECT US?



Pretty much for the last decade there has been debate over how to take the economy from a low growth to a high growth economy. In President Zuma's first term, growth averaged 1.8% per annum.

Why is it important to achieve high growth?

There are those who argue that population growth is 1.2% and thus we have shown a real growth of 0.6% (1.8% economic growth less population growth) over the past five years. The major problems are unemployment (officially near 25% but in reality if you include discouraged job seekers, closer to 40%) and our rising inequality which is close to the highest in the world.

Thus we need economic growth higher than 5% to reduce unemployment and inequality.

How to achieve the growth?

There are two main models for this – rapid growth of small business or sustained state intervention. There could also be a hybrid of the two as is happening in China.

Most of us believe in the growth of small business. However, state intervention has been successful in Asia.

And in South Africa?

The government is openly committed to state intervention and it will continue on this path. This has had mixed results – there has been substantial government infrastructure spend but if we look at entities like the SABC, Eskom and SAA, the picture is less certain.

Can the government successfully put the country on a high growth path?

Analysts have identified three key factors which determine how effective state intervention is. These are known as the 3Cs:

1. **Capability.** Does the state sector have the required skills? Generally, the whole economy is lacking key skills and government is no exception. On the Treasury side, the skills are there and the sector is highly respected. On the negative side many state enterprises limp from crisis to crisis.

2. **Credibility.** Will government-led investment bring a similar response from local business and international investors? Here the outlook is highly uncertain. Not only is there mistrust between government and business but also relationships between government and key unions are not good.

3. **Committed**. Is the state fully committed to growth? Yes it is but for this to work 1 and 2 will need to improve.

In the final mix, it is not likely this will be successful without business, the unions and the state coming to a consensus.

So, with no consensus, this will mean much the same as we have now. This is not a disaster as we should in the next year or so go back to 3% economic growth (this translates into 1.8% real growth). In other words the country continues to muddle through, service delivery protests carry on (as they do in China and Brazil and this doesn't stop economic growth) and our lives stay reasonably prosperous.

YOUR TAX DEADLINES FOR AUGUST

Your first provisional tax payment for the 2015 tax year is due on 29 August.

Have a Great August!

Note: Copyright in this publication and its contents vests in DotNews - see copyright notice below.