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When last did you update your Will?

A Last Will and Testament is the subject of much procrastination which often gets signed, placed somewhere for safekeeping and then forgotten about. Please don't make this mistake. In a recent webinar I attended for business owners, 28% had no Will at all, a further 40% had never reviewed their Will and less than 10% had reviewed their Will in the last 12 months.

Although your Will deals with the distribution of your assets once you have passed away, it should be a living document which is reviewed and updated regularly to ensure that your loved ones are properly taken care of and takes account of your **current** circumstances.

If any of the following has occurred, we recommend that you update your Will:

- Change in **marital status** (divorced / separated / married)
- **Birth** or **death** of a **dependant**
- You want to appoint a **guardian** for your minor children or set up a testamentary trust to ensure they are protected and cared for
- Your **dependants** have reached the **age of majority**
- Any of your dependants require extra protection and care should they have become disabled or mentally **incapacitated**
- Substantial **increase** or **decrease** in your **assets**
- Any of the **beneficiaries** named in your Will have **deceased**
- Changes in **tax legislation**
- If it has been **2 years** or more since you **last reviewed your Will**
- Your current Will was drafted and / or is being kept by a **financial institution** or is based on a **template downloaded from the internet**
- **You don't have a Will.**

We always recommend seeking professional advice when drawing up a Will because, besides the formalities of a valid Will, there are a lot of other factors which you need to keep in mind when planning your estate or drawing up your Will.

Most importantly you want to make sure that your executor **understands** your personal and financial circumstances.

You do not want your beneficiaries to be in the position of a widow we recently heard about, whose husband had drafted a Will leaving his entire estate to his wife – only problem was that the widow was his second wife and he felt that he did not need to redraft the Will when he got remarried, so the Will in fact erroneously left his estate to his first wife, whom he had divorced many years previously! **ACT NOW!**

Please contact us should you require assistance in drafting or updating your Will.

Stay Safe and Healthy!

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August 2020

Employees Working from Home: What Tax Deductions Can You Claim?

"We like to give people the freedom to work where they want, safe in the knowledge that they have the drive and expertise to perform excellently, whether they at their desk or in their kitchen. Yours truly has never worked out of an office, and never will" (Richard Branson)

Thousands of employees have had to work from home since the lockdown began at the end of March. This story has been one of the success stories of Covid-19, as companies have reportedly found that productivity has increased, travel costs are right down and the work is still being done.

Employees stand to reap a range of financial and health benefits from working at home and both they and their employers should know that they may also be able to claim certain home office expenses as tax deductions. Normally only independent contractors and commission-earners would claim these expenses, but SARS has confirmed the relief is available to full-time employees as well – but only in the specific circumstances set out in the Income Tax Act.

How you can claim tax deductions for a home office

The Income Tax Act sets out basic requirements that must be met if this tax relief is to apply:

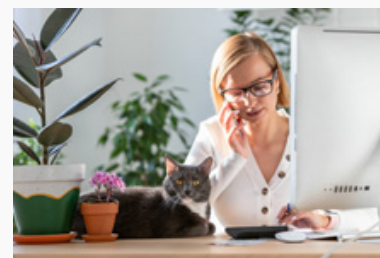
- You must practice a "trade" – which can be employment so by being employed this criterion is fulfilled.
- The home office must be specifically equipped for you to do your job – usually, this would mean a computer, broadband, printer, desk and chair etc.
- The home office is be *regularly and exclusively* used by you to do your job – once you have finished a day's work, for example, the area cannot be used as a family room.
- More than 50% of your work needs to be performed in the home office – in other words you must work from home for at least six months of the tax year.

Tax deductions allowed

If the above criteria have been met, then you may deduct:

1. Rental or bond interest on your home and home repairs,
2. Municipal rates, electricity and water,
3. Wear and tear on office equipment (SARS has differing depreciation rates on computer equipment and office furniture).

You will also incur numerous costs in running your home office such as cell phone, bandwidth, equipment repairs, stationery and cleaning. As these are not specified in the Income Tax Act, it is better that you be reimbursed by your employer for these expenses.



In terms of points 1 and 2, as a taxpayer you need to make an apportionment of those costs when claiming them in the income tax return. Typically, this is done on a floor space i.e. square metre basis of the home office in relation to the total area of the home – see the example below.

As noted above, one of the criteria is that you can only claim a home office allowance if more than 50% of your work (at least six months of the tax year) is done in your home office. This is not a problem during lockdown (as the home office is being used 100% of the time) but should you want to continue claiming for a home office after the lockdown, then you will need to spend more than 50% of your working hours in your home office.

This is all best illustrated with an example:

Example: Home Office			
Notes	Calculation of deductions claimed		Rand
	Elizabeth needs to work from home and purchases...		
	A desk and chair		10 000
	Desktop computer and printer		<u>12 000</u>
	= Total equipment and furniture		22 000
	Elizabeth's monthly rates, water, refuse and electricity cost		4 000
	Elizabeth's monthly rental of her home		20 000
1	Her monthly data and cell phone cost		1 200
1	Stationery		120
	Her Annual tax return		
2	Wear and tear computer equipment	3 year write off	4 000
2	Furniture	10 year write off	<u>1 000</u>
	=Total wear and tear deduction C22		5 000
3	Water, rates, refuse and electricity		6 000
3	Rental claim		<u>30 000</u>
	=Total deductions claimed		41 000
NOTES			
1	Company reimburses Elizabeth for these costs as they are not allowable per the Income Tax Act		
2	Annual depreciation computer = 12 000/3 = 4 000		
2	Annual depreciation furniture = 10 000/10 = 1 000		
3	Size of Elizabeth's house	200 square metres	
	Size of her home office	25 square metres	
	Claim is (25/200)	12,5% of allowable costs	
	Annual municipal charge	48 000 4 000 monthly	
	Claim is 48 000 x 12.5%	6 000	
	Rental claim = annual rental x 12.5%	30 000 240 000 x 12.5%	

These tax deductions effectively compensate you for your costs of equipping a home office. Both employers and employees benefit.

As an employee make sure you get a letter from your employer to confirm that you are working from home, retain invoices and statements of these expenses, and keep a running spreadsheet of days worked at home for the tax year.

As an employer speak to your accountant when setting this up. SARS' requirements are stringent and you don't want your staff to be denied the deduction.

Beware the CGT impact!

Claiming for a home office as above may well have an adverse impact on the amount of Capital Gains Tax you have to pay when you eventually sell your home. This can become a complicated issue and calculation so it is essential to get professional advice on this aspect!

Protecting your Company's Reputation When Staff Work from Home

"It takes a lifetime to build a good reputation, but you can lose it in a minute" (Will Rogers)

Whilst many employees enjoy working from home, this is a time of uncertainty for them. They read of people being retrenched or furloughed and wonder if they are next. The isolation of working from home can fuel this uncertainty.

Yet it is these employees who daily interact with customers and other stakeholders. If staff have negative feelings about the company, this can be quickly picked up by customers. Social media can spread this quickly and suddenly management have to start undertaking damage control. Recently, an English business decided to not pay staff until the government's wage subsidy kicked in. Following an outcry, management swiftly reversed this and paid the staff.

Contrast this with Quickbooks who kept their cleaning staff on full pay despite empty offices. L'Oreal have made a point of paying small suppliers quicker than usual.

Don't think short term

The decisions you make send out signals to your staff and they are much more likely to view you favourably if you are showing fairness to your stakeholders.

Think also of your investors – they tend to support businesses where carefully considered long-term decisions are made by management. Don't forget having a holistic outlook and making the environmental, social and governance (ESG) criteria part of your strategies.

Communicate effectively

In a recent case, staff supported management putting them on furlough after they were persuaded by management that this was the best long-term strategy to preserve jobs in the business.

Staff are more motivated if they know they have commitment and active support from their bosses.

IBM have started a program of supporting employees who need to take out time to educate their children or look after family members. They have also encouraged their staff to raise any individual difficulties they have with their managers. Introducing this type of flexibility makes managers' jobs harder to do and IBM have created separate online chat channels for managers to network with their peers and find solutions to employees' problems.

Other companies with diversity in the workplace have openly supported Black Lives Matter and have made sure that when there are pay cuts or retrenchments, there is no discrimination against minorities.

The world has changed and become more uncertain and more flexible. You need to plan carefully and act to ensure you stay on top of the situation and keep the support of your staff.



What Happens if your Driver's Licence Expires During the Pandemic and You Have an Accident?

Driving licence test centres were closed during the lockdown and even prior to that centres were running behind in renewing driver's licences and testing first time driver's licence applicants.

The Minister of Transport recognised these difficulties and gave motorists until August 31 to renew their licences. That has now been **extended to January 31 2021 and your licence is deemed to be valid if it expired during the period from March 26 to August 31.**



Check your insurance

Insurance policies require you to have a valid driver's licence and if this is not the case, the insurer is entitled to refuse any claim made. Even if your policy doesn't specifically require a valid driver's licence, there could still be difficulties in making a claim without a valid licence.

It is worth contacting your insurance broker or company and getting written clarification of cover if your licence has expired or will expire this year.

Car hire

On a related topic, car hire companies will not allow car hire without a valid driver's licence – check upfront that your “deemed valid” licence will be accepted. And as and when international travel becomes available to us again, remember that your destination country may still regard your expired licence as invalid.

Motor vehicle licence discs

All motor vehicle licence discs, temporary permits, and roadworthy certificates that expired during the period from March 26 to May 31 are deemed valid until August 31 2020.

POPIA (The Protection of Personal Information Act) is Now Law and the Clock is Ticking

Globally, governments are responding to the vast amounts of information flooding into the public domain due to the growth in companies like Amazon, Facebook and Twitter. As much of this information is personal, POPIA seeks to regulate how this personal information is processed and stored.

South Africa, like many countries, has a constitutional mandate to protect the right to privacy and POPIA is aimed at balancing this right with the necessity of processing personal information – employee salaries is an example.

With the Act now in effect, you have a twelve-month grace period to comply with POPIA. By 1 July 2021, all entities that process personal information need to be in compliance with the Act.



This has substantial implications for business and will be costly and time consuming to implement.

A brief overview

- Firstly, what is personal information? POPIA defines this as including:
 - a person's name (including a juristic person such as a company),
 - contact details,
 - religion,
 - sexual orientation,
 - personal views,
 - private correspondence,
 - health records,
 - employment records,
 - financial records,
 - biometrics (DNA, fingerprints)

- There are eight self-explanatory principles which govern the Act:
 1. Accountability
 2. Processing limitation
 3. Purpose
 4. Further processing limitation
 5. Information quality
 6. Openness
 7. Security
 8. Right of access

- Further restrictions apply for the use of “special personal information” like political affiliation or sexual orientation.

- A regulatory body known as the Information Regulator has been established with the following powers and duties:-
 - Search and seizure powers
 - May impose administrative fines
 - May sue on behalf of the subject
 - Can decide if the law is being complied with
 - Receives and acts on complaints
 - May issue notices

It is a criminal offence to make false statements to, or to not comply with notices from, the Regulator.

- The appointment of an Information Officer. In terms of POPIA this is deemed to be the head of the organisation, such as the CEO or sole proprietor. The person may delegate this to another person. The Information Officer is to register with the Regulator.
- The role of this position is to encourage and ensure compliance with the Act, to handle queries from outside the organisation on matters relating to POPIA, to liaise with the Regulator and deal with whatever has been prescribed.
- POPIA makes provision for cross-border uses of personal information
- In terms of direct marketing, there is a clause requiring opt-in. This is contrary to current laws where the norm is to require opt-out. This means permission must be sought from people whose information will be used, **prior to** direct marketing taking place. **The only exception is in respect of existing customers/clients.**

This transition period is going to be onerous on businesses. They need to determine what information falls into the Act, how it is used, protected, stored, who has access to it. Businesses will also need to get the relevant consents from staff and other stakeholders. What privacy statements do you need to make, what protocols do you need to put in place over your information and website?

As there are onerous penalties (a fine of up to R10 million or ten years imprisonment) and these requirements concern the safety of your staff's (amongst other) information, so it is well worth investing time and taking advice to start getting the right procedures in place now.

Your Tax Deadlines for August 2020

- 7 August – Monthly PAYE submissions and payments
- 25 August – VAT manual submissions and payments
- 28 August – Excise Duty payments
- 31 August – VAT electronic submissions and payments
- 31 August – CIT Provisional Tax Payments where applicable
- 31 August – Personal Income Tax Provisional Payments.



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