With Compliments

SECTION 7C – IS YOUR TRUST AFFECTED BY THE NEW TAX LEGISLATION?

The new tax legislation relates to any loan, advance or credit made to a trust, by a natural person or a company that is a connected person to the trust where interest is not charged, or interest is charged at a lower rate than the official rate (currently 7.75% based on the repo rate plus 1%). In terms of Section 7C of the Income Tax Act that came into effect on 01 March 2017, the difference in interest between the official rate and what is charged will be deemed to be a donation made on the last day of the year of assessment of the trust. Donations Tax will be payable at a rate of 20% on the interest differential by the person granting the loan by 31 March of each year.

We are sending further communication to our Trust clients to assist them in managing the tax impact of the new legislation.

Please contact us should you require any assistance.

Regards
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CLIMATE CHANGE: MAKE SURE YOUR HOME IS CORRECTLY INSURED

TV and other media have extensively covered natural disasters recently – fires in Knysna, storms and floods in Gauteng and KZN and then more fires along Table Mountain. There is now no doubt that these events are occurring more frequently and, apart from loss of life, are causing extensive damage to property.

As worldwide climate change accelerates and impacts on us (wherever we live in South Africa), so will the dangers of us not insuring against these risks multiply.

A checklist for your home insurance

Make sure you have insurance! It is easy to overlook because if you do not have a bond, there is no actual obligation on you to be insured.

1. Firstly, satisfy yourself that your cover is adequate and is for replacement cost. As costs are rising, check this at least annually. Be careful also not to under-insure as your insurer may then reduce your pay-out proportionately.

2. Make sure swimming pools, Wendy houses and all outbuildings are included in the cover.

3. To cater for the risk of your house being totally destroyed, by fire for example, insure for the cost of alternative accommodation for an extended period. This time period should be prudently calculated - if the entire neighbourhood is affected, this may increase the time needed to rebuild your house. You will also in this case have to compete for scarce resources to rehabilitate several homesteads.

4. The costs of clearing your premises of rubble may be many thousands of Rand, and this cost must be specified in your policy.

5. Check that all events are covered – some insurance companies, for example, do not cover homes subsiding. Other insurance companies may even withdraw certain cover when they have faced massive liabilities after a catastrophic event.

6. Include SASRIA (riots, civil unrest) cover, particularly considering the increasing number of service delivery protests we are experiencing.

Finally, with climate change events almost certain to remain or worsen, expect to see insurance premium rises.

P.S. Don't forget your business and other assets!

Your other assets – think vehicles and business premises in particular - are also going to be in the firing line. Check they are covered for fire, flood, storm etc damage.

TAX ON OFFSHORE INCOME – A CHANGE IN PLAN

SARS recently issued a draft Tax Bill which proposed taxing South African residents the difference in taxation on offshore income earned. Thus, if 10% tax was paid on overseas income then the taxpayer was liable to pay what would have been due in terms of local Income Tax law (the maximum income tax rate here is 45%).

After an outcry from civil society and a vigorous consultation process, SARS is now planning to impose tax only on amounts received in excess of one million Rand. This is a welcome concession. Thus, if you earn R1.1 million offshore, your South African tax liability will be on the excess of R100,000. What is still not clear is whether and to what extent the foreign tax credit system will be simplified and improved to ensure ease of tax compliance.

Remember that you must have been out of the country for 183 days in the year with at least 60 of these days being consecutive to qualify for the exemption in South Africa.

SARS also intend to introduce this amendment from April 2020 versus April 2019 per the original draft legislation; the delay gives employees time to prepare for the changes.

The Bill has been tabled before Parliament and is anticipated to be finalised by year end. Once issued, the legislation will give more legal certainty on the way forward.

HOW ARE WE DOING ON THE "BETTER LIFE INDEX"?

Since the introduction of double entry bookkeeping in the fifteenth century, it has been widely accepted that profit equates to value. This concept moved to nation states and today we measure how well a country is doing by its Gross Domestic Product or GDP. By adding up the cost of all the goods and services in a particular period (normally a quarter or a year) the GDP is calculated. Positive GDP means that economically, South Africa is doing well and negative GDP tells us we are in, or potentially are headed for, a recession.

Beyond GDP – 11 new measurements

It is now acknowledged that value means more than a binary measure of more or less money in the economy– we should look to broader considerations as to how we, as a nation, are performing.

Some well known organisations such as the Organisation for Economic Cooperation and Development (OECD) and the World Economic Forum have looked at other measurements to establish our well being.

The OECD has released its "Better Life Index" which consists of eleven alternate measurements, such as:

- **Education** – what qualifications you have and how it helps your life. Well educated people are more likely to participate in civic affairs, live longer and be happier than those less educated. In the countries measured (thirty seven), South Africa finished third from the bottom – ahead of Brazil and Mexico.

- **Environment** – how much open space there is and the quality of the air and water. The higher the score the better the population's health and mental facilities. Here, South Africa was in the bottom quartile mainly because we are a mining nation and currently rely on coal for the bulk of our energy.

- **Civic Engagement** – how people participate in democracy, how transparent the government is and how easy is it to hold leaders to account. Again we are below average in this field.

- **Work/Life Balance** – How much time we devote to leisure and taking care of ourselves, how much time we spend at work. Not surprisingly, the Netherlands and Denmark come out tops. What is interesting, however, is how poorly the United States, Japan and England performed. South Africa did not do too badly here, being squeezed in between Australia and Iceland.

Other factors are how safe we are, adequacy of housing, the jobs available, our health, income, participation in community activities and life satisfaction. Have a look at South Africa's full report card here.

These surveys show that we are moving to more holistic methods of measurement. What is surprising about all these new methods is there is a correlation between GDP and the Better Life Index – countries with positive GDP tend to score well on the Better Life Index. The accountants were right all along!

This is a welcome development and shows that even the wealthiest nations still have work to do in improving their populations' well-being.

SMES BEWARE: POPI IS FINALLY BECOMING A REALITY

"Forewarned is forearmed" (wise old proverb)

The Protection of Personal Information Act (POPI) has been in the public domain for several years and has been enacted into law, but its enforcement provisions are not yet in effect. The appointment of a Regulator and the issuing of draft Regulations for public comment, however, indicate that the Act will probably come into effect in 2018. The recent massive database leak may lead to a bit of fast-tracking here.

POPI will require that all personal information (IDs, health records, religion, employment records, sexual orientation etc) must remain confidential and organisations need to identify where this information is held and take steps to protect it.

Although there will be a twelve month grace period (from the date POPI's enforcement provisions become effective) entities should not underestimate how much work is required to ensure compliance.

The growing trend of hacking of private information will make this task more onerous and additional costs may need to be incurred to ensure that adequate cybersecurity measures are in place.

Small and medium sized businesses (SMEs) will be under greater pressure as they do not have the resources of the larger corporates.

What will you need to do?

You will have to -

- Appoint an Information Officer (the person or entity responsible for the implementation and operations of POPI).
- As a starting point, identify what personal information you hold and how it is processed, given to third parties, stored and destroyed.
- Design, test and implement systems and procedures to ensure compliance with POPI.
- Have policies in place to report any breaches of personal information.

Per the draft Regulations (comment has been called for so they could well change):

- A manual (which is available to the public) setting out how the organisation complies with POPI must be drawn up. The manual needs to provide assurance that personal information will be adequately protected;
- Measures and systems must be in place to respond to requests for access to personal information; and
- Training sessions must be held for relevant stakeholders to ensure that there is an understanding of POPI and that the company's systems are compliant.

Penalties for non-compliance are severe – a fine of up to R10m or ten years' imprisonment.

Don't forget also the potential cost of being sued by people or organisations whose personal information falls into unauthorised hands or is hacked whilst under your control. **Consider for example the possible claims arising from the recent South African database leak compromising the private data of 60 million people**. *(As a side-note: Check whether any of your email accounts have been compromised here – remember to check all your email addresses, personal as well as business, and seek advice immediately in any doubt.)*

It will be critical therefore that you can demonstrate you have shown the necessary preparation and have put in place robust systems to protect personal information.

Start planning for POPI now – it will expose you to huge risk when it kicks in and forewarned really is forearmed!

THE LATEST ON THE SVDP

Access to the Special Voluntary Disclosure Program (SVDP) closed at the end of August 2017 and the government netted a little over R1 billion. There were two thousand applications for this amnesty. Whilst this is not the final amount as SDVP applications are still being processed, there is little doubt that National Treasury was expecting to generate more income. The Davis Tax Committee for example proposed this amnesty and expected the Fiscus would collect up to R10 billion.

Tax experts have put the disappointing results down to the complexity of the application form (detailed documentation was required by SARS and the Reserve Bank) and the fact that if clients opted not to go for the SDVP, their accountants were obliged to inform the authorities. It would also appear that talk of a tax revolt may be gathering momentum, which meant that individuals seemed to weigh up their options.

The SDVP was tabled as the final opportunity for taxpayers to regularise their affairs in terms of undisclosed off-shore assets and income. From September 2017 the automatic exchange of information between revenue authorities from over seventy countries began and is expected to expose non-compliance on an unprecedented global scale. Further "Panama Papers" style leaks are also reportedly occurring and no doubt SARS will keep a close eye on them.

DISAPPOINTING - SA SLIPS DOWN THE WORLD COMPETITIVE INDEX

Every year we report on the World Economic Forum's (WEF) Global Competitiveness Index. This year South Africa slipped from 48th to 61st in the rankings. What was disappointing is that previously we were ranked 3rd in terms of corporate efficacy but this year fell to 34th. The audit profession had been ranked top for several years but has fallen to below 30th place.

Clearly this is a direct fallout from the various scandals engulfing State Owned Companies but it does call for sober reflection as to how we face these issues.

YOUR TAX DEADLINES FOR NOVEMBER AND "WATCH OUT, SARS IS ON THE WARPATH!"

Non-provisional taxpayers using eFiling or electronically submitting from a SARS office need to file their 2016/2017 Income Tax Returns on or by 24 November.

Secondly, tax compliance levels are slipping and SARS is planning to aggressively counteract this, noting that a substantial number of taxpayers have not submitted their tax returns on time and/or have not settled tax debt due to SARS. This trend, it says, applies not just to this year but to prior years.

Tax returns in question are:

- Income Tax
- Value Added Tax
- Pay as You Earn Tax
- Corporate Income Tax

Be warned that it is a criminal offence not to submit a return on time. Failure to file returns on time therefore not only gives SARS the right to levy penalties for every month overdue but also at the same time to institute criminal prosecution.

This should not leave any doubt in taxpayers' minds as to the risks of non-compliance so ask your accountant for advice now if you have any doubt about being fully compliant.
