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119 Witch-Hazel Ave
Highveld Technopark
CENTURION
0046

Tel: 012 682 8800
Fax: 012 682 8801
e-mail : info@nexia-sabt.co.za
Web site : www.nexia-sabt.co.za

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In this Issue

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SMALL BUSINESSES: HOW CAN YOU BENEFIT FROM CORPORATE GOVERNANCE?

There is a perception that corporate governance applies only to government bodies and the large corporates. This is false as, in essence, corporate governance is the process of acting in the best interests of any business and its stakeholders.

The Risk…..

In many small and medium sized businesses (SMEs) there is no separation between the owners and management of the entity – they are what is termed owner managed. It often becomes difficult for owners of owner managed businesses to distinguish their personal interests from those of the business.

Recent research supports the dangers inherent in this. **For example in over 90% of cases where SMEs became financially distressed, the businesses were owner managed**. The research also found that these entities did not have independent board input and most did not comply with legal requirements.

…..and the Remedy: What you should do about it

Designing and implementing simple policies can set this process in motion. Ideally, these should cover -

- Areas where there is potential conflict between the owners and the business such as the amount of their salaries or the amount of withdrawals they can make,
- A checklist to ensure all laws are complied with,
- Recruitment of independent director(s), and
- Aspects of the business where outside help will be needed such as technology.

Once this has begun it can be expanded as business needs dictate.

Finally, the research also showed positive results where independent directors were recruited. These led to enhanced profitability and growth of the business.

Ask your accountants to help – they have both the required knowledge of your business and an independent viewpoint.

RENEWABLE ENERGY TO THE RESCUE!

South Africa has been absorbing bad news recently. So it is good to discover that we are a world leader in renewable energy development and that this is making considerable strides towards resolving our energy problem.

Energy shortages – how they hurt us

Load shedding has reduced our economic growth and energy shortages are a chronic problem not just for us but for the whole African continent. **The World Bank estimates that lack of energy drops Africa's economic growth rate by 4% annually.**

In South Africa, Eskom has commissioned massive coal fired projects like Medupi which will add 4,764 megawatts to our capacity and increase it by more than 10%. The problems with Medupi are that it is way overdue (it was supposed to be finished in 2013 but has yet to start producing significant power) and it will contribute negatively to global warming.

At the moment the country has capacity to generate 44,000 megawatts but can only reliably produce 29,000 megawatts. Currently demand is for about 32,000 megawatts. This 3,000 megawatt shortfall explains load shedding.

What's happening with wind and solar

Since 2011 IPPs (Independent Power Producers, both multi-nationals and local South African companies) have produced energy capacity of more than 4,000 megawatts which has been added to the Eskom grid. These projects generate electricity by using wind power and solar power. So impressed is the Department of Energy that it has commissioned a further 6,000 megawatts from IPPs. This will bring investment in renewable energy programs to R192 billion. An additional bonus is that these projects are in remote areas (Northern Cape and the Eastern Cape) which house many of the country's poorer communities. This brings jobs and in turn this will stimulate infrastructural development including improved health care and educational facilities.

This is an excellent example of government/private sector partnerships and will considerably enhance electricity capacity in the medium term.

But is renewable energy economically viable?

Traditional sources of energy like the Medupi project are cheaper than renewable energy but this is changing fast. The price of solar power has dropped 76% since 2011 whilst wind power cost has fallen by more than half in the same period. Renewable energy is now cheaper to operate than a generator.

As progress is made in this sector including cost-effective storage, expect the price to drop even further.

One advantage of renewable energy is that it can be connected up without using power lines. As electricity power lines cost several thousand US dollars per kilometre, this offers the prospect that South Africa and the continent can leapfrog the energy crisis.

South Africa is at the cutting-edge of renewable energy development and has the capacity to bring the country out of its energy crisis much faster than we expect. It is also encouraging to see how effectively government and the private sector can work together.

MORE AND HIGHER TAXES IN THE OFFING - THE DAVIS TAX COMMITTEE'S INTERIM REPORT SETS THE SCENE

"Taxes are the price we pay for civilized society" (Oliver Wendell Holmes, Jr)

The Davis Tax Committee (DTC) was appointed in 2013 by then-Finance Minister Pravin Gordhan to investigate "*our tax policy framework and its role in supporting the objectives of inclusive growth, employment, development and fiscal sustainability*". Those who listened to the recent Budget speech will realise how influential the DTC has become.

Recently, the DTC's overview on Macro Analysis was released to the public. The report sets out the framework for how the DTC will approach its task

The DTC proposes to make tax more rational and more just. So that alone makes for a good process. **But it also makes clear that tax is about the choices made by those in power and as a developmental state (where the state plays a leading role in the economy) we can expect our total tax burden to increase.**

The key principles

The report examines how effective and efficient tax laws and tax collections are. The commission accepts that taxes need to be progressive to support reducing poverty and inequality. The DTC agrees that the best tax system is where there is a high degree of voluntary compliance from taxpayers. With this background the DTC sets out the key principles of a good tax system. These are -

- **Economic efficiency** – the tax system should support economic growth and taxes levied should be spread as widely as possible at the lowest possible rate of tax. Taxpayers should thus not change their behaviour to avoid tax.

- **Administrative efficiency** – the cost to collect tax and the cost to taxpayers of compliance should be minimised.

- **Equity** – taxpayers with similar resources should pay the same amount of tax and the system should be progressive. Those with more means should pay more tax than the poorer sections of the community.

- **Fairness** – apart from the redistributive aspect above, all taxpayers should be treated on the same basis.

- **Revenue Buoyancy** or the ability to raise taxes at all levels of the economic cycle. This includes having the characteristics to support counter-fiscal policy i.e. tax revenues will be sufficient to finance government expenditure during economic contractions.

Good system design

For a good system design, the tax system should have the following features -

1. **Neutrality** – similar activities are taxed along the same lines. If the same rules apply to all taxpayers there will be less incentive to avoid taxes.

2. **Simplicity** – it should be transparent and have low administration costs. Greater complexity will reduce transparency, raise administration and compliance costs and encourage avoidance.

3. **Stability** – the more tax policies remain unchanged the lower are compliance costs and there is more certainty in the system. There will always be times when rules will need to change and these rules must be clearly articulated and stakeholders consulted.

One interesting aspect that the DTC emphasised is the need to look at the tax system holistically. Each individual area (income tax, VAT etc) must have a well-thought-out rationale but the system needs to be also looked at in its totality.

So, what does the future hold for us?

How do our taxes stand up to these criteria? The answer is, at best, average.

The eFiling system has clearly eased the cost of compliance and administration costs for SARS, but the taxpayer has felt an increased compliance burden for the past several years.

Personal income tax is progressive and holds up relatively well in economic downturns. **However, the DTC believes death duties will need to be an area of focus as there is too much avoidance via instruments like trusts. They have also mooted the possibility of an annual wealth tax.**

Whilst VAT is not a progressive tax, zero rating of basic foodstuffs brings more relief to lower income groups. **The DTC plans to measure the efficiency of the VAT system to see if there is scope to increase collections without raising the rate of VAT.**

Corporate income tax (CIT) is clearly a problem area. Global trends have to be considered, particularly as our CIT rate is high even against many other developing countries. This encourages avoidance schemes which are becoming a feature of South Africa's corporate tax arena. **This is going to be an area of intense focus. Already the DTC has released papers on Base Erosion and Profit Shifting (BEPS) – this is the way whereby companies shift profits to lower tax countries, resulting in countries like South Africa losing tax revenues. The DTC plans to come up with aggressive strategies to counteract BEPS.**

There are also anomalies in CIT as many incentives have been added such as accelerated depreciation on plant and machinery. This gets back to the earlier point of looking at tax holistically as opposed to implementing quick fixes which often backfire in the longer term.

In other areas like customs, excise and ad valorem taxes, there is unlikely to be significant change.

All in all, it looks as though more transparency and certainty will be incorporated into the tax system. Overall tax policy should improve but we need to expect that taxes will rise.

Have your say!

Public comments on the Macro Analysis (abridged and full versions available at www.taxcom.org.za) can be sent by e-mail to taxcom@sars.gov.za or by post to PO Box 2344, Brooklyn Square, Pretoria, 0075. **The closing date for comments is 31 August 2015.**

PROTECTING YOUR CHILDREN: CAN YOU USE A NANNY CAM?

Several incidents of childminders abusing young children have horrified the public. Businesses selling "nanny cam" surveillance cameras have reported a brisk increase in sales.

As the subject is very topical, there are many articles advising readers on how to choose a nanny cam but many don't consider the potential legal ramifications.

What does the law say?

Spying on your childminder or domestic worker is governed by RICA (Regulation of Interception of Communications and the Provision of Communication Related Information Act). This upholds our Constitutional right to privacy and the Act requires that you seek the written consent of the childminder before setting up your Nanny Cam(s). If you want to use the Nanny Cam as evidence in a labour hearing, it is essential that the staff member's consent be obtained upfront.

In terms of getting this consent, *you do not have to spell out where exactly the cameras will be positioned*, but clearly you will not be allowed to place them in her own private areas such as her bedroom or bathroom.

A good time to get this consent is to put the use of nanny cams in the domestic worker's employment contract. Alternatively, if there already is a contract in place, the childminder's consent could form an addendum to the contract.

Other uses

Apart from enabling you to monitor your child's safety and well-being generally, a nanny cam can also alert you to any household security problems or accidents such as a burglary or kitchen flood. There are also instances of cameras picking up theft by the childminder or other domestic workers.

There are also quite a few alternatives to consider such as whether you want the cameras to just record or do you want to access them live on your P.C./tablet/smart phone?

You are fully entitled to protect your children and your premises, but both RICA and our labour laws are complex and the penalties for getting them wrong are serious. **Take full advice on your particular circumstances.**

YOUR TAX DEADLINES FOR JULY

There are no special deadlines for July but the new tax season for individuals and trusts begins on 1 July. Make sure your staff have their IRP5s so they can submit their returns.

Have a great July, and don't forget to do your bit for Nelson Mandela Month! See how at *www.gov.za/nelson-mandela-month-2015*.