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Features

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"Tax practitioners need to be aware of a number of requirements contained in the TAA to be able to provide clients with opinions that can be of value"
“T he secret of rulership is to combine a belief in one’s own infallibility with a power to learn from past mistakes.” George Orwell (1984)

Roughly a year ago Finance Minister, Pravin Gordhan’s budget speech was marked by his sharp criticism of Tax Practitioners. In his speech the Minister spoke out against lax practitioners who were not tax compliant in their personal capacities. More specifically, South African tax practitioners, personally, have more than 18 000 tax returns outstanding, and owing the fiscus in excess of R180m. The Minister clearly do not accept excuse that the “The cobbler’s children go unshod”, and rather requires accountability from the tax profession.

While most people celebrate the start of a new year in January, Tax Practitioners work on a different schedule – one which is dictated by the Budget Review and the new financial year. For us here at TaxTalk we start the new financial year in March with a new look and feel for the leading tax journal. We trust that the journal will be an inspiration for you to take on the challenge of reshaping the image of the tax profession in the year to come.

This issue of TaxTalk is dedicated to the new regulatory environment in which tax practitioners will work from 1 July 2013. The Tax Administration Act, 2011 was amended in December 2012, introducing section 240A, making it a legal requirement for tax practitioners to register with a recognised controlling body before 1 July 2013. Essentially this means that anyone who assists in completing a tax return or submitting any document to SARS on behalf of another person and who charges a fee for the service, to register with a professional body.

New beginnings also bring the start of new endeavours. TaxTalk is proud to announce the success of the first annual Tax Student Conference held at Sun City on the 15th February. The Conference brought together the tax profession, Fasset, employers, students and SARS under one roof, where students could engage sponsors, and particularly potential employers. We thank all of the sponsors for making this historic event possible, with a special thanks to E&Y for their platinum contribution.

We have also had the privilege of welcoming new additions to our team. Natalia Carvalho, our new designer, and Yanic Smit, publisher of TaxTalk, have brought a young and vibrant energy to the magazine. In this edition we also introduced a new lifestyle section. Turn to page 56 to read about festivals and other events in South Africa.

We hope that this edition of TaxTalk, dedicated to the regulation of the tax profession, will balance the belief in infallibility with a power to learn from past mistakes. And remember, Big Brother (Oupa) is watching us.

From the Editor

BIG BROTHER
is watching

Liz Jones
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Letters

To the Editor

HENDRIK VAN DEVENTER

The great thing about being a tax professional is that change is constant (as much as it grinds in against the human makeup). I don’t recall a time where after a budget speech, there was not at least one thing that got us talking! It is probably fair to say that most people stop caring the moment they know what their next packet of cigarettes or bottle of wine is going to cost them. But not the tax professional! Oh no! The fun only starts then...

When it was announced a few years ago that the Tax Acts administered by the Commissioner were being overhauled, no one really knew what to expect. After much debate, public commentary (which included challenges on the constitutionality of certain provisions), stakeholder input, the likes of which the Commissioner said he has never experienced or seen before, the most profound change to the South African tax environment became a reality. Known as the Tax Administration Act No 28 of 2011 (“TAA”), it took effect on 01 October 2012.

The challenge with new legislation is the uncertainty around its practical application. The TAA is no different. It poses additional challenges in that some of the provisions are being transitioned. Tax professionals could perhaps be forgiven if our transition to understanding which provisions apply, the TAA or the “old provisions” is phased as well.

I really would therefore like to compliment and extend my gratitude to you and SAIT for the wonderful initiative of dedicating an entire issue on the Tax Administration Act in the last edition. Tax professionals are bound to find the articles extremely useful and it is sure to speed up our understanding.

Hendrik van Deventer
SAIT member

HEDRICK VAN DEVENTOR

Dear Liz

I have always found TaxTalk to be highly informative and have looked forward, with antic－e－ish－on, to each new issue. I must, however, compliment you and your team. You surpassed yourselves in your previous issue. I like the fact that it was jam－packed with interesting articles, with the core focus being on important facets of the Tax Administration Act. As a Tax Practitioner, it is great to have TaxTalk as a point of reference. I am also proud to be associated with a publication of this calibre. Well done, keep up the fantastic work and I can’t wait for the next issue.

Heather Pretorius
Heather Pretorius Consulting
(Registered Tax Practitioner)

CORINNE DE VILLIERS

Dear Liz

I would like to take this opportunity to commend you and your Team on TaxTalk, an outstanding tax publication. You certainly do well in keeping us updated on cutting edge tax information in the most functional, crisp and well－presented way.

In the type of business that I am involved in, which is tax insurance, it is vital for us to be on top of the latest trends so that we can ensure that our policyholders and brokers are constantly fed with information relevant to the value of the tax insurance policies they are marketing and selling.

Most definitely, you do support and compliment us with this significant objective. Thank you again and I am looking forward to the next edition.

Corinne de Villiers
Managing Director Tax Radar Underwriting Managers (Pty) Ltd

MARC SEVITZ

I would like to comment on the new look TaxTalk. Firstly, I like the fact that the magazine is very weighty in the articles. I think it is important for readers, who are tax experts and professionals to have detailed knowledge of the important subjects. Other publications do not go far enough in the specifics with a lot of the articles and certainly the more broader magazines don’t have the focus or capabilities to do so. So, as a reader, I think the articles are very well written and informative.

I also liked the educational element at the end and the pages with the upcoming conferences, that is really useful. The CPD points in the corner are always a winner for those of us who don’t have the time or the budgets to go to every SAICA or SAIT event.

The themed idea is also very good, I like the con－cept, instead of just having random articles, however, perhaps you should still include something out of the

Marc Sevitz CA (SA) B. Comm,
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Dear Marc, we really appreciate your thoughtful input. We have taken your suggestions into consideration and we hope that you will see them reflected in this edition of TaxTalk. As always, it is our pleasure to bring you a magazine that is both informative and enjoyable to read – Liz

Dear Liz, we really appreciate your thoughtful input. We have taken your suggestions into consideration and we hope that you will see them reflected in this edition of TaxTalk. As always, it is our pleasure to bring you a magazine that is both informative and enjoyable to read – Liz
Contributors

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Andrew began his career as a candidate attorney with Cliffe Dekker (now Cliffe Dekker Hofmeyr) in January 2008 and was appointed as an associate in January 2010 and was promoted to senior associate in 2012. Prior to this he was part of the two year KPMG tax graduate programme in which he spent roughly a year in both the corporate and international tax departments.

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Studied at UCT, obtaining a B.Com degree. Articles at Greenwoods and KPMG. Qualified as a CA in 1986. I completed Tax Honours degree in 1989. I became a director at Nolands Inc. in March 2008. Specializing in tax and estate planning, trusts and the winding up of estates and business consulting.

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New Act will keep onerous TABs on SA’s “Golden Goose”

Although speculation abounds as to what surprises Finance Minister Pravin Gordhan may spring on the economy in his annual National Budget Speech taking place on 27 February 2013, the real focus for tax payers this year should be on compliance with the new Tax Administration Act (TAA) that came into effect on 1 October 2012, because penalties for non-compliance are onerous to say the least. 

Read more, see TaxTalk website: www.taxtalk.co.za

“Importers unaware of variation in Customs valuation treatment of imported computer software and programs may be overpaying duties and VAT” says Deloitte

South African importers of certain types of software and related computer programmes, if they take time to examine customs legislation, could find themselves saving significant amounts of money on customs duties and VAT, says Deloitte. This is because many importers, unaware of the provisions of key legislation, may be overstating the customs value of computer programs that they are bringing into the country, says Deloitte director in Taxations Services – Customs, Jed Michaletos.

Read more, see TaxTalk website: www.taxtalk.co.za

Tax treaty with South Africa
New alternatives for structuring investment into DRC

A tax treaty entered into between the Democratic Republic of Congo (DRC) and South Africa is likely to promote South Africa as a hub for inward investment into the DRC, says professional services firm PwC. “The tax treaty will provide multinational companies with alternative investment opportunities in the DRC,” says Elandre Brandt, an International Tax Director at PwC and Head of PwC’s Africa Tax Desk based in Johannesburg.

Until recently, the DRC had entered into only one Double Taxation Agreement (DTA) tax treaty (with Belgium). On 18 July 2012, the DRC doubled this number when its DTA with South Africa came into effect. “When a foreign company holds its DRC investment through South Africa, the treaty and South Africa’s attractive holding company regime may reduce the tax cost of doing business in the DRC,” explains Brandt.

Read more, see TaxTalk website: www.taxtalk.co.za

“Until recently, the DRC had entered into only one Double Taxation Agreement (DTA) tax treaty (with Belgium)”

New FATCA regulation brings certainty

The new set of regulations governing the Foreign Accounts Tax Compliance Act (FATCA), recently released by the United States Treasury in conjunction with the Internal Revenue Services, (IRS) bring certainty to the conduct of accounts held by US taxpayers in Foreign Financial Institutions and other off shore vehicles and instruments.

The 544 page regulations also raise a few important issues, such as which institutions are actually governed by the Act, how various countries are expected to comply with FATCA and more flexible registration and documentation requirements.

Read more, see TaxTalk website: www.taxtalk.co.za
The Distribution Of Shares In An Unbundling Transaction – Binding Class Ruling 37

Danielle Botha, Associate, Tax, Cliffe Dekker Hofmeyr

BCR 37, dated 23 January 2013, dealt with the question of whether the transfer of equity shares in an unbundling transaction will be exempt from dividends tax and securities transfer tax (STT) in the hands of the shareholder.

The Applicant was a listed public company and the Co-Applicant a private company, both of which were incorporated as residents in South Africa. The Co-Applicant was a wholly-owned subsidiary of the Applicant. The Applicant wanted to transfer its shares in the Co-Applicant to its own shareholders. Subsequent to the transfer of the equities to the Applicant’s shareholders, the Co-Applicant would establish a primary listing on the Johannesburg Stock Exchange and a secondary listing on the New York Stock Exchange of depository receipts, which could potentially have affected the application of s46 of the ITA.

Read more, see TaxTalk website: www.taxtalk.co.za

PROFESSIONAL TAX HANDBOOK 2012/2013
Another first from the market leader

Professional Tax Handbook is the most up-to-date version of the Income Tax Act, VAT Act and Tax Administration Act available in the market. Now in its twenty-second edition, the Professional Tax Handbook provides tax professionals with:

• a consolidated and accessible record of relevant tax legislation
• all the amendments made during the tax year, including the Taxation Laws Amendment Act and the Tax Administration Laws Amendment Act
• the full text of all proposed amendments
• the new Tax Administration Act as amended.

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To order your copy or for information call 031 268 3521 and quote this reference number: RS042/13
New Zealand Backs OECD Tax Work

MARY SWIRE, Tax-News.com, Hong Kong

New Zealand’s Revenue Minister has backed the Organization of Economic Co-operation and Development’s (OECD’s) call for member countries to develop a shared response to the question of taxing large multinational companies.

The OECD released a new report last week on the use of tax-efficient business structuring by multinationals to lower group corporate tax liability. The report concluded that due to imperfect interaction between nations’ tax regimes, and their extensive networks of double tax agreements, the global tax system has failed to keep pace with the changing needs of the 21st century in terms of mitigating corporate tax avoidance.

Commenting on the report, Peter Dunne said that he believed it was “a good starting point for member states to confront the matter and develop a shared view of ways to deal” with the issue. Dunne has been pressing for closer co-operation with the OECD on international taxation, and recently stated that New Zealand would “closely align” itself with the organization on the matter.

“It is not going to be an overnight remedy – that is simply not possible.”

France Mulls

Environmental Tax On Cigarette Stubs

ULRIKA LOMAS, Tax-News.com, Brussels

French senators have recently submitted a legislative proposal advocating the introduction of an environmental tax imposed on cigarette butts, payable by tobacco manufacturers.

Justifying their proposal, the senators explained that 53 billion cigarettes are sold through official channels each year in France and a further 15 to 18 billion cigarettes sold abroad are subsequently consumed in France. Potentially, 70 billion cigarette butts are disposed of in the environment each year, the senators argued.

Alluding to the fact that environmental associations have for a long time been calling for the issue to be addressed, the senators insisted that pressure from local authorities in France is now also mounting, particularly as a result of the rising costs linked to the new source of pollution.

“Given the principle of ‘polluter pays,’ it therefore seems appropriate that a tax is introduced to finance efforts to deal with the problem, in the form of a tax levied at source on tobacco manufacturers, the senators said. The senators suggested that a tax of 0.05 cent per cigarette, or 1 cent per packet of 20 cigarettes, be imposed annually on manufacturers and importers on the basis of volumes sold. The tax would be levied until the problem is finally resolved, the senators stressed, underlining the fact that it would be the responsibility of tobacco manufacturers to propose alternative scientifically proven solutions.

Under the proposal, a third of the product of the tax would flow to local authorities in France to finance environmental operations.”
France Unveils National Plan To Fight Tax Evasion

French Prime Minister Jean-Marc Ayrault has recently approved a national plan aimed at coordinating efforts to combat tax fraud and tax evasion in France in 2013.

The moves announced at a gathering of the national committee responsible for combating fraud in France (CNLF) include plans notably to monitor the efficiency of the implementation of signed bilateral tax agreements and to further limit cash payments for both residents and non-residents.

The French Government intends to ensure more effective implementation of bilateral tax agreements, namely by assessing the effectiveness of the exchange of fiscal information between the relevant foreign and domestic tax authorities. This is to constitute a key objective for France at EU, OECD and G20 level.

Indeed, the existence of signed bilateral tax treaties together with the effectiveness of their implementation will be the two criteria taken into account when establishing the next so-called “black list” of states and territories deemed to be non-cooperative in tax matters (ETNC), as provided for in the country’s general tax code (article 238-0 A).

Secondly, the Government plans to launch a consultation with stakeholders on the creation of a list of life insurance contract policyholders, to be used as an “essential instrument” in combating money laundering in particular.

Further, a consultation will be launched shortly to ensure that a decree and legislative measures are adopted by the end of 2013 providing for a reduction in the threshold for cash payments from EUR3,000 (USD4,009) currently to EUR1,000 per purchase for residents and from EUR15,000 to EUR10,000 per purchase for non-residents. The Government highlights the fact that similar measures have been successfully implemented in both Italy and in Spain in the last few years.

Finally, the Government plans to control transfer pricing better and to reflect on new methods of corporate reporting to reduce the cost of tax audits and to improve fiscal predictability.

Italian Business Taxpayers Feel ‘Persecuted’

A nationwide poll of 2,500 businesses by Confedercontribuenti, an association of Italian taxpayers, has found that they are being harassed in their dealings with the country’s complex tax system, which is viewed as extremely complex and persecutory.

With the added problem that Italy lacks efficient and independent tax courts, the survey points out that the corporate taxpayer in Italy is now assailed by notices, assessments and tax bills from the system’s various tax authorities and collectors. On average, each company receives about 29 annual alerts regarding its obligations to various institutions.

Above all, it is calculated that it takes each business an average of about 250 hours per year to resolve the issues raised by the total of 13 different institutions responsible for the Italian tax and social security system – from INPS to INAIL (the social security and insurance institutions), from the Italian Revenue Agency to the Guardia di Finanza (the Italian financial police), and to Equitalia, the tax collection agency. All of the institutions (not to mention those involved in health and safety at work) may raise questions throughout the year.

The survey also showed that 76% of business owners begin their working day with the worry of receiving a visit from some inspecting body or another, or of a communication received relating to a supposed irregularity from a tax authority.

What emerges from the survey, said Carmelo Finocchiaro, Confedercontribuenti’s President, is a serious obstacle to the development of businesses. Their owners, forced to resolve a series of other obligations, have had to reduce the time they can spend on production and on business development.

The association is asking the new Parliament, after the general election, to address the issue of business taxation in a decisive manner. The current system is said to need effective simplification, a rationalization of the agencies involved in investigations, and a serious reform of the tax courts. The current “vexatious system weighs more than the enormous tax burden it supports. Its change can no longer be delayed.”
COUNTRIES WITH No Income Tax

Perhaps it is no coincidence that one of the meanings of the word “tax” is to “apply a burden,” as in “he’s taxing my patience.” Taxes have been a part of the global fabric as far back as the ancient Egyptians, and governments always have used taxes to maintain civil order, pay for services and provide for a nation’s security in time of war ~ Richard Morgan

RAJESHNI NAIDU-GHELANI, CNBC.com

United Arab Emirates

The United Arab Emirates has one of the world’s highest per-capita incomes, $48,200, and has no personal income or capital gains taxes.

Instead of generating revenue from income tax, the country, which is the third-biggest exporter of crude globally, is dependent on taxes from oil companies that pay up to 55 percent in corporate taxes. Foreign banks pay about 20 percent. Oil revenue, for example, accounted for 80 percent of consolidated government income in 2010, while income from various taxes, fees and customs duties made up less than 12 percent, according to government statistics.

While expatriate employees don’t pay for social security in the Arab country, UAE citizens must make monthly contributions of 5 percent of their total earnings for social security. Employers of citizens also have to make monthly contributions of 12.5 percent of the worker’s base salary for social security and pensions. Other indirect taxes include housing fees, road tolls and municipal taxes. The UAE charges a 50 percent tax on alcohol, and if a person has a liquor license and buys alcohol to drink at home, an additional 30 percent tax is charged.

“While there is no income tax in the country, Kuwaiti nationals must contribute 7.5 percent of their salary for social security benefits”
The Bahamas

Among the wealthiest Caribbean countries, the Bahamas features an economy that's heavily dependent on tourism and offshore banking.

About 70 percent of government revenue comes from duties on imported goods. Even though there is no personal income tax, employees have to contribute 3.9 percent of their salary, up to a maximum of $26,000 annually, for a form of social security called National Insurance. Employers also have to contribute 5.9 percent of a worker’s salary for National Insurance, while self-employed individuals are charged 8.8 percent. The country also has a property tax of up to 1 percent. Despite its prosperity as a financial center, The Bahamas has an unemployment rate of 15 percent and the political parties are feuding over oil exploration projects in its waters that could come at the cost of tourism.

Cayman Islands

Well known as an offshore financial center, the Cayman Islands are a big draw for the wealthy with its zero personal income and capital gains taxes and because it has no mandatory social security contributions.

Employers, however, are required to provide a pension plan for all workers, including expatriates who have been working for a continuous nine months in the islands. While there is no value added tax or government sales tax, the country does have some indirect taxes such as import duties, which can range up to 25 percent.

A high standard of living in the Caymans also means high property prices. The average cost of an apartment in April was over $550,000, while the average cost of a house was more than $736,000, according to government figures.

Kuwait

As the world's sixth-largest oil exporter, Kuwait’s oil revenue of $63.5 billion between April and November of last year, accounted for 95 percent of the its total revenue in the period.

While there is no income tax in the country, Kuwaiti nationals must contribute 7.5 percent of their salary for social security benefits; their employers make an 11 percent contribution. Despite being one of the world’s wealthiest countries per capita, strikes and protests by public sector workers unhappy about pay have led the government to introduce a 25 percent increase in wages. The IMF, however, warned Kuwait in May that such spending could impact the sustainability of its public finances. Only 7 percent of Kuwaitis work in the private sector, and rising retirement costs could put pressure on government spending.

Kuwait is no stranger to political turmoil, ushering in four new parliaments in the past six years. The country has been marred with corruption scandals implicating key political figures, while poor parliament-government relations have hampered policymaking. The IMF has recommended that Kuwait introduce a value-added tax and comprehensive income tax system.

Oman

Like neighboring Middle Eastern countries, Oman derives the majority of its revenue from crude oil. The country’s oil revenues increased 35 percent in April to $8.49 billion compared to the same month last year and accounted for over 71 percent of the sultanate’s total revenues. Although, there is no individual income or capital gains taxes in Oman, citizens must contribute 6.5 percent of their monthly salary for social security benefits. A stamp duty of 3 percent is also charged on the purchase of property.

Despite its oil wealth, Oman has recently been rocked by a series of protests by residents demanding jobs and employment benefits. Several strikes at petroleum plants over pay and pensions have seen activists jailed in the biggest labor strife in Oman since protests against corruption and unemployment triggered by the Arab Spring. There’s growing resentment in the country over the jobs offered to 800,000 expatriates, while the unemployment rate for citizens was 24.4 percent in 2010 and is rising, according to the International Monetary Fund.
Shifts in the industry

"My time spent at KPMG gave me valuable insight into the tax consulting environment and a particular insight into advising on large transactions."

Tax practice is a dynamic profession, providing vast opportunities for continuous learning, facilitating individual growth and in turn offering opportunities to excelling in leading roles, spanning from tax compliance, risk management, to Chief Financial Officer and other executive member of the board.
Ronel De Kock
Head of Education, SAIT

Ronel joined the South African Institute of Tax Practitioners (SAIT) on 1st February 2013. Her function at SAIT is as Head of Education and her primary responsibility will be to implement the tax learnership and the Tax Professional occupational qualification. The new learnership for tax professionals that is currently being developed is an important learning pathway that will help to increase the number of specialised tax professionals to serve the South African economy and to enhance the quality of tax services provided to the public by private practitioners and by the South African Revenue Service (SARS).

Ronel has qualified as a Chartered Accountant and Master Tax Practitioner. She completed her articles at international audit firm PWC in Sunninghill, and then joined PWC taxation services where she specialised in the Audit of Payroll taxes.

Prior to joining SAIT, Ronel was a senior lecturer at the University of Pretoria and her academic responsibilities included the lecturing of administration and audit of taxation on both undergraduate and post-graduate level. She started her academic career in the Department of Auditing where she lectured on both the Chartered Accountant and Internal Auditing programmes.

Ronel joins the SAIT at a crucial time when the SAIT is at the forefront of education in the tax industry.

Professor Sharon Smulders
Head of Tax Technical & Research, SAIT

Sharon has been appointed as the Head of Tax Technical & Research at the South African Institute of Tax Practitioners (SAIT) with effect from 1 February 2013. She is primarily responsible to liaise with SARS, National Treasury, Parliament and international organisations on all tax policy matters. In addition, Sharon has also received the SAIT visiting tax professor chair at the University of the Western Cape.

Prior to joining SAIT, Sharon was an associate professor in taxation with the University of Pretoria where she lectured taxation on both under-graduate and post-graduate levels. Amongst others, she has presented workshops to SARS, ACCA, KPMG and BDO. She has also assisted the World Bank in 2006-2007 and SARS in 2011-2012 with quantitative research on the tax compliance burden for small businesses. Her research with the World Bank led to tax legislation amendments in 2008. Prior to joining academia, she was a manager in the taxation department of Deloitte in Pretoria. She has a very keen interest in small business taxation which developed into her masters and doctoral studies. She has also published accredited research articles on this topic and presented her research findings at various international and national conferences.
I would like to purchase shares online via a company based in Cyprus. I am a South African tax resident. I will pay for the shares through the South African branch office of the company which markets the shares. The company has a bank account in South Africa. The shares that I will purchase will be foreign shares and I will pay for these shares from my local bank account. Will a tax clearance certificate be required for any funds deposited into the local bank account? If I make a profit on the shares, would I then be liable for CGT on those profits?

ANSWER

1. Local SA tax resident deposits money into a local SA account – no Tax Clearance required if the amount is under the R4m threshold and the funds are being deposited into a local account. When the local branch transfers the money outward the branch would need tax clearance and at that stage depending on the nature of the share purchase could require a Tax Clearance. However if the local branch is purchasing the shares itself then it would be the same as investing a fund which invests offshore so no clearance required.

2. If the reader owns the shares in his own name then there will be a CGT implication on the sale of foreign shares, as SA tax residents are subject to CGT on worldwide capital asset disposals. In addition, as Cyprus has no CGT tax on the sale of shares there will be no foreign tax credit relief. Dividends received on the foreign shares will be subject to 15% foreign dividends tax, but there is a R3 700 exemption. Ordinarily if one buys foreign shares and sells them then they are subject to CGT if the perception is that the taxpayer is not seen to be trading in shares which would therefore be a revenue transaction for which he would be subject to tax at normal personal tax rates.

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Tax Law | Director www.taxtim.com
The fastest, easiest way to do tax

KPMG TAKES PLEASURE IN WELCOMING THE FOLLOWING APPOINTMENTS TO TAX AND LEGAL:

COLETTE JEPPE

Colette Jeppe joined International Executive Services as a Senior Tax Consultant in February. She has experience in UK and SA income taxation and has worked at KPMG in SA and UK. Colette was employed by PWC UK until 2010 and rejoins KPMG after taking a break from the industry to become a full time mother.

MELANIE LE ROUX

Melanie Le Roux joined Corporate Tax on the February 2013, as an Associate Director. Melanie was previously employed for five years at KPMG Corporate Tax and rejoins us from E & Y where she was employed as an Associate Director.

LETTITIA RAATS

Letitia Raats joins International Executive Services in March as a Tax Consultant. Letitia joins us from E & Y where she was employed as a Tax Consultant. In addition to her LLB degree, Letitia has her H. Dip in Tax Law as well as her H Dip in International Tax.
Andrew Lewis is a senior associate in our Tax practice. He has advised clients on various domestic and international tax issues. Andrew began his career as a candidate attorney with Cliffe Dekker (now Cliffe Dekker Hofmeyr) in January 2008 and was appointed as an associate in January 2010 and was promoted to senior associate in 2012. Prior to this he was part of the two year KPMG tax graduate programme in which he spent roughly a year in both the corporate and international tax departments.

You have had almost a “fast track” from being a candidate attorney in 2008 and then appointed as an associate in 2010, then a Senior Associate in 2012. what do you attribute this to?

I have just finished reading a book written by Malcolm Gladwell titled – Outliers: the Story of Success. In Outliers, Gladwell analyses the factors that play a role in a person’s successes. In line with some of his thinking, I would tend to attribute any success to date to the many hours spent learning the law (in line with the “10 000 Hour Rule”), being fortunate enough to be presented with opportunities that have allowed me to develop quickly as a tax practitioner and having a strong family support system. Being able to work in the Cliffe Dekker Hofmeyr tax practice with Professor Emil Brincker from an early stage in my career is an example of one such opportunity.

During your two year graduate programme, were you based in South Africa? Did you focus on any particular section of tax?

During the two year tax graduate programme offered by KPMG, I rotated between the corporate tax and international tax departments. My time spent at KPMG gave me valuable insight into the tax consulting environment and a particular insight into advising on large transactions.

If so, what would you say your greatest achievement was during this time?

The work experience during the graduate programme, along with completing my Higher Diploma in Tax Law, provided me with a great platform from which to launch my career in tax. One of my greatest achievements in more recent times outside of the work place was to complete the up and down run of Comrades Marathon.

What is your particular area of (tax) interest at this point of your career?

My particular area of focus at this stage is corporate and international tax advice. However, I am
pursuing further studies to expand my knowledge on the company law aspects of the transactions that I advise on from a tax perspective.

Do you intend to study further, if so, what qualification would you pursue?

I have enrolled for the Advanced Company Law I & II course offered by the University of the Witwatersrand (Mandela Institute) which covers key aspects of the new Companies Act and its integration into the existing company law environment. Many of the transactions that I am involved in require an understanding of our company law and having a better understanding of company law can only make you a better all-round tax practitioner.

What would you say are the highs and lows of a career in tax?

Some of the highs of my career in tax so far include being admitted as an attorney, contributing towards two chapters of the Silke on International Tax publication, working with some of the best minds in the business and being stretched mentally on a daily basis.

What advice would you give to someone entering the world of tax?

The world of tax provides a vast array of areas that you can specialise in and you will never find yourself considering the same problem. It does take a while to come to grips with the complex tax principles and constant updates to the tax legislation. So I would say be patient, work hard, research the issues fully and enjoy applying your mind like you have never done before.

SARS have identified several high priority areas in their compliance programme (issued 2012), Transfer Pricing being one of the major areas. Have you had any experience in this area? If not, what other areas have you had experience in?

I have definitely seen an increased focus by the South African Revenue Service (SARS) on transfer pricing matters with more and more queries being raised by SARS on these issues. I am currently assisting in a transfer pricing dispute from a dispute resolution perspective. The difficulty in transfer pricing disputes is that, in many instances, there is more than one arm’s length price.

Have you published any articles relating to tax, if so, where have they been published?

“My time spent at KPMG gave me valuable insight into the tax consulting environment and a particular insight into advising on large transactions”
I often contribute towards our weekly DLA Cliffe Dekker Hofmeyr Tax Alert, which discusses the latest developments in the tax arena. This year I have written articles on the issue of whether legal professional privilege may be extended to apply to accountants (or other advisors) providing tax advice and whether the non-discrimination Article of a treaty may be applied in the context of section 45 of the Income Tax Act, pursuant to an interesting UK case of Revenue and Customs Commissioners of the Income Tax Act, FCE Bank plc [2012] EWCA Civ 1290.

I have also had articles published in various business publications and online news sites.

In 2010 I co-authored the chapter, "Jurisdiction to Tax", with Professor Alwyn de Koker and authored the chapter on "Residence" from a South African and an International Tax perspective for the Silke on International Tax publication, available electronically on LexisNexis.

Do you intend to concentrate on any particular area of Tax?

While I have advised on most areas of tax law, my particular focus is corporate tax advice from a domestic as well as an international tax perspective, advising on and implementing different employee share schemes and have assist clients on various litigious matters, which appear to be on the increase of late.

Regulation of Tax Practitioners: commencing July 2013, what are your thoughts on this and will your membership of the Law Society of the Northern Province cover this?

The Law Society of the Northern Province is recognised as a controlling body for purposes of the Tax Administration Act and lawyers subject to the control of a recognised law society are not required to register with a further recognised body (like the South African Institute of Tax Practitioners).

I certainly believe that the regulation of tax practitioners is a positive step that may give taxpayers a level of comfort that their tax advisers have a minimum level of qualifications/experience and have to adhere to disciplinary codes and procedures as well as a code of ethics and conduct. However, the new regulation of tax practitioners should be of no real concern (other than the additional administrative requirements) for tax practitioners who already operate with a high-level of ethical standard and due regard for the law.

Continuing Professional Development

What’s the fuss?

SYLVIA MOTAUNG, SAIT CPD officer

The world in which tax professionals practise is changing. The imminent regulation of tax practitioners, effective from 1 July 2013, introduce a statutory requirement in the Tax Administration Act, 2011 (as amended) to follow a programme of continuing professional development (‘CPD’).

In addition to the legal statutory requirement going forward, the global competition has never been more intense. Tax professionals’ clients are becoming more knowledgeable and more demanding. Technology continues to affect all aspects of our lives. The knowledge-base of professions, and of the sectors in which they operate, has also increased. With such developments come new opportunities: new clients, new markets, new areas of practice and new methods of working. These changes demand ever-evolving knowledge, skills and understanding and an increasing demonstration of commitment to lifelong professional learning.

All tax professionals are assumed to be technically competent. Indeed, in our knowledge-intensive world some have argued that the only real source of sustainable competitive advantage is the ability to recognise and adapt to these changes faster than the competition.

The commitment to keeping up to date is growing in significance as an increasing number of people recognise the benefits of adopting a structured approach to post-qualification learning. Commitment to CPD is also an acknowledgement that becoming professionally qualified is not an end in itself - it is merely the beginning. Updating skills and knowledge on a continuing basis is essential to career progression, particularly given the passing of the ‘job for life’ and rigorously-defined career path cultures.

The SA Institute of Tax Practitioners developed a policy for continuing professional development for tax professionals. The Institute serves the public interest by helping to raise the effectiveness of professionals through the promotion of CPD as an important and integral element of lifelong learning.

2013 CPD POLICY

• 10 hours of verifiable output, i.e. verified through assessment, tax update CPD activities and hours per annum
• 20 hours of verifiable input, i.e. attendance, other tax CPD activities and hours per annum
• 10 hours of non-verifiable input, i.e. reading articles, tax CPD activities and hours per annum

Visit the SAIT Professional Development page – www.thesait.org.za for further information or contact the professional Membership Centre: ojones@thesait.org.za
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In the 2012 Budget Speech tax practitioners came under attack for their low level of tax compliance. The Minister of Finance Pravin Gordhan announced that South African tax practitioners owe the South African Revenue Service (‘SARS’) in excess of R280m, totalling the 18 000 tax returns outstanding. The Tax Administration Act, 2011 was amended in December 2012 and introduced the regulation of tax practitioners, recognising controlling bodies to perform the regulatory function in collaboration with SARS. All tax practitioners as defined in the Tax Administration Act, 2011 must register with recognised controlling body before 1 July 2013, adhere to continuing professional development, abide by a code of conduct specific to taxation and obtain a minimum qualification registered on the National Qualifications Framework.

“Any tax practitioners that do not yet belong to any of these three controlling bodies may no longer act as tax practitioners”
REGULATION OF TAX PRACTITIONERS:

**some progress**

**DIRK KOTZE**, from Mazars

The background to the regulation of tax practitioners spans more than a decade but seems to finally have found a home in the Tax Administration Act (“TAA”) promulgated during 2012.

As early as 2002 the South African Revenue Services (“SARS”) issued a discussion document regarding the regulation of tax practitioners, citing various examples and cases of the concept from other countries. This was followed by the introduction of section 67A into the Income Tax Act in 2004, setting out who tax practitioners are and how they should register with SARS to be able to continue rendering their services.

From 2006 to 2008 SARS also issued various versions of the Regulation of Tax Practitioners Bill with calls for comment. For better or worse, this Bill was never passed into law and tax practitioners were regulated in a somewhat informal manner through registration with SARS which entitled them to some privileges such as communication forums with SARS personnel, dedicated practitioner call centres and newsletters to name a few.

However, there was no formal regulation by SARS or even various independent bodies to which tax practitioners may have belonged. In fact, many tax practitioners were not even required to belong to independent organisations to facilitate communication, training or even discipline. As such, it may be said that while tax practitioners were registered this was mainly in order for them to offer services to their clients rather than be properly regulated.

The first steps to change this came with section 67A of the Income Tax Act being replaced with a
very similarly worded section 240 of the TAA Act. Further guidance is now also provided in section 240A of the TAA, being amendments introduced in 2012, and section 241. A requirement of the latest amended version of section 240 is that any tax practitioner must belong to a controlling body.

At this stage the reason for the requirement for an independent registration appears to be so that SARS may lay complaints about the tax practitioner to that controlling body. Whether this will be extended in the future to include training requirements, setting different levels of competency and standards depending on the area of tax work conducted by the tax practitioner or channelling communication to tax practitioners through these bodies remains to be seen, but seems highly likely taking into account the content of the Regulation of Tax Practitioners Bill of the past.

In terms of section 241 of the TAA, complaints may broadly be made with regards to conduct that:

- was intended to result in the taxpayer avoiding or postponing a valid tax liability;
- by reason of negligence resulted in the taxpayer avoiding or postponing a valid tax liability;
- or constitutes a contravention of the Rules of Conduct of that controlling body.

More specific actions by tax practitioners that may result in being reported include:

- not exercising due diligence in preparation of any tax filing due by the taxpayer to SARS;
- unreasonably delaying any action by SARS;
- providing opinions and advice contrary to clear law and legal precedent;
- being grossly negligent in respect of any work performed for a taxpayer;
- knowingly providing false or misleading information in respect of the taxpayer; or
- attempting to unfairly influence a SARS official.

In light of the Minister of Finance’s 2012 Budget Speech comments regarding delinquent tax practitioners, one can expect that SARS will apply its power of reporting more diligently than they may have done in the past. As the registration with these controlling bodies speaks to the livelihood of tax practitioners, care must be taken not to put one’s tax practice at risk by failing to adhere to due professional care and conduct.

Therefore, while taxpayers should ensure their affairs are handled by competent tax practitioners, these practitioners must also institute actions and processes whereby they can prove that they did not act in any of the manners described above.

The only problem with the current legislation is that section 240A defines only three controlling bodies that already exist. It provides for further controlling bodies to be authorised by the Minister of Finance but to date this has not yet taken place. Strictly speaking, therefore, any tax practitioners that do not yet belong to any of these three controlling bodies may no longer act as tax practitioners. Alternatively, they must register with one of these three controlling bodies, if they can.

It is, however, doubtful whether SARS will apply this strict regulation at this time and it is submitted that the current narrow application of the legislation is only an oversight and is not intended to remain as it is impractical and will negatively affect a vast number of tax practitioners.

Tax practitioners should therefore review section 239 through section 241 of the TAA and familiarise themselves with its content. Where practitioners find that they do not belong to a defined controlling body they must lobby with their institution to obtain authority from the Minister of Finance to be viewed as a controlling body for the purposes of the TAA.

It is quite possible that the regulation of tax practitioners will follow the route of the financial services industry where regulation is extensive to ensure practitioner compliance for the benefit of the client. However, in the case of tax practitioners it may be that they are regulated to ensure compliance for the benefit of SARS, rather than the taxpayer for which they act, although it can be argued by some to be one and the same.
SARS, practitioner bodies and taxpayers

more difficult when non-registered practitioners engage in unprofessional conduct.

Another concern is that non-registered practitioners as a group appear to be more non-compliant – for instance, the average debt per case for these practitioners is more than four times that of members of professional bodies.

One of the most significant challenges for both SARS and taxpayers is that no minimum standard in respect of qualifications or experience is required to practice as a tax practitioner and that not all tax practitioners are subject to a code of professional conduct.

From SARS’ perspective this means a great deal of time and energy is spent unnecessarily and inefficiently in correcting errors made by or addressing the unprofessional conduct of a small but significant number of tax practitioners.

From a taxpayer’s perspective the unprofessional conduct of a tax practitioner may place both his/her funds and good reputation at risk. In their day-to-day work and in public forums, such as radio talk shows, SARS staff members are confronted with the question of what redress is available to taxpayers for poor advice, misappropriated funds, etc.

Just some examples of this unprofessional conduct encountered by SARS when dealing with complaints from the public or when rectifying problematic tax returns include:

- Home office expenses being claimed for salary earners without proper documentation from their employer.
- “Other” expenses being claimed for commission earners even if commission is less than 50% of their income.
- Omission of income (IRP5’s not pre-populated).
- Omission of investment and/or interest income.
- Claims being made for over the counter medication and other non-medical purchases from pharmacies, despite the fact that only prescribed medication may be claimed.
- Incorrect source codes used, especially with rental profit and losses.

All of these basic errors that should not be made by any properly qualified professional, are likely to place the taxpayer concerned in a difficult and uncomfortable position with SARS.

It is for these reasons that a two phase approach to regulating tax practitioners has been proposed and the first phase enacted into law. The first phase will require tax practitioners to belong to a recognised professional body or fall under the authority of a directly relevant statutory regulator. SARS will review the minimum qualifications and experience requirements, CPE requirements, codes of ethics and conduct and disciplinary procedures of a professional body seeking recognition. This phase, which will leverage existing bodies, will provide a framework to ensure that tax practitioners are appropriately qualified and that a mechanism is available, both to taxpayers and SARS, to ensure that misconduct is addressed.

The second phase will be the establishment of an independent regulatory board for tax practitioners. It will begin in 2014 with a review of the success or otherwise of the first phase.

SARS is running an engagement process with professional bodies around the requirements for the registration of tax practitioners as required by law.

Watch the SARS website for more detail.
Hosted
(are you ready?)
THE PRACTICE OF

due diligence

“\(The\ \text{Oxford\ Dictionary}\ \text{defines\ due\ diligence\ as}\ \text{the\ necessary\ steps\ that\ a\ reasonable\ person\ would\ take\ to\ avoid\ committing\ a\ tort\ or\ offence}\)"

In the recent past there was no governance by any recognised body for tax practitioners in South Africa. The Tax Administration Act 2011 only required tax practitioners to register with the South African Revenue Service (SARS). Section 240(1) of the amended Tax Administration Act No 28, 2011 requires that a tax practitioner should not only register with SARS, but with a recognised controlling body as well. These controlling bodies determine that their professional members should perform their duties with care, skill and due diligence.

Section 241(2) of the Tax Administration Act introduces significant new reporting powers to SARS in order to combat reckless, incompetent and corrupt practices performed by tax practitioners. This will allow a Senior SARS Official to lodge a complaint with a recognised controlling body, if registered tax practitioners have performed their duties with gross negligence, incompetence or knowingly provide false or misleading information. Section 241(2(a)) specifically states that tax practitioners should exercise their practices with due diligence.

There are currently around 34 000 tax practitioners registered with SARS, with only half of them registered with a recognised controlling body. If these practitioners who are not registered with a controlling body, continue as they are without registering before the 1st July 2013 deadline, they will be contravening the law and will be committing a criminal offence.

Stiaan Klue, Chief Executive of the South African Institute of Tax Practitioners (SAIT), has stated that this regulation has been long awaited and is needed desperately. The requirement to exercise due diligence, means that a tax practitioner will not be able to hide behind an outdated tax law, be negligent or do a rush job. SAIT is the only controlling body that has issued taxation standards. These standards are similar to the audit and review standards as required by the Companies Act 2008 and will ensure that tax practitioners comply with due diligence requirements.

But what is meant by the practice of due diligence? The Oxford Dictionary defines due diligence as the necessary steps that a reasonable person would take to avoid committing a tort or offence. Professionals adhere themselves to higher rules in order to not dilute the standards of their professions.

Circular 230 of the Department of Treasury, in the United States of America, lays down the duties and restrictions of tax practitioners before the Internal Revenue Service (IRS). According to the Circular, a tax practitioner must exercise due diligence in the preparation of tax returns, assistance with the

BACKGROUND

CHARL GELDENUYS and RONEL DE KOCK

Mr Charl Geldenhuys is a SAIT Academic Trainee at the University of Pretoria, and Mrs Ronel de Kock is the SAIT Head of Education.
preparation of tax returns, affidavits and other documentation relating to the IRS. It's also needed when determining the correctness of oral or written representations that are made. It further states that practitioners may be sanctioned if practitioners perform their duties in a reckless, incompetent manner or fails to comply with key provisions.

Incompetent and disreputable conduct includes criminal convictions, fraud and corruption, tax evasion, the provision of false or misleading information or the provision of a false opinion. Improper practice also includes bribing or intimidating IRS employees, misappropriating client funds, misleading clients about their qualifications or access to special treatments.

A good solid foundation is the most important piece of any structure. SAIT has implemented the necessary skills, integrity and excellence as the foundations of a modern-day tax practitioner. SAIT requires their members to comply with their code of conduct which has the following fundamental principles. Integrity, directness, and also honesty in all professional and business relationships. They should not be biased, avoid any conflict of interest and have a continuing duty to maintain professional knowledge and the necessary skills to ensure that they provide a client or employer with competent professional services based on current developments in practice, legislation and techniques. They are required to act diligently and in accordance with applicable, technical and professional standards when providing their services. Show respect for the client in terms of confidential information received as a result of their professional and business relationships and should not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to do so. A tax practitioner should comply with the relevant laws and regulations and should avoid any actions that may discredit the tax profession. A guiding principle will also be for tax practitioners to know the environment of their clients.

Therefore, to practice due diligence, tax practitioners must perform their duties to the best of their abilities and must be professional, honest, consistent and up to date with the most recent legislative changes.

Tax authorities are taking on a “No More Mister Nice Guy” approach in order to get tax practitioners to be more responsible and to take adequate care when dealing with their client's tax affairs. SARS has placed tax practitioners on a higher level of supervision to ensure they stay on top.
TAX PROFESSION SET FOR reform

According to legend, Abraham Lincoln was once asked: “How many legs does a dog have if you call a tail a leg?” The natural answer, of course, is “five”, to which Abe allegedly replied: “No, the answer is four, because no matter how many times you call a tail a leg it remains a tail”

The South African Revenue Service (SARS) is engaged in a number of initiatives aimed at improving the compliance culture and reducing the tax gap in South Africa, one of which is the introduction of a regulatory regime for tax practitioners – with the primary aim to reform the tax industry.

BACKGROUND

The proposed regulation of tax practitioners in South Africa was first introduced by Minister Trevor Manuel in his budget speech in 2002, in which he indicated “that the SARS would initiate discussions on the appropriate regulation of tax consultants and advisors in South Africa in order to promote compliance and ensure that taxpayers receive advice consistent with tax legislation”. This subsequently resulted in an amendment to the Income Tax Act 58 of 1962 (‘the Act’), by the introduction of section 67A into the Act, and required specified persons to register with the SARS.

Following the initial registration requirement for all tax practitioners in 2005, irrespective whether they hold formal qualifications or have any proven practical experience in tax law, SARS proceeded with the development of a regulatory model for tax practitioners. In March 2007 the draft Regulating of Tax Practitioner Bill was released by SARS for public comment, and proposed the establishment of an Independent
The unprofessional conduct of a tax practitioner may place the taxpayer’s funds and good reputation at risk

Regulatory Board for Tax Practitioners. However, the proposed regulatory model envisaged in the draft legislation raised several significant and valid concerns in the tax industry. Although the draft legislation envisaged the establishment of an Independent Board for Tax Practitioners, the draft legislation did not set the minimum qualifications, i.e. effective continuing professional education requirements, a code of conduct specific to tax practice and minimum taxation standards.

During 2007, the tax profession was formally established when the South African Institute of Tax Practitioners (SAIT), was constituted as a voluntary industry professional body.

CHANGE OF COURSE

After much deliberation by government, taking into account the concerns and challenges raised by the broader tax profession, during the public commentary phase early 2007, as well as the subsequent establishment of the SAIT in 2007, the Tax Administration Laws Amendment Act, 2012 in December 2012 introduced a two phased approach with regards to the regulation of tax practitioners.

Phase one is the compulsory registration of tax practitioners with a recognised controlling body before 1 July 2013, and phase two will introduce the establishment of the independent regulatory board for tax practitioners. “The second phase will begin with a review of the success or otherwise of the first phase eighteen months after its implementation (1 July 2013).”

CONCERNS

In response to the budget speech in 2002, SARS issued a discussion paper setting out its proposal relating to how the tax profession should be regulated. According to the discussion paper issued at that stage, “there is a significant problem for both SARS and taxpayers that no minimum standard in respect of qualifications or experience is required and that not all tax practitioners are subject to a code of professional conduct”.

The discussion paper indicated that from SARS’ perspective, a “great deal of time and energy is spent unnecessarily and inefficiently in correcting errors made by or addressing the unprofessional conduct of a small but significant number of tax practitioners. The unprofessional conduct of a tax practitioner may place the taxpayer’s funds and good reputation at risk.”

In addition to the errors made by tax practitioners and alleged unprofessional conduct, Finance Minister Pravin Gordhan announced in his national budget speech in 2012, that tax practitioners owe R260 million in tax and have 18 000 income tax returns outstanding in their personal capacities.

Although there are valid reasons for regulating tax practitioners, there are various contentious issues that are causing many areas of concern for both taxpayers and tax practitioners relating to the possible impact of this regulation. More importantly, it lacks key elements in certain areas. For example, in an article by PriceWaterhouseCoopers (2005:6) it was noted that “nowhere in the literature thus far provided by SARS on the proposed regulation of tax practitioners is it expressly stated that one of the objectives is to subject tax practitioners to sanctions if they advise or assist their clients in relation to tax avoidance schemes”.

Professor Jackie Arendse, at that stage with the South African Institute of Chartered Accountants (SAICA), noted that it has received “many complaints from members of the public for poor performance or other problems encountered with accountants and related people not registered with SAICA” in this context.

The discussion paper on regulating tax practitioners, on the other hand stated that “a closely related problem is that complainants are not always aware of the code of professional conduct binding a member of a particular profession, for example a chartered accountant. Without this knowledge complainants are not in a position to evaluate whether a tax practitioners’ conduct is in breach of the particular code of professional conduct that might bind him or her.

INTERNATIONAL PERSPECTIVE

The problem in South Africa is not unique to the rest of the world. In Australia, for example, the Minister for Revenue announced during 2006 that the Australian government will provide $57.5 million over the next four years for the implementation of a new national legislative framework for tax practitioners. He noted that a problem with the current framework in Australia is that “Business Activity Statement (BAS) service providers has resulted in unregulated people providing tax services” and that “this affects the integrity of the tax system” (Minister of Revenue, 2006:1). The Australian tax practitioners are now fully regulated by the Independent Regulatory Board for Tax Practitioners (TPB 2013).

CONCLUSION

The tax profession should embrace the co-regulatory regime legislated on 22 December 2012.

Tax practitioners provide a service to the public, are paid for it and hence should be accountable. It is therefore imperative that the tax profession not only be regulated, but rather be reformed. The non-compliance of tax practitioners in their private capacities is worrying. It is clear that the problem of an unregulated profession is much bigger – and it requires renewed diligence.
The Tax Administration Act 28 of 2011 (hereafter referred to as the ‘TAA’) provides for a number of circumstances in which a taxpayer can manage its exposure to understatement penalties by obtaining written tax opinions from tax practitioners. This article investigates the circumstances in which understatement penalties can be reduced by obtaining a tax opinion and also aims to provide views on the responsibility that the preparation of these tax opinions places upon the tax practitioner.

**Reduction in Penalties Based on Tax Opinions**

Understatement penalties are imposed in terms of section 223 of the TAA when the fiscus has been prejudiced in respect of a tax period as a result of default in rendering a return, an omission from a return or an incorrect statement in a return (hereafter collectively referred to as ‘understatement events’). It is submitted that an incorrect statement in a return will include a tax position taken that SARS does not agree with.

The rate of the understatement penalty depends on the circumstances in which the understatement event occurred (i.e. normal circumstances, by a repeat offender, in obstructive circumstances or cases where the taxpayer voluntarily disclosed the understatement) as well as the nature of the behaviour resulting in the understatement. When determining an understatement penalty, the burden of proving the facts in terms of which the understatement penalty is imposed is placed upon SARS (refer section 102(2) of the TAA). The behaviours listed in section 223(1) include at least two items where a taxpayer should, by obtaining a tax opinion, be able to reduce its exposure to penalties being imposed for that specific behaviour.

The first behaviour is the “substantial understatement”, which will exist where “the prejudice to SARS or the fiscus exceeds the greater of five per cent of the amount of ‘tax’ properly chargeable or refundable under a tax Act for the relevant tax period, or R1 000 000” and the taxpayer’s behaviour does not fall into any of the other behaviours listed in section 223(1)(ii) to (v). In this regard, section 223(3) of the TAA states that SARS must remit the understatement penalty if it is satisfied that the taxpayer:

- made full disclosure of the arrangement, as defined in section 34, that gave rise to the prejudice to SARS or the fiscus by no later than the date that the relevant return was due; and
- was in possession of an opinion by a registered tax practitioner, as defined in section 239, that—
  - was issued by no later than the date that the relevant return was due;
  - took account of the specific facts and circumstances of the arrangement; and
  - confirmed that the taxpayer’s position is more likely than not to be upheld if the matter proceeds to court.”

The second instance in which a tax opinion should provide a taxpayer with relief from understatement penalties is where an understatement penalty is imposed in respect of an understatement arising in circumstances where there were “[n]o reasonable grounds for ‘tax position’ taken” (refer to section 223(1)(iii)). Although the TAA does not explicitly state that this behaviour should not occur if a tax opinion is obtained, it is submitted that a tax opinion should provide a taxpayer with reasonable grounds for a tax position taken and consequently make it extremely difficult for SARS to argue that the taxpayer did not have reasonable grounds for its position taken. As no specific doc-
umentation or requirements for advice on which reasonable grounds for a tax position is based are prescribed in respect of this behaviour, other measures, such as internally prepared memorandums and informal tax advice (for example, email correspondence) may also prove to be sufficient to mitigate penalties imposed for this behaviour.

Given the increased recognition of tax opinions in terms of the TAA it is of critical importance that the preparers of these tax opinions must be regulated and held accountable for the views expressed.

REGULATION OF TAX PRACTITIONERS WITH REGARD TO THE PREPARATION OF OPINIONS

The Commissioner of SARS and the Minister of Finance have indicated their discontent with non-compliance by tax practitioners on a number of occasions in recent years. This has culminated in the increased regulation of tax practitioners in terms of the TAA.

Section 234 of the TAA requires every natural person who provides advice with respect to the application of a tax Act to another person or who completes or assists in completing a document to be submitted to SARS by another person, to be registered with SARS as a tax practitioner. This requirement to register with SARS as a tax practitioner has been around for quite a while. This section has however been amended to now also require such a person to register with or fall under the jurisdiction of a ‘recognised controlling body’ by the later of 1 July 2013 or 21 business days after the date on which that person for the first time provides the advice or completes or assists in completing the return. Non-compliance with this requirement constitutes a criminal offence which can result in fines and/or imprisonment (see section 234(c)).

Section 241(2) provides the process to regulate tax practitioners with some teeth by allowing a senior SARS official to lodge a complaint with a recognised controlling body if a registered tax practitioner has, in the opinion of the official, acted in the following manners:

“(a) without exercising due diligence prepared or assisted in the preparation, approval or submission of any return, affidavit or other document relating to matters affecting the application of a tax Act; ...
(c) given an opinion contrary to clear law, recklessly or through gross incompetence, with regard to any matter relating to a tax Act;
(d) been grossly negligent with regard to any work performed as a registered tax practitioner;
(e) knowingly given false or misleading information in connection with matters affecting the application of a tax Act or participated in such activity...”

The duty of investigating the complaint and taking appropriate disciplinary steps is to a large degree shifted to the recognised controlling body. This is achieved by the requirements to be recognised as a controlling body. Section 240A(2)(a)(iv) specifically states that SARS will consider whether the body maintains relevant and effective disciplinary codes and procedures as one of the criteria for recognition of the controlling body. Controlling bodies that do not take complaints by SARS seriously may in the long run risk losing their ‘recognised controlling body’ status, which would be disastrous for the body’s reputation as well as its members who would need to find a new home as tax practitioners.

In the context of providing tax opinions to clients, a tax practitioner would have to ensure that:
- due diligence is exercised when preparing a tax opinion that deals with the application of a tax Act;
- an opinion is not given contrary to clear law, recklessly or through gross incompetence; or
- the preparation of that opinion does not result in
him or her knowingly participating in activities that give false or misleading information in connection with matters affecting the application of a tax Act.

Failure to do so may result in a complaint being lodged with the tax practitioner's controlling body and possible disciplinary steps (including losing his/her membership). Unfortunately for tax practitioners and controlling bodies, no further guidance is available on the situations listed in section 241(2) that can give rise to a complaint against the tax practitioner. It is submitted that the task of providing guidance rests with SARS but also with controlling bodies that can play a significant role by providing guidelines to their members to avoid the actions that can result in a complaint.

**REQUIREMENTS FOR TAX OPINIONS IN TERMS OF THE TAA**

The TAA does not contain a definition, section or part of the act dealing with the meaning of and requirements for a tax opinion. Based on the ordinary dictionary meaning of the word 'opinion', this term could include "an evaluation or judgment given by an expert" or "advice given on a case submitted for a view on the legal points involved". As the TAA does not require the opinion to be in any specific format, it is submitted that an opinion can range from a formal written opinion, to an informal email containing views on a matter or even a discussion (though this may result in difficulties evidencing the opinion expressed). For purposes of using an opinion for the purposes of reducing understatement penalties, it is suggested that the relevant correspondence clearly indicate that the document or correspondence is intended to be an opinion to avoid any confusion.

Based on the earlier analysis of sections 223 and 241, a number of requirements for a tax opinion that is of value to a client can be identified:

- Firstly, for purposes of section 223(3), the opinion must be prepared by a registered tax practitioner. Therefore the opinion needs to clearly identify the identity of the registered tax practitioner who prepared it as well as evidence of that person's registration as tax practitioner.
- Secondly, the opinion contemplated in section 223(3) must indicate that it took account of the specific facts and circumstances of the arrangement. A detailed section setting out the understanding and facts upon which the opinion is based is therefore required.
- Thirdly, an opinion that addresses the behaviour in section 223(1)(i) must provide reasonable grounds for a tax position. In its Short Guide to the TAA, SARS indicates that a taxpayer's interpretation of the application of the law is reasonably arguable if, having regard to the relevant authorities, for example an income tax law, a court decision or a general ruling, it would be concluded that what is being argued by the taxpayer is at least as likely as not, correct. It is therefore submitted that a tax opinion needs to clearly identify the authority for the position taken as well as its application to the facts and circumstances of the matter that the opinion deals with.
- Fourthly, the opinion contemplated in section 223(3) must confirm that the taxpayer's position is more likely than not (hereafter referred to as 'MLTN') to be upheld if the matter proceeds to court. To meet this requirement, a tax practitioner would need to find the balance between being able to make such a statement, while at the same time not stepping into the trap of acting without due diligence and providing an opinion that is contrary to clear law, reckless or grossly negligent. For accounting purposes the MLTN requirement is often interpreted as a likelihood of more than fifty percent. It is however extremely difficult to measure this likelihood objectively. In theory an objective test to assess the technical merits of a position would be required to determine whether a tax opinion meets this requirement. Defining a MLTN test or an instrument to objectively assess whether this requirement should be met, is one of the aspects that SARS and controlling bodies need to attempt to address.
- Lastly, a preparer of a tax opinion should ensure that he or she has taken the necessary steps to ensure the opinion was prepared with due diligence. The preparer must further ensure that the views expressed in an opinion are not contrary to clear law or expressed in a reckless or grossly negligent manner. It is submitted that procedures to review an opinion, implementing a process to ensure that all relevant sources had been considered as well as evidence of further research on contentious issues may address this risk. Once again, this is an area where guidance from SARS and controlling bodies would be welcomed.

**CONCLUDING THOUGHTS**

The potential importance of obtaining a tax opinion for a position taken has increased significantly with the introduction of the TAA. It is suggested in this article that tax practitioners need to be aware of a number of requirements contained in the TAA to be able to provide clients with opinions that can be of value to manage their exposure to understatement penalties. A well-written opinion may be a tool that a client is willing to pay a substantial fee for. The article, however, furthermore indicates that it must however be kept in the back of a tax practitioner's mind that providing an opinion with a favourable view for a client at all cost, even when that view cannot be substantiated, in order to earn this fee, can put the tax practitioner's practising status at risk. It is therefore concluded from the discussion in this article that writing a tax opinion requires a fine balancing act that a tax practitioner must perform between being able to give something of value to his or her client, while not overstepping the line created by the provisions of the TAA regulating tax practitioners.

“Tax practitioners need to be aware of a number of requirements contained in the TAA to be able to provide clients with opinions that can be of value”
Audit Letter Subscription

At the recent series of Tax Administration Act, 2011 lectures by Prof D N Erasmus, he spoke about an initial engagement letter that should be sent to SARS. This is an opportunity to an annual subscription to access the wording and reasoning to such a letter. The audit letter subscription will assist tax practitioners and taxpayers at the commencement of any audit by SARS to ensure full compliance by SARS with the constitutional rights of taxpayers, and will ensure that SARS’ requirement for relevant material is foreseeably relevant, and reasonably specific. Any SARS audit selection must have a scope and purpose to ensure effective and efficient use of resources. The commencement audit letter subscription will assist you in achieving this and ensuring the audit is narrow and specific.

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If you are interested in this Subscription service, please read the terms and conditions below and respond by saying “INTERESTED” in the SUBJECT HEADING of an email to auditletter@gmail.com. Prof. D.N. Erasmus will send you the PayPal payment link for the USD$51.50 annual subscription – please send your telephone number as requested in point 7.

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1. An annual subscription fee of USD$50.00 (fifty dollars per year) is payable for an initial contract term ending 31 October 2013, and renewable annually thereafter. You are to please provide a telephone number so that Prof D N Erasmus or a representative can telephone you to obtain your credit card details securely to pass the charge. Your credit card details will not be kept - PLEASE forward your telephone number to auditletter@gmail.com so that Prof D N Erasmus can make initial contact with you about this service, answer any other questions you may have, and arrange for you to make the payment;

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Minimum standards for tax practice:

**where should we DRAW THE LINE?**

The Tax Administration Laws Amendment Act, 2012 ('TALAA') brought about the formal regulation of the tax profession in South Africa, effective 1 July 2013. Although the international focus on the work of tax professionals commenced when the OECD initiated a study into the role of tax intermediaries vis-à-vis tax avoidance practices in 2006, other developed countries such as Australia already commenced a form of regulation in the late 90’s.

**PROF SHARON SMULDER, CA(SA) MCom, PhD**

*Head of Tax Technical & Research*

*The South African Institute of Tax Practitioners*

Prior to the TALAA introduced in December 2012, the Tax Administration Act, 2011 already introduced significant powers to SARS in reporting and laying complaints against tax practitioners to their ‘controlling bodies’.

**THE LAW**

In terms of section 241(1) of the Tax Administration Act 28 of 2011 (TAA), a senior SARS official may lodge a complaint with a controlling and recognised controlling body if a person (the tax practitioner) did or omitted to do anything with respect to the affairs of a taxpayer. Specifically it authorises a Senior SARS official to lay a complaint with the controlling body if the registered tax practitioner:
- intentionally or by negligence assisted the taxpayer to avoid or unduly postpone the performance of any obligation under a tax Act; or
- contravened a rule or code of conduct of his/her controlling body;
- acted, without exercising **due diligence**, in preparing, approving or submitting a return, affidavit or other document relating to matters affecting the application of a tax Act;
- unreasonably delayed the finalisation of any matter before SARS;
- gave an opinion contrary to clear law, whether recklessly or through gross incompetence;
- has been **grossly negligent**;
- knowingly gave false or misleading information in connection with matters affecting the application of a tax Act or participated in such activity; or
- directly or indirectly attempted to influence a SARS official with regard to any matter relating to a tax Act by the use of threats, false accusations, duress, or coercion, or by offering gratification as defined in the Prevention and Combating of Corrupt Activities Act, 2004 (Act...
It is clear that the legislature’s intention behind extending the above additional and specific “reporting powers” to senior SARS officials, without falling foul of the secrecy provisions, is to ensure that tax practitioners are held accountable, protecting both taxpayers and SARS. After all, tax practitioners receive a fee for their service, and hiding behind the excuse that the taxpayer is ultimately responsible for the tax return is no longer applicable. The most recent case where a taxpayer blamed her accountant for failing to comply with tax laws, was the high profile matter of Ms Shauwn Mpisane and the Zikhulise Cleaning Maintenance and Transport CC v CSARS [2012] ZAGPPHC 91.

WHAT ARE THE PRACTICAL IMPLICATIONS?

The powers extended to SARS are thus far reaching, but as yet no guidance as to who these senior SARS officials are has been provided by SARS to the controlling bodies in order for them to verify that any complaint received is in fact a valid one in terms of the TAAAct.

Various other issues in section 241 also lack clarity, such as the time that a controlling body has to respond to SARS on these allegations and what exactly would be regarded as "unreasonably delayed," “due diligence”, “negligence” and “grossly negligent” on the part of a tax practitioner.

It is these ‘undefined’ terms (in the TAAAct) that has one wondering: Against what standards should a tax practitioner be measured to ensure that s/he is diligent and not (grossly) negligent and how would a tax practitioner prove that s/he has been diligent and not (grossly) negligent?

It is evident that the professional bodies’ code of conduct and standards need to incorporate guidelines dealing with these issues, but questions such as:

- Will a signed engagement letter and relying on audited financial statements (although verified using materiality in their preparation) to prepare a tax return be sufficient to prove that a tax practitioner was diligent and not (grossly) negligent in his conduct?
- How much detail in relation to the underlying accounting records should a tax practitioner delve into to prevent the tax practitioner from falling foul of the requirements laid out in terms of section 241.
- Should materiality feature in providing assistance with the preparation of tax return?

TAX STANDARDS REQUIRED?

It is submitted that there is a clear need for taxation standards, similar to those issued by the Independent Regulatory Board for Auditors in respect of the attest function, against which a tax practitioner can assess himself/herself to ensure that s/he meets the minimum professional requirements as a registered tax practitioner. Minimum standards are the foundation of any profession, and the tax profession is no different. Industry wide standards will aid tax professionals in fulfilling their ethical responsibilities by instituting and maintaining standards against which their professional performance can be measured.

SAIT has engaged with SARS on this issue and SAIT has proposed that the following minimum industry standards be issued in this regard. A tax practitioner must:

- obtain an understanding of the taxpayer;
- perform a minimum due diligence review/verification on tax records supplied by a taxpayer, i.e. applying professional judgement;
- refrain from using materiality as a benchmark when dealing with and submitting documents (as defined in the TAAAct) to SARS;
- apply the principles of practice generally prevailing and the doctrine of legitimate expectation;
- comply with the necessary legal actions and duties when detecting non-compliance with laws and regulations by a taxpayer;
- comply with the necessary legal actions and duties when tax positions change subsequent to submitting a document (as defined) to SARS, including amendments to legislation retrospectively;
- adhere to the policy with regard to continuing professional education;
- maintain and retain working papers and documentation as evidence of all the above.

CONCLUSION

Professionals should welcome the regulation of tax practitioners as there is anecdotal evidence that this regulation has significantly contributed to enhancing the public trust in tax practitioners’
Tax and VAT solutions for the busy professional!

Tax practitioners need to stay informed on industry developments, but many simply do not have the time to devote to a full day seminar or workshop. LexisNexis Training and Seminars presents the ideal solution for the busy professional. Our convenient half day seminars offer you a succinct perspective on topical information and ensure that you remain well informed so that you stay at the top of your game.

Tax Update Seminar
5 - 7 March 2013: Presented by Rob Stretch and David Clegg

Our tax experts will take you through the key amendments to tax legislation over the last 12 months, as well as break down and decode important developments, so that you can easily absorb complex information in a short space of time.

The seminar is the ideal solution for the busy professional to ensure that you have not missed any traps and to confirm that your planning opportunities are real and viable. Join us for a morning of interaction with peers and expert speakers and a not-to-be-missed opportunity to prepare for the year ahead.

All delegates can claim 4 verifiable CPD points or hours.

Dates and Venues
5 March 2013: Cape Town, Winchester Mansions
6 March 2013: Durban, Southern Sun North Beach
7 March 2013: Johannesburg, Sandton Sun Hotel

Fee (VAT Inclusive)
One delegate: R 2 300
Two or more: R 2 070 per delegate

VAT Update Seminar: Input Tax: Navigating Through Pitfalls & Reconciliations
16 - 19 April 2013: Presented by Christo Theron

This seminar will use considerable experience and expertise to help you to avoid the most common mistakes and pitfalls associated with input tax. SARS is increasingly looking at the detail of a vendor’s legal compliance. It is therefore absolutely essential for vendors to have strict guidelines for the employees who are responsible for capturing data to ensure compliance at the source.

The seminar will be of particular interest to VAT vendors, but academics and tax practitioners will also find much value in this session. At the end of the seminar there will be a one hour question and answer session to address any specific queries delegates may have regarding output tax.

All delegates can claim 3.5 verifiable CPD points or hours.

Dates and Venues
16 April 2013: Johannesburg, Southern Sun OR Tambo
17 April 2013: Durban, Southern Sun Elangeni
18 April 2013: Port Elizabeth, Radisson Blu PE
19 April 2013: Cape Town, Townhouse Hotel

Fee (VAT Inclusive)
One delegate: R 1 950
Two or more: R 1 755 per delegate

Contact us for more information
Tel: 031 268 3255/3052 | Fax: 086 682 6461
seminars@lexisnexis.co.za | www.lexisnexis.co.za
As chairperson of the LSSA Tax and Exchange Control Committee, I am able to report the following submissions made by the LSSA on behalf of attorneys who practice as tax specialists, whether in their capacities as attorneys in practice, or in a consulting environment where they are not practicing as an attorney. In terms of Section 240A(1) the Commissioner must recognize as a ‘recognised controlling body’:

- The Independent Regulatory Board for Auditors (IRBA);
- The provincial law societies;
- The General Council of the Bar, a Bar Council and a Society of Advocates; and
- A similar statutory body.

Section 240A(2) provides that the Commissioner may recognize other bodies, subject to certain conditions.

The provincial law societies are thus recognized and do not need to apply for "accreditation".

Both practicing as well as non-practicing attorneys fall under the supervision of the various provincial law societies, provided they are still on the roll of attorneys.

The LSSA is in contact with SARS with regard to the interpretation of a “tax practitioner” vis-à-vis attorneys doing tax work incidental to their ordinary legal work, (e.g. conveyancing and estates) and attorneys specializing in tax work. There is a view that a definite distinction between the two categories exists. This relates to the registration with SARS in terms of Section 240(1)(b)(ii). The LSSA is endeavouring to ensure that there are no additional obligations on attorneys in terms of this Act.

Lawyers who have not been admitted as attorneys (who are either practicing or not practicing as explained above) will not fall under the supervision of a provincial law society, and will therefore have to become a member of another recognized supervisory body to comply with the new Tax Administration Act, 2011 registration requirements. Examples of such bodies would be:

- The Independent Regulatory Board for Auditors (IRBA);
- The General Council of the Bar, a Bar Council and a Society of Advocates; and
- A similar statutory body.

SAIT is another body that is in the process of seeking the appropriate approval from SARS.

A parting shot

TAX PRACTITIONERS, ATTORNEYS AND REGISTERING WITH SARS

▶ PROF DANIEL N ERASMUS

Daniel is currently an Adjunct Professor in International Tax Planning & Tax Risk Management at the Thomas Jefferson School of Law, San Diego, California
Advice

FOR TAX PRACTITIONERS

“Your desire to advise other people, grows in line with your perception... that assumes you’re wiser than them.”
– Toba Beta, Master of Stupidity

In the context of tax advisory services, this is not necessarily a bad desire as long as you are actually “wiser” than your taxpayer clients. This is a great responsibility, as taxpayers come to us for advice voluntarily and assume that we have the necessary knowledge and “wisdom” to safely guide them on the path to necessary compliance.

Taxpayers are not alone in their perception of our wisdom, the tax authorities are now starting to actually demand a certain level of wisdom from us, as they have high stakes in the taxpayer eventually reaching the compliance goal. Since we as tax practitioners can be a convenient scapegoat for everything that can go wrong in the quest for compliance; let us make sure that we exhibit this wisdom to ensure that we remain the wise old priests presenting the offerings on the altars of Treasury, and that we do not become the sacrifice ourselves.
Tax practitioners are expected to display professional conduct. Professional conduct includes, amongst many other things, meeting your responsibilities toward the taxpayer and the tax authority. This means that the tax practitioner should provide excellent service, by way of advice provided, treatment of client, and handling tax officials. It is imperative that the tax practitioner should fulfill the role as lynch pin between the taxpayer and tax official by finding a balance between, maintaining a positive attitude toward SARS, and insisting on fair and professional treatment of the taxpayer by the revenue officials. Good, timely and professional communication skills will be an important factor in achieving these goals.

Specialise or seek SPECIALIST ADVICE

There are certain areas in tax that present a higher risk due to the complexity of the legislation. Ensure that you specialize in these areas if you give advice on these issues or alternatively seek specialist advice. For larger companies these may be areas such as transfer pricing, or complex capital gains tax implications, where superficial compliance attempts will increase risk significantly. Generally high-risk areas include typical anti-avoidance legislation.

Consider your CONDUCT

Tax practitioners are expected to display professional conduct. Professional conduct includes, amongst many other things, meeting your responsibilities toward the taxpayer and the tax authority. This means that the tax practitioner should provide excellent service, by way of advice provided, treatment of client, and handling tax officials. It is imperative that the tax practitioner should fulfill the role as lynch pin between the taxpayer and tax official by finding a balance between, maintaining a positive attitude toward SARS, and insisting on fair and professional treatment of the taxpayer by the revenue officials. Good, timely and professional communication skills will be an important factor in achieving these goals.

Be an eternal student

Keeping abreast with changes in tax legislation can be a daunting task; however staying updated is the cornerstone of any successful tax practice and will ensure that the practitioner has the necessary knowledge to provide up-to-date advice to clients. Stay informed by: Visiting the SARS website regularly, to find SARS interpretations of certain areas of legislation, administrative practices, deadlines, strategy changes and plans, risk areas, legislation changes, etc. SARS guides and interpretation notes should be downloaded and saved for easy access. Often, older guides or interpretation notes provide beneficial information that does not reappear in later ones. The SARS website also contains useful links and templates, especially for small businesses. Visiting websites of Professional bodies such as SAIT, SAICA, SAIPA provide regular information on changes in the Act, interpretation of the changes as well as judgments in tax cases. Listening to and studying budget speeches and be specifically attentive to rate changes that may come into effect immediately after the budget speech.

Attending tax update seminars presented by professionals. Reading the Explanatory Memoranda by Treasury on the Taxation Laws Amendment Bills when it is published (these can be obtained on Treasury’s website: www.treasury.gov.za/legislation/bills/2012/Default.aspx

Ensuring your qualifications are up to date. Many universities present Higher Diploma in Tax courses, and some are even on-line. Basic technical diploma courses and short courses are also available on-line for persons with a less technical background on tax, such as lawyers.

“Informal advice over the telephone should be eliminated”
Most tax practitioners with an accounting background are not specifically well versed in the administrative side of taxation. If this is the case, it means that your clients will not get the benefit of solid tax administration advice or education on their constitutional rights and administrative obligations. With the recent rather aggressive Tax Administration Act that was promulgated, accountants can no longer ignore tax administration. Tax Practitioners must ensure that SARS officials follow due process and comply with the Tax Administration Act. Obtain Tax Administration knowledge by attending seminars on the Tax Administration Act or attending on-line courses on Tax Procedural Law (information available from SAIT).
Top 10 TIPS FOR TAX PRACTITIONERS

1. **Become a specialist in your field of tax law**

   Know the various tax laws and especially all the administrative procedures, off by heart. This includes the Income Tax Act, the Tax Administration Act, the VAT Act, Estate Duty Act, Insolvency Act and the Companies Act.

   Make sure you are up to date regarding matters such as the SARS debt collection tool (a third party appointment). SARS uses this debt collection tool now as the first tool. Section 179 of the TAA has replaced the old section 99 of the ITA as well as its equivalent in the VAT Act. Section 179 took effect from 1 October 2012 and deals with the obligations of a third party required by SARS to pay money to it in satisfaction of taxpayer’s tax debt.

   SARS objective is still the efficient and effective collection of tax revenue. SARS always believed in the mantra of “pay now, argue later”. The TAA reinforces this principle. Know the significant changes of these new sections.

2. **Keep up with tax law changes, especially the new TAA**

   Make sure you keep up with all the tax law changes. Go to seminars. Enroll for short tax courses at various institutions. Subscribe to good business- and tax magazines. Don’t practice in isolation, brainstorm with other professionals. Read news flashes on SARS website. Read SARS guides regarding to new proposed legislation and how SARS interpret these new legislations. These guides deal generally with the provisions relating to the proposed new legislation. SARS also offers free tax education workshops at most SARS branches across the country by the Branch Operations Engagement team. These workshops cover a wide range of topics and are presented on a regular basis.

   Make sure you know the implications of the TAA. The new TAA No 28 of 2011 was promulgated with effect from 1 October 2012, it content extended taxpayers rights, but also reaffirmed and extend SARS powers. The new TAA takes all the administrative provisions from all taxes in one phase, that achieves consistency of language. The purpose is to administrate all the administrative actions in one. Be aware of the new powers that SARS obtains from the TAA. Understand the impact of the legislation.
Know your deadlines to avoid unnecessary penalties and interest

Make sure you know your deadlines for the submission of tax returns. Plan your diary and your clients carefully to ensure you spend quality time with your clients before submitting any return in time. Remember there are two different deadlines for taxpayers who submit their tax return manually, by posting it or dropping it off in a SARS drop box and another deadline for taxpayers who submit their returns electronically. There are also different deadlines for non-provisional taxpayers who submit their returns via efiling and provision-al taxpayers who submit their returns via efiling.

Offer tax saving tips for individuals and business

Do tax planning and especially offer estate planning to your clients.

Do tax planning from the start with your client, this way you prevent unnecessary costs to the clients, for example, must a house be registered in a trust, company or in his personal capacity. Take CGT, income tax implications and estate duty in consideration, when making any decisions. Think ahead for your client, he does not have the knowledge, you have!

Weigh up your client tax savings options for example, donate money to relatives each year, isn’t it better to sell shares that incurred losses and then donate the money to relatives instead of just donating the money to relatives. This way you can claim the capital loss on the tax return.

Use good tax software

Start investing in good software. Tax programs aimed at running your tax compliance department efficiently. These administration and tax return data normally interacts with SARS efiling systems. The strength of any tax management program must be to ensure that various tasks in the tax year are handled effectively and efficiently by deadline dates. This prevents penalties for example, if a client pays his VAT or PAYE late, by just one day, then it attracts a 10 per cent penalty. Also keep in mind that this penalty is not tax deductible. Tax programs improve profits and reduce risk for the tax practitioner, by applying tax methodology. Update your software regularly.

“The strength of any tax management program must be to ensure that various tasks in the tax year are handled effectively and efficiently by deadline dates”

“Do tax planning from the start with your client, this way you prevent unnecessary costs to the clients”
Know taxpayers rights

Know taxpayers rights and take action against SARS unlawful actions. Always ensure that you are in possession of a copy of a special power of attorney, signed by the taxpayer, especially when visiting SARS. Always enclose this special power of attorney in your correspondence with SARS. This prevents unnecessary delays when dealing with SARS.

Always ask SARS to provide you with copies of all correspondence exchanged between the taxpayer or its advisors and SARS; a full breakdown of the taxpayer’s account which reflects any tax liability owing to SARS; any assessments from which any tax liability emanates; any agency notices served on third parties, such as the taxpayer’s bankers; and any judgments taken against the taxpayer.

One of the new provisions in the TAA, is to protect a taxpayer in the event of an audit. SARS must now advise a taxpayer on the progress and status of an audit conducted. Section 99 of the TAA states that SARS may not issue an assessment, three years after the date of assessment of an original assessment. However, in the event of fraud, misrepresentation or non-disclosure of material facts by the taxpayer, then the 3 year rule does not apply. SARS must prove that there was such fraud, misrepresentation or non-disclosure, and that this fraud etc. resulted in the under-assessment of taxes. Normally such an audit by SARS leads to the issue of an assessment (or additional assessment) by SARS. Where the audit identifies amounts which SARS wishes to be taxed, then SARS must furnish the taxpayer, with the grounds and reasons for these assessments issued, within 21 business days. A taxpayer has the right to object to an assessment. The objection must now be lodged within 30 days of the date of issue of the assessment. An audit can lead to criminal investigations by SARS. Taxpayer’s rights are still protected where a taxpayer faces a criminal investigation. The TAA Act requires that audits and criminal investigations are separated, ensuring the rights of the accused under the Constitution Act are protected.

The taxpayer still has the ability to manage its exposure to understatement penalties in terms of the TAA.

When it comes to taxpayers rights, you need to know the provisions of the Promotion of Administrative Justice Act 3 of 2000 and the provisions of the Constitution of the Republic of South Africa.

Tax disputes can often be resolved at Administrative level without incurring the expense of going to Court. Where an appeal to the courts is unavoidable, then assist with legal counsel for your clients.

Know your clients business

Today’s business and tax environment is increasingly complex, there are more demands for transparency and tax practitioners are under pressure to be more effective and highly qualified.

Supply quarterly and annual tax provision calculations to your client. Identify and prioritise key tax risks and assist with controls monitoring and remediation.

Help clients analyse the specific facts of their business operations, identify various tax regulations and realise the potential benefits that can be attained.

Identifying tax incentives associated with your clients qualifying research activities and enhanced deductions for research expenses. Help to streamline fixed asset analysis and identify tax deductions.
Evaluate all tax planning strategies

Every transaction has tax implications, whether it’s an acquisition, a disposal, refinancing or restructuring. You must understand and plan for these implications to mitigate transaction risks, enhance opportunities and to provide crucial negotiations insight. This can only be done by not taking decisions in ‘isolation’. Take all the various acts into consideration before making any decision.

Evaluate all tax planning strategies in the light of tax rules, the companies act and various other acts, before making any final decisions.

Tax planning offerings can help clients improve cash flow, where appropriate create legal refund opportunities and help plan for tax and effective tax rates in future years.

Regarding VAT and other indirect taxes: Identify risk areas and sustainable planning opportunities for indirect taxes throughout the tax life cycle. Manage your client’s indirect taxes effectively to improve day-to-day reporting for indirect taxes, reducing attribution errors, reducing costs and ensure that indirect taxes are handled correctly. Ensure that your client is VAT compliant by identifying the right methods and accounting systems. Review your clients accounting system regularly.

Change mindsets

Some people have a total misperception regarding tax affairs, especially being tax compliant.

We urgently need to correct such thinking of inaccurate information to project the true reality of doing business. Help your client by building strong tax compliance, being transparent, implement effective risk management protocols and a high performing tax function.

The big countdown to the regulation of Tax Practitioners

The TAA requires that all tax practitioners register with a recognised controlling body before 1 July 2013. It is a criminal offence not to register with both a recognised controlling body and SARS.

The Act requires that minimum academic and practical requirements be set to register with a controlling body. Make sure you are registered if you still want to practice as a tax practitioner in future.

“Always ensure that you are in possession of a copy of a special power of attorney, signed by the taxpayer, especially when visiting SARS”
The South African tax community’s New Year’s resolution for 2013 is to get thoroughly to grips with the Tax Administration Act of 2011. This according to research conducted by the Institute for International Research (IIR) on behalf of the South African Institute of Tax Practitioners (SAIT) in late 2012. In an in-depth qualitative telephonic survey of tax practitioners, corporate tax managers, tax consultants, lawyers and other tax professionals, fully understanding and correctly interpreting the TAA (and the Tax Administration Act Amendment Bill) emerged as a key priority for 2013. Many tax professionals admitted to not yet understanding the Act and all respondents committed themselves to coming fully to grips with it in 2013.

The research further revealed tax professionals’ top areas of concern when it comes to the TAA itself. Among the most pressing issues people want to explore, debate or better understand are:

- **Taxpayer rights** and the balance between these rights and SARS powers. Is an appropriate – and constitutionally valid – balance struck in the TAA?
- **The transitional provisions** and how will they affect prior or continuing action
- **The governance of tax practitioners**, including registration and CPD requirements and personal liability
- **The new penalty regime** – how it works in detail, and how to obtain remittances
- **SARS’ information gathering powers** - including search and seizure without warrant - and the limitations on these powers
- **SARS’ enhanced recovery powers** under the TAA, including third-party liability, relief from recovery, personal liability and rules concerning dissipation
- **The permanent Voluntary Disclosure Programme** and how it differs from the 2010 VDP
- **How audits** will work under the TAA – and how to survive them

These research findings were used to inform and shape the agenda of SAIT’s 4th National Tax Conference, taking place on 15-17 May, 2013 at the Sandton Convention Centre, and the theme of which is the Tax Administration Act. Having identified the top areas of concern when it comes to the TAA, IIR then assembled a speaker panel for the conference made up of the who’s who of tax in South Africa, including:

- **Prof. Michael Katz**, Chairman, ENS
- **Ray Eskinazi**, Executive: Group Tax, Sasol
- **Judge Dennis Davis**, High Court of South Africa
- **Dr. Beric Croome**, Tax Executive, ENS
- **Hema Moodley**, Group Tax Manager, South African Breweries
- **Prof. Jackie Arendse**, Head of the School of Accounting, University of the Witwatersrand
- **Johan van der Walt**, Director: Tax, Cliffe Dekker Hofmeyr
- **Muhammad Saloojee**, Director: Tax and Legal, KPMG
- **Graham Walker**, Group Tax Manager, Altron
- **Des Kruger**, Director: Tax, Ernst & Young
- **Pieter Faber**, Senior Manager: Tax Technical, PwC
- **Andrew Wellsted**, Tax Director, Norton Rose
- **Chris Green**, Associate Director, Deloitte
- **Nina Keyser**, Partner: Tax, Webb Wentzel

SAIT’s National Conference for 2013 is specifically designed to help all tax professionals master the TAA. The top minds in tax will explain everything you need to know about the Act and the Amendment Bill. This is therefore not an event you can afford to miss!

To find out more – including a detailed programme, full list of speakers and booking details – please visit [http://www.thesait.org.za/event/tax](http://www.thesait.org.za/event/tax)
The 4th
NATIONAL TAX CONFERENCE:

Tax Administration Act, 2011

15, 16 and 17 May 2013,
Sandton Convention Centre Johannesburg,
South Africa

What will be covered:
- Learn about taxpayer rights from Dr. Beric Croome and hear the issue being debated during the subsequent panel
- Get an overview of the entire TAA during the pre-conference workshop facilitated by Pieter Faber, Senior Manager: Tax Technical, PwC
- Understand the important transitional provisions by attending the session by Chris Green, Associate Director, Deloitte
- Avoid being caught off guard... learn everything you need to know about the new penalty regime by attending the masterclass presented by Prof. Jackie Arendse, Head of the School of Accountancy, University of the Witwatersrand
- What are SARS’ new information gathering powers? Find out in detail by attending the masterclass presented by Muhammad Saloojee, Director: Tax and Legal, KPMG and Lesley Isherwood, Associate Director, KPMG
- Find out about the governance of tax practitioners by listening to Stiaan Klue, CEO, SAIT
- Understand the extent of SARS’ recovery powers from Nina Keyser, Partner: Tax, Webber Wentzel

What are the benefits of attending this summit?
- Access all you need to know about the TAA, in one place and one time, delivered, filtered and explained by the smartest minds in tax
- Learn about your rights as a taxpayer and ensure that you and your clients are treated fairly
- Get 20+ hours of high quality content as well as 6+ hours of valuable networking time
- Network with tax practitioners, lawyers, accountants, advisors and managers from all over South Africa
- Attend and receive six CPD points per day (and remember, keeping up to date via CPD is now a statutory requirement!)

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UNDERSTANDING THE psychology behind TAX RETURN

ERICH BELL
The reliance that tax practitioners place on questionable information provided by clients is a heavily debated topic of recent times. Some researchers would even go so far to describe the issue as the most significant ethical issue in tax practice.

With the 1 July 2013 deadline looming for registration of tax practitioners with controlling bodies, tax practitioners must become introspective and ask:

- What information am I willing to rely on?
- Where am I going to draw the line when it comes to the verification of facts, not to mention questionable facts?
- Regarding the complaints that could be lodged to a controlling body by SARS, what could be done to mitigate my exposure to personal liability?

Researcher William Shafer (2001) investigated the issue of questionable tax records and information relied upon in a tax practice. Shafer made use of the general model of trust and suspicion proposed by Kee and Knox (1970) in an attempt to shed some light on this topic. The study investigated the reliance that US CPA tax practitioners place on information supplied by untrustworthy clients who have incentives to provide inaccurate and incomplete information. The model proposes that the reliance a tax practitioner places on questionable data is influenced by the trust he has in the client.

PRACTICAL EXAMPLE: BEHAVIOURAL VS. SUBJECTIVE TRUST

The model could be best illustrated by making use of two individuals throughout the discussion: Assume the tax practitioner is Peter, and Tonia, the client.

Trust can be divided into behavioural trust and subjective trust. Behavioural trust refers to the manifest act of trust which would decline if Peter believes that Tonia is not trustworthy anymore. Subjective trust refers to Peter’s assessment of the probability that Tonia will be trustworthy which will be influenced by structural and situational variables, dispositional factors as well as previous experiences with both Tonia and other taxpayers.

Structural and situational variables propose that the relevant powers of the two parties, Peter and Tonia, would influence Peter’s decision to trust Tonia. For example, if Peter has just established his private practice, and Tonia is the Chief Executive of a listed company, then Peter would be more likely to trust the information supplied by Tonia. Dispositional factors simply imply that different people have different tendencies to trust others.

IMPACT OF PREVIOUS EXPERIENCES

Previous experiences must be divided into personalised trust and generalised trust. Personalised trust refers to the trust that is developed through the interaction between Peter and Tonia through time, whilst generalised trust refers to Peter’s general level of trust in people.

The crux of the whole model is as follow:

Peter’s structural and situational variables, dispositional factors and previous experiences, would determine the perception that Peter has of Tonia, that in turn would determine Peter’s assessment of the probability that Tonia would be trustworthy (subjective trust). This assessment would then ultimately determine Peter’s behavioural trust, therefore, if Peter is going to trust the information provided by Tonia.

LESSONS LEARNT FROM THE RESEARCH STUDY BY SHAFER

Shafer’s research study yielded interesting results. It was found that tax practitioners would be more willing to rely on questionable data provided by clients whose information has been reliable in the past. This finding is consistent with the general model of trust and suspicion. Once behavioural trust is exercised, it would remain at a set level until the trust is broken down by a mistrustful act. One could probably argue that such an act could take place when the practitioner becomes aware of the fact that unreliable information was supplied to him. The practitioner’s behavioural trust in the client would then decline, which in turn may result in the practitioner questioning the reliability of the information supplied by the client in subsequent engagements.

The study also found that tax practitioners who are less risk averse concerning tax would also tend to rely on questionable data provided by their clients.

A significant finding was that a tax practitioner’s generalised trust has no influence on client reliance decisions.

LESSONS FOR SOUTH AFRICAN TAX PRACTITIONERS?

Shafer asserts that although the model can be applied to both auditors and tax practitioners, these parties are likely to differ when it comes to their willingness to trust clients. Auditors have an inherent duty to question management assertions, while, on the current state of affairs, tax practitioners primarily serve as duty bound to their clients’ interests as tax consultants. This situation is, however, bound to change once the regulation of tax practitioners takes effect on 1 July. As from 1 July 2013, tax practitioners would no longer be able to hide behind their clients. They would be required to climb out of the closet and accept responsibility for the advice they give to their clients. Tax practitioners will be held accountable for
the tax advice provided and the tax returns submitted to SARS.

Section 241 of the Tax Administration Act (TAA) grants a senior SARS official the power to lodge a complaint with the tax practitioner’s controlling body (such as the South African Institute of Tax Practitioners) if, due to negligence, the practitioner did anything or omitted to do something that resulted in his client avoiding or postponing the payment of tax. A complaint may also be lodged if the practitioner’s action contravenes a rule or the code of conduct of the profession.

The South African Taxation Standard 3000.05, currently under review and soon to be withdrawn and replaced by a new tax due diligence review standard, allows a tax practitioner to rely on information supplied by a client without verification when submitting a return. The applicable provisions in the standard that will remain relevant, places a duty on tax practitioners to make value judgements on the reliability of the information provided by the client. A tax practitioner must therefore obtain sufficient knowledge of his/her client to determine whether there is sufficient behavioural trust to rely on the information provided by the client.

Furthermore, section 241(2) (a) of the TAA specifically requires tax practitioners to practice with the required diligence when providing tax professional services for a fee. This invariably implies that tax practitioners would be required to evaluate, to some extent, the accuracy of the information provided by the client. Although the professional work performed will not be a due diligence per se, the tax practitioner may be required to prove, when questioned, that reasonable steps were taken in ensuring that the information received from the client is accurate.

One can probably argue that this section would be to the advantage of both the tax practitioner and the client. From the practitioner’s side, performing a due diligence would, to an extent, mitigate his professional risk in terms of giving advice or submitting a return based on incorrect, false or misleading information. By questioning the reliability of information, one can assert that the tax practitioner has done what would have been done by a “reasonable man” in ensuring that the client does not avoid or postpone any obligation imposed in terms of the tax act. This would cause the practitioner to fall outside the scope of section 241(1) (b) and 241(2)(a) due to the fact that he did not act with negligence.

The client would also obtain peace of mind from the professional work by receiving a level of comfort that the information supplied in his tax return does not contain any obvious or noticeable errors.

**CONCLUSION**

To avoid a complaint being lodged with a controlling body, a tax practitioner has to understand the client, including his/her integrity and position with regards to compliance. In addition, all tax services provided to a client must be subjected to some due diligence before submitting a return or providing tax advice. The South African Taxation Standards issued by the SAIT requires a tax practitioner to use his/her professional judgement when considering or relying on information provided by a client. Consistent with Shafer’s recommendations, SAIT is in the process of modifying its professional standards to achieve greater clarity and certainty with regard to the responsibility of tax practitioners in this regard.

Therefore in order to avoid an attack under section 241 of the TAA, tax practitioners should certainly apply their professional judgment.
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Ts & Cs apply
Successful tax practices: 

Back to the front

In 1789 Benjamin Franklin, in a letter to French Scientist Jean-Baptiste Le Roy, wrote, “In this world nothing can be said to be certain, except death and taxes.” Now, 224 years later, this is more relevant than ever. Whilst not wanting to dwell on the funeral industry, one can acknowledge that sadly it is thriving and so too is the tax services industry.

SARS continues to push more of the responsibility of administration of taxes onto taxpayers and whilst this attempts to alleviate the compliance burden through measures such as e-filing and creating a link for taxpayers across all tax types, many taxpayers are feeling overwhelmed by all the changes and additional responsibilities. The Tax Administration Act effectively gives SARS more power to prosecute, and now more so than ever, taxpayers need a reliable helping hand to guide them through current and future amendments to tax legislation and administrative processes. There exists, therefore, incredible opportunity for Tax Practitioners to grow their practices provided the principles on which they are based are not only sound, but clear and structured.

In addition to this opportunity, the Tax Administration Act also creates an obligation. Section 240 of the Act requires tax practitioners to register with a controlling body by 1 July 2013. Since 2002 there has been discussion over the regulation of the Tax Practitioner profession and this requirement of the Tax Administration Act effectively incorporates the first step towards regulation of the industry. Previously Tax Practitioners were only required to register with SARS which could be done quite easily via E-Filing, whereas now they have to satisfy the minimum qualification and entrance requirements of the relevant controlling body. Tax Practitioners will then have to comply with the relevant body’s codes of ethics and conduct and disciplinary codes and procedures as well as their requirements for continuing professional development. This requirement of the Act will not have such an impact on practitioners such as Registered Auditors, Attorneys and Advocates, who already comply with the applicable requirements by virtue of their registration with their relevant controlling bodies. It will however, have an impact on practitioners without a current professional registration, who will now need to seek qualification for registration with a recognized controlling body such as the South African Institute of Tax Practitioners. The requirements of these bodies may significantly alter practitioners’ methods of conducting their businesses and potentially create additional administrative burdens and therefore a forward thinking Tax Practitioner should assess his current business processes against them in order to determine any shortfalls in compliance.

A tax practice should be split into two distinct functions, one being a back office function that controls the administration and compliance of taxes, and a front office function, that controls the relationship with the tax payer (the client) and the higher level of service being tax advice and tax structuring. Whilst these functions should be able to integrate well, each should be formed on their own sets of operating policies and procedures with clearly distinguished areas of responsibility. Tax compliance is an area where anything “slipping through the cracks” can have severe financial and potential criminal consequences and therefore the reporting lines within a tax practice must be clearly established. Simultaneously however, the nature of the industry is that our product is our time and so we need to always bear in mind the most
efficient approach to avoid tasks being done more than once or being done by someone less efficient than another.

The core of the back office is the systems that aid and accelerate their tasks. The back office needs to have sufficient systems in place, whether manual or automated, to enable them to:

- Be prompted for various deadlines well in advance to ensure there is sufficient time for preparation;
- Proactively contact clients to request information for the filing of various returns;
- Standardize communication to avoid having to manually type similar messages repetitively;
- Keep record of communication and archive it in a manner that allows it to be retrieved quickly when needed;
- Easily amend forms and documents for changes to tax legislation and administrative procedures.

There are various tax management software products available that offer much functionality and can greatly enhance productivity if utilised as they are designed, and practices should look to automate as much as possible. The only way the back office can operate efficiently is to make use of Information Systems, as SARS has computerised most compliance functions during the last 10 years. There are well proven packages available which assist practices achieve efficiency in the administration, compliance and checking of assessments amongst other tasks. Practices generally thrive on the use of IT when they have someone (called a "champion") who proactively looks for ways to use IT to their advantage and assists other staff members in implementing automated processes. It is important however, not to underestimate the time and effort needed to implement a new system. It will pay off in the future to spend time implementing the system and customising it for your needs in order to reap the benefits available.

If the back office is operating efficiently it enhances the service offering to the client who will trust the practice and begin looking for further services such as reviews of tax computations, investigations into efficient tax structures and consulting on tax effects on potential business opportunities and decisions. This is where the front office function kicks in and a proactive Tax Practitioner can really use opportunities to not only provide their clients with the best service and grow their relationship, but further their own expertise and therefore product offering.

As a Tax Practitioner, you are placed in an extraordinary situation where, although the responsibility of the contents of a tax return rests with the taxpayer, the return is often completed on your advice and you in turn bear limited responsibility for the advice given. The Tax Administration Act, however, allows for SARS to lodge complaints with your relevant controlling body if they identify that you have given bad advice whether wilfully, negligently or through incompetence. It is therefore of utmost importance that Tax Practitioners place themselves and their clients in the position to produce returns that are in terms of the relevant tax Act.

The requirement to register with a controlling body will greatly assist in enhancing the product offered by Tax Practitioners. A common aspect of all codes of professional conduct is the requirement to exercise due care in the conduct of your profession. Situations where the registered tax practitioner is seen not to have complied with the requirements of the relevant code can have devastating effects on the reputation of both the firm and the individual registered Tax Practitioner, and can ultimately result in loss of membership of the controlling body. It is important, therefore, for tax practitioners to have clearly documented and structured quality control procedures which cover aspects such as:

- Standard engagement letters which need to be signed before undertaking any assignment;
- A system whereby all work performed is clearly documented so that any reasonable person reviewing it, will be able to determine how and why the work was performed and the justifications for the respective conclusion;
- A process of review where all work performed is reviewed by the registered Tax Practitioner prior to the sign off the client deliverable;
- Reporting lines and procedures for staff within the practice;
- Processes to follow when difficulties are encountered for example identification of a situation of previous non-compliance with a Tax Act by a client;
- A quality control review program whereby engagements are reviewed by an independent person that provides an objective evaluation of the significant judgements made and conclusions reached in formulating the final deliverable;
- Monitoring the relevance of the firm’s policies and procedures in terms of new developments in of tax legislation, practice notes, private binding rulings, case law, latest news etc;
- Consultation with external service providers on difficult or contentious issues;
- Recruitment of staff with the appropriate Academic background as well as an assessment of the competence of any individuals working on specific engagements.

The requirement to register with a controlling body is only the first step in the regulation of Tax Practitioners. Whilst it does not regulate the profession to the extent of creating an independent board as initially envisioned in the Regulation of Tax Practitioners Bill, it does create a level of governance that has long been needed in the industry. Whilst some might see the additional regulation as a further compliance burden, a tax practice with an efficient back office and effective front office that has based their firm on sound principles, will see it as a means to create due diligence requirements and therefore a step in the right direction of enhancing the quality of tax advice given by all Tax Practitioners.

“Tax compliance is an area where anything “slipping through the cracks” can have severe financial and potential criminal consequences and therefore the reporting lines within a tax practice must be clearly established”
The bliss of summer living is not over yet as the seasons start to transition during the March/April period. There is still a great line-up of events to look forward to all over South Africa. Head over to Moyo for sunset cocktails overlooking the V&A Waterfront, embrace your patriotism by celebrating some local inventions, spruce up your online presence and take a detour from the everyday by taking a weekend off at one of the country’s boutique hotels. Art lovers and the politically minded can visit an exhibition of Afro-Chinese art and jazz enthusiasts can sway to the music at the 14th annual Jazz Festival in the mother city. With so much to look forward to one of these events is bound to brighten up your month.

“Think of social media as extending your personal network of people who know, like and trust you.”
Guide to living

Whether you are in the mood for alfresco fine-dining, looking for some ways to make your frequent travels easier or getting your jazz hands ready for Africa’s Grandest Gathering – we have it all in our guide to living your life in style as the summer season winds down.

YOLOANDE BOTHA

Making Way for Afro-Chinese Art

One of the most significant geopolitical shifts of the 21st century has been the rise of China as an economic super power and its consequent endeavours into the Global South, particularly into the African continent. While the media often sensationalises the Afro-China relationship by framing China as Africa’s new curse or as its economic saviour, little meaningful cultural understanding of the relationship exists. A new exhibition entitled “Making Way: Contemporary Art from South Africa and China” being hosted at the Standard Bank Gallery until the 28th of March, attempts to fill this void. The exhibition explores the ways in which contemporary artists based in both South Africa and China are engaging with economic and cultural shifts; the appearance of new leaders as well as new social and urban spaces that are emerging from the new path of movement from the East into the Global South. Johannesburg art lovers who wish to visit the exhibition can look forward to seeing the works of internationally acclaimed Chinese artists Wu Junyong, Chen Qiulin, Maleonn and Qin Ga in South Africa for the first time. The works of local artists including Lebogang Rasethaba and Michael MacGarry are also on exhibit. The gallery is open from 8am and until 4:30pm during the week and from 9am until 1pm on Saturdays.

Morning Markets

The days when markets were simply a means for farmers to connect the public with their fresh produce are long gone. Today markets across the country are a Saturday institution for fine food lovers. Many argue that South African market culture saw a surge in popularity after the Justin Rhodes and Cameron Munro launched the Neighbourgoods market in Woodstock. Regardless of where our love of markets stems from, foodies in South Africa now have a wide range of gourmet and organic markets to choose from. Here is our pic of must-see markets in South Africa’s urban hubs:

- The Porter Estate market, Cape Town - While the mother of all markets is still going strong in Woodstock, the Porter Estate market offers an elegant alternative to the hustle and bustle of the Neighbourgoods market. The outdoor market is situated under old trees and offers organic produce, cheese, preserves and meat. Enjoy delicious early morning gourmet pancakes with fresh fruit smoothies.
- Hazel food Market, Pretoria – The Hazel food market is a food lover’s dream with pâtés, organic vegetables, homemade nougat and the prettiest of cupcakes always on offer. The market also offers a delicious range of coffees and children’s entertainments making it the perfect way to ease into your weekend morning.
- The Jozi Food Market, Johannesburg – This quaint outdoor artisans’ market focuses on offering the finest fresh produce. The market hosts a tea garden under the trees and dogs are encouraged to come along to enjoy the spacious field.

“I always like my trailer or hotel room to have something that I find at a local flea market - anything to personalize the environment.” - Chloe Sevigny
All about JAZZ

Jazz legend Art Blakey once remarked that jazz has the ability to wash away the dust of everyday life. If this is true then this year’s Cape Town International Jazz Festival will leave your life sparkling. The event, which has become a yearly institution in Cape Town, has grown in popularity and success each year since its inception in 2000. This year’s fourteenth International Jazz Festival, which promises to be the biggest yet, will once again take place at the Cape Town International Convention Centre from the 5th to the 6th of April.

The festival, which is known as Africa’s Grandest Gathering, has been ranked the fourth best jazz festival in the world outshining other prestigious jazz festivals such as Switzerland’s Montreux Festival and the North Sea Jazz Festival in Holland.

With over 40 artists performing across five stages, this year's festival boasts with its largest line-up to date. Three-time Grammy Award winning artist, Jill Scott, will be one of the many headline acts at this year’s festival. In addition to prominent headline acts such as Scott, festival director, Rashid Lombard has also promised that this year’s festival will see jazz and popular music luminaries from every continent perform. These include jazz guitarist Norman Brown, saxophonist Kirk Whalum and trumpeter Rick Braun. Many other local and international artists will also be performing, proving that instrumental music has the ability to spread the international language.

Tickets for this year’s event have been going fast. Selected tickets can still be purchased at Computicket outlets and online via the Computicket website.

To do this month

**Mercedes Benz Fashion Week, Johannesburg** – Collections from all over the continent will grace the catwalk at the annual Johannesburg Fashion Week. Fashion enthusiasts can indulge in their love of fashion at the event which will be held at Mary Fitzgerald Square until the 9th of March.

**Decorex, Durban** – KwaZulu Natal’s finest décor, design and lifestyle expo will be taking place from the 21st to the 24th of March at the Durban Exhibition Centre. This year theme is “bliss” and promises to deliver plenty of ideas, inspiration, demonstrations, how-to's and trends.

**Champagne and Oysters, Simonsig Wine Estate, Stellenbosch** – Make the most of the last month of summer with champagne and oysters offered every Saturday from 3pm to 6pm by the Cuvée Restaurant at the Simonsig Wine Estate. Live music accompanies your dining experience on the terrace with the picturesque Simonsberg Mountain in the background.

Executive Travel Tips

*If you travel constantly, you will want to make the road to your destination as smooth as possible. With baggage fees higher than ever and with airport controls getting increasingly strict, knowing how to pack efficiently can save a lot of time and money. Here’s how to do it:*

- Roll your clothes to avoid wrinkles and to save on space. For executives who travel with suits and other garments made from delicate materials, rolling clothes instead of folding them will minimise creasing. Pack your suitcase by placing the heaviest items at the bottom and gradually work your way up to the lightest items at the top. For example pants will go in first because they are heavier and larger, followed by lighter shirts and then topped with undergarments. This order allows the items to compress when the suitcases closes which helps to save on space. If you carry your toiletries in the same suitcase, place these on top of everything else seeing as they might have to be removed quickly for security screenings. Pack shoes in a separate bag.
- Keep essentials such as your wallet, keys, eye-drops and cell phone in a bag with you on the aeroplane. Valuable items and necessities should always be kept on your person for convenience and safety.

“After a long flight you won’t be in the mood to deal with wiggly wheels or stubborn locks”

You won’t be in the mood to deal with wiggly wheels or stubborn locks so make sure that your luggage is in good shape before travelling. Also keep in mind that designer suitcases such as vintage Louis Vuitton for example, are a prime target for thieves while a generic black bag can be misidentified by other passengers and is a great way to end up with someone else’s clothes. Luggage tags are an easy way of making your luggage more easily recognisable.
On entering the Saxon Hotel in Sandton, one is almost transported into another world, stylish and luxurious, the Saxon has hosted some very famous celebrities from the world of entertainment and politics.

The illuminated entrance inside the Saxon Hotel, gives just a hint of what is to come, the gardens are lush and inviting. Previously the private home of Insurance mogul, Douw Steyn, the Saxon Hotel combines an African experience with all of the luxuries that their guests would expect.

The Saxon boasts two restaurants, Five Hundred and Qunu. Five Hundred was recently launched and is the hotel’s exclusive fine dining restaurant, an intimate dining venue which seats 40 guests. Executive Chef David Higgs has created an avant garde fine dining menu to please the most discerning palate. Downstairs, Qunu offers an all day menu.

The Saxon Spa and Studio, (a member of the Leading Spas of the World), is available to day guests as well as to hotel residents and is a peaceful, stress free environment in which to enjoy some of the treatments and therapies available. High Tea or Sunday brunch is the perfect way to end your pampering session.

Clock Tower Square is home to the new moyo restaurant and African street-food market that offers its punters a sophisticated African food and lifestyle concept with endless eating, socializing and entertainment, every day of the week, from morning till night. moyo means ‘soul’ in Swahili and moyo V&A Waterfront certainly has more than its fair share. At the market you’ll find modern African street food, produce and crafts, all lovingly prepared at its twenty stalls creating a small village on the water’s edge. Attached to the market and another ‘first’ for moyo, the double level restaurant space offers interactive grilling stations and a bakery. Downstairs the sprawling eating space provides social-style seating in the form of long wooden tables and poufs set against a living backdrop of growing lettuce, herbs and edible flowers. North facing, the restaurant enjoys a sunny vantage all year round and expansive waterfront views from the upstairs balcony. Face painting, hand washing, live Afro Jazz music and an abundance of African hospitality all add to the experience.

As is moyo tradition, great focus is placed on sourcing sustainable products, so much so that aquaponic produce is grown in the market, ready to be picked and eaten- it doesn’t come any fresher and demonstrates the future of urban organic farming. Smaller versions of the moyo aquaponic system at the market will supply lettuce, herbs, tomatoes and strawberries. Aquaponics is a sustainable vertical farming system moyo has developed in collaboration with the University of Stellenbosch establishing the moyo urban farm. Further living up to their environmentally conscious philosophy, an array of solar panels above the market provides shade and power to both the restaurant and aquaponic system.

For more info visit www.moyo.co.za

The world famous Kirstenbosch Botanical Gardens against the slopes of Table Mountain is now part of the warm, friendly and relaxed moyo charm. Serving breakfast, lunch and dinner the fare is prepared with the best of African produce. With lots of space in a beautiful garden setting it’s an atmospheric experience for the whole family with live African music all year round. During the summer season enjoy sundowners with fresh West Coast oysters and fine South African bubbly.

For more info visit www.moyo.co.za
Z

Zwahili, an exclusive privately owned game lodge situated 200km north of Johannesburg and 30km east of Modimolle, lies at the foot of the Waterberg in the Bushveld Region of the Limpopo Province in a malaria free area.

Royal African, the presidential suite, luxurious en-suite rooms in the main lodge & Victorian style tented camps await you. Embrace a true African experience.

Within walking distance of the main lodge are the tented camps. Lantern lit paths lead to Kifu (desire), Matumba (magic potion), Rafiki (friend) Madiba (old man), Safiri (journey) & Utambo (space). The tented camps find easy residence within Acacia-thorn and Combretum Bushveld. The interior appointments draw inspiration from the colonial ethos, with only the wildlife as witness of the invigorating outside shower for two. Joined by the glazed patina of the African sky, these king size units redefine the concept of solitude. Here, after an exhilarating day in the African bush you can journey into dreams’ domain, as the jackal yelp and the kudu bark through your window of stars.

Royal African – the presidential suite is the epitome of regal opulence and grandeur. Immerse yourself in the gentle sounds of nature with a breathtaking view of the African Bushveld. Personal service and absolute privacy. The suite contains a lounge with satellite television & fireplace, en-suite bathroom with shower, ball & claw bath, his & hers basins, separate WC & bidet and outside shower for two and a private viewing deck with plunge pool.

While sipping a Chardonnay, experiencing the most spectacular sunsets, you’ll find unsurpassed peace and tranquillity while in the distance nocturnal life comes alive.

As the Southern Cross and Orion’s Belt, garland the dome of the night sky, the distant smell of a log fire from the open-air boma welcomes you back from the late afternoon game drive. The faint call of tribal drums announces an array of culinary delights to appease even the most discerning of palates.

The lodge caters for group conferences, weddings and functions to a maximum of 36 people. Zwahili is an ideal honeymoon destination as the lodge exudes an ambiance of splendor while guests experience sophistication of a bygone era.

Zwahili Game Lodge is situated in an area with a rich history; rock paintings are still visible on the walls of caves in the area showing past inhabitation of San Bushmen. ‘Witkop’ an archaeological site, going back in time to when the ‘bittereinders’, at the helm of Boer Generals, utilized this Koppie as a hideout from the British for almost two years. ‘Witkop’ stands proud in bearing homage to a period in history not to be forgotten.

Experienced guides conduct day and night game viewing in open safari vehicles offering sightings of giraffe, blue wildebeest, zebra, njala, eland, waterbuck, caracal, blesbuck and numerous others. Mammals ranging from the larger and most majestic kudu to the smallest golden mole are present in the reserve. An interesting thought that the golden mole, with a metallic green and golden fur, is only found in the Limpopo Bushveld region. Predators are present but not often seen though leopard and brown hyena plus several varieties of felids including serval, and the African wild cat can be sighted.

For the avid birder, over 300 species of African birds with rare sightings such as lizard buzzard and brown snake eagle. The world-renowned Nylsvley bird sanctuary is in close proximity for aspiring birdwatchers.

THE AFRICAN SPA COLLECTION – REVIVE BODY, SOUL & MIND.

With a temperate climate ranging from 15°C to 34°C in the summer months and 8°C to 28°C in the winter, Zwahili is the perfect location all year round. Exquisite synthesis of nature’s wild pulse with the sublimity of comfort, elegance and style.

Hyatt Regency Oubaai Golf Resort & Spa

The Oubaai Golf Resort is an ideal destination for local and international travellers, a mere 7 minutes drive from George airport, and in the heart of the world famous Garden Route.

The Oubaai Golf Resort was the first Ernie Els signature golf course in South Africa, the course is a traditional links course and the view from some of the tees on the course is magnificent.

The Hotel boasts 3 restaurants, The Cucina Restaurant, serving breakfast lunch and dinner. The Waterside Grill, open for dinner only, has an interactive kitchen in the centre of the restaurant, and offers service inside the restaurant and out. The clubhouse has also hosted many a festive evenings for members, and hotel guests, and offers alfresco dining with a menu to cater for everyone. The clubhouse has spectacular views of the Indian Ocean, a perfect spot to gaze out over the ocean and reflect on the day’s golf!

The Hotel also offers conference facilities, banqueting space and a wedding chapel which provides the most picturesque location to “tie the knot”. Not to mention the award winning Freesia Spa, an authentic African experience.

The Hyatt Regency Oubaai is a 5 star resort, offering the complete holiday destination with five star facilities and a magnificent natural landscape.
It’s time to get Social

▶ STEVE BINOS

Yes, attorneys and accountants, this is yet another article about social media. Eric Clapton once famously joked “The world’s greatest guitar player – there’s one in every crowd,” and I guess you could say the same about social media writers. We’re virtually everywhere.

Nevertheless, you’ll be glad to know that I plan to make this article extremely practical. Instead of pontificating on whether or not you should be in social media, I’m going to give you personal advice on how to do so, specifically focusing on LinkedIn and Twitter. Let’s begin.

LET YOUR PRODUCT DO THE TALKING

Professional service firms primarily sell people’s expertise, typically by the hour. So a firm’s people are its product, and empowering these people to become active on social media is akin to letting your product do the talking. We all know the best leads come through referrals and via one’s personal network. Think of social media as extending your personal network of people who know, like and trust you. Plus, it keeps you top of mind within your extended network.

FIND OUT WHERE POTENTIAL CLIENTS HANG OUT ONLINE

Should I be using LinkedIn, Facebook, Google Plus or Twitter you ask? I’ll give you a couple of ideas on this in a moment, but really the major consideration is what social media platforms your clients and potential clients use. Try asking them.

That being said, for professional services I see LinkedIn as essential, Twitter as useful, and Facebook and Google+ as optional. I’m going to focus only on LinkedIn and Twitter in this article.

SET UP YOUR SOCIAL MEDIA PROFILES

LinkedIn. This should be your weapon of choice. If Facebook is the local pub (where you chat and share stories about your holiday), LinkedIn is the trade show. People are on LinkedIn to explore business opportunities, refer and be referred, and to learn.

• Make an effort to complete your profile well. Ensure the profile picture you upload is appropriate. If unsure, ask a teenager. In the “experience” section of your profile, imagine you’ve been given an opportunity to present your capabilities to the most incredible potential client you can think of, and write with this person or firm in mind. Be compelling without hype.

• Ask a couple of people you do business with to write recommendations for you.

• Create a company profile if one doesn’t exist, and make use of the associated area to list and describe your products and services. Get friends and colleagues to ‘recommend’ these products and services, as this strengthens your standing on LinkedIn.

• LinkedIn is only as powerful as your LinkedIn network. Start by allowing LinkedIn to upload your personal contacts list to quickly grow your connections.

• Join appropriate groups. Groups are the secret sauce of LinkedIn, as not only are they organised around specific interests, but they also allow you to communicate with other group members who you may not know. A mistake I often see is that people join groups organised around their specific field (e.g. lawyers joining legal groups) rather than joining the kind of groups their clients would likely belong to. You may consider sending traffic to your LinkedIn profile instead of your homepage.

• Use search tools to discover users you would like as followers, and follow them. Usually, around 15% of people you follow, follow you back. Use Twitter’s tools to upload your contacts to find people you already know on Twitter.

STEVE BINOS
BECOME A CURATOR OF GREAT CONTENT

When posting, the key is to think curator, or guide, not professor. Others are not expecting you to originate daily wisdom nuggets or industry insights, but they may well appreciate you linking them to interesting articles and other content online. At least 50% of your posts should be links to content, together with your brief commentary on said content. Here are some ideas for varying your posts:

• Industry updates, with hyperlink to full article.
• Industry insights, or useful industry axioms or quotes.
• Every now and then allow a window into your private world, with a post encouraging your sports team, or commenting on a major topical issue. Be sensible though!
• The odd humorous post often gets retweeted the most.

COMMITE TO A WEEKLY SOCIAL MEDIA HOUR OF POWER

Here’s my secret sauce: the way to limit time spent on social media, is to organise your sources of content, and then use a post scheduling tool to load your posts for the upcoming week in one sitting. Once you’ve got this together, you’ll be able to setup all your posts once-off, in less then an hour a week.

First, you’ll want to gather all your favourite sources of content, for example industry blogs and key Twitter users.

• Create a profile on www.netvibes.com. This free tool provides a dashboard of all your favourite blogs and online news sites. It works using RSS (Really Simple Syndication), which means all you have to do is click the RSS button on selected sites, and their updates will appear on your dashboard.
• Twitter allows you to create lists of people you follow, which can either be private or public. Create a private list of key individuals who are good sources of content.

Next, create and schedule your posts for the upcoming week.

• Create a profile on www.hootsuite.com. This free tool allows you to preschedule posts, and send them at specified times to both LinkedIn and Twitter. Link your LinkedIn and Twitter accounts to Hootesuite.
• Create at least two posts a day for the coming week. Schedule them to be spread across the working day.

You’re done! Now, all you need to do is take a moment every day to check Hootsuite for any comments or other engagement with your posts, and respond as you see fit.

All the best in your social media exploits!
Great SOUTH AFRICAN inventions

The items featured here are extracted from the book *Great South African Inventions*, by Mike Bruton.

**Pratley putty**

Reputed to be the only South African invention to have travelled to the Moon (Nasa chose it as one of the adhesives used on the Ranger Moon Module Project back in 1967), Pratley Putty is the stuff of legends. It was also used to repair a crack in one of the main supports of San Francisco’s Golden Gate Bridge, and to repair holes in two ships that had sunk off the South African coast. In other words, the stuff works.

The inventor of Pratley Putty is the late George Montague “Monty” Pratley. After the death of his father, he used his inheritance to study at Rugby College of Technology and Arts in England, later working on the Whittle jet engine. Monty was a man with tremendous faith in his ability to succeed; failure was not part of his vocabulary. On his return to South Africa in 1948, he started the Pratley Manufacturing and Engineering Company, working from a rented garage in Roodepoort.

He invented Pratley Putty in the early 1960s while trying to develop a glue and insulator that would hold components together in an electrical box. As time went by, many other uses were found for his mouldable epoxy putty, which at the time was regarded as a “space age” product. Today, the company bearing his name employs over 250 people and manufactures more than 800 products.

**Cryoprobe**

Dr Percy Amoils, an orthopaedic surgeon and business person, invented the Cryoprobe – a pencilshaped device with a frozen tip used for eye surgery. When he demonstrated his invention to an excited audience at Oxford University in England in 1965, he was still a young, unknown doctor. Ten years later, he won the Queen’s Award, and soon afterwards, was recognised with the Medal of Honor by the US Academy of Applied Science.

The Cryoprobe works by freezing gas that is released from a small nozzle under high pressure in a closed tube. As the gas expands, the temperature of the probe’s tip drops to minus 80° C. When the probe is inserted into a cut in the eye and the gas is switched on, it freezes to a cataract, which is then removed.

Cryoprobe treatment was used in 1983 to cure former British Prime Minister Margaret Thatcher of retinal detachment after unsuccessful laser surgery. Amoils is also famous for treating ex-President Nelson Mandela for eye cataracts the day after he was sworn into office.

 Afterwards, Mandela was able to read a speech at the United Nations without spectacles.

**Kreepy Krauly**

Ferdinand Chauvier was a hydraulics engineer who came to South Africa from the former Belgian Congo in 1951. Realising that there was a huge market for equipment that would eliminate the physical labour from swimming pool cleaning, he invented the first commercially successful pool vacuum cleaner, the Kreepy Krauly.

He began developing a machine that would do the job automatically, using the pool filtration pump as a power source, and the product made its debut in 1974.

**Cybertracker**

Louis Liebenberg had always been fascinated by the way in which human brains evolved in response to increasing technological challenges. His particular interest was in the hunting and tracking skills of San in the Kalahari Desert.

His book, *The Art of Tracking*, traces the origins of tracking as a science, providing an overview of the indigenous knowledge used in tracking and the practical ways in which they are used. But Liebenberg wanted to go a step further; he wanted to record the knowledge of San trackers so that their methods could be used to track game animals and learn more about wildlife behaviour and management.

In 1996, after experimenting with a variety of technologies, he and a colleague, Justin Steventon, conceived the Cybertracker – a palmtop computer with a built-in global positioning system (GPS). Instead of recording the information in text, they used a series of icons (small diagrams of animals) to represent game species, their tracks and other information.

San trackers, who are very skilled but cannot read or write, are able to store and access information on the device. This includes how many species the trackers see, and where. It records the habitat of the animals, the number of males, females and young in a herd; how, when and where the animals feed and what they do to mark their territory.
Sheffel bogie

The narrow-gauge railways of southern Africa were slowing down railway development; a solution was needed. The person who provided it was a mechanical engineer, Dr Herbert Sheffel, who worked in the rolling stock design section of the South African Railways (SAR). Sheffel realised that he could solve the problem if he redesigned the suspension of the bogie, the four-wheeled undercarriage at either end of a railway coach.

During the 1970s, he invented a new, stable bogie. Instead of a rigid design with a rectangular chassis, he designed a flexible “cross anchor” bogie with high wheels that allowed the inner and outer wheels to make room for each other on curves. It also reduced the lateral forces that produced vibrations. The Sheffel Bogie was introduced to the SAR fleet of ore wagons from 1975 onwards and proved to be a great success.

X-Ray computed tomography

The invention of the X-ray computed tomography (CT) scanner was a combined effort by the British electrical engineer, Godfrey Hounsfield, and South African physicist Allan MacLeod Cormack, who was based in the United States. Interestingly, the two men worked separately on the development of the invention, and the only time they ever met was at the ceremony in Oslo in 1979, when they shared the Nobel Prize for Medicine.

Cormack worked in the famous Cavendish Laboratory at Cambridge University, England. He took a temporary post at Cape Town’s Groote Schuur Hospital; at the time, he was the only nuclear physicist in South Africa. In 1957, he developed algorithms that used information from X-ray “slices” of a patient’s body to create a tomographic (or 3D) image of the whole body. These reconstructions were the first computerised tomograms ever made – although his “computer” was a simple and woefully inadequate desktop calculator.

Godfrey Hounsfield came to the rescue, developing a method of his own for computerised tomography. He constructed the first practical scanner, which was designed to examine the head. When it was first tested in 1972, this scanner provided doctors with the first 3D look inside the human body.

Telluromeeter

Trevor Wadley was a highly inventive man who became famous for his inventions of radio equipment. He joined the Telecommunications Research Laboratory (TRL) of the Council for Scientific and Industrial Research (CSIR) in Johannesburg in 1946. Here he perfected one of his earliest inventions, the Wadley Loop, a unique circuit for cancelling frequency drift.

But the invention that made Wadley world famous was the Telluromeeter, a very accurate tool for measuring distance.

Challenged to develop an instrument that could be transported easily and measure with an accuracy of 1:100 000, Wadley set to work – and succeeded in less than six months. His amazing invention, the Telluromeeter, measured the travel time of a radio wave from one transmitter to another to an accuracy of 3:1 000 000 over a range of 3 to 50 km.

Wadley received widespread praise for his device, which he demonstrated in South Africa, England and elsewhere, and British Prime Minister Harold Macmillan was so impressed that he is said to have asked aloud why British scientists had not come up with something similar. In a famous incident, Wadley shocked scientists in England by showing that the measured distance between two points on Salisbury Plain was out by 1.5 metres. This was especially significant because Salisbury Plain was used as a baseline for British surveying.

Power-free foetal heart monitor

This portable and extremely useful device, developed by Cape Town paediatrician Dr Dave Woods and a team from Freeplay Energy, uses ultrasound to measure a baby’s heart rate during labour, scanning the womb and taking printable “pictures” of the foetus. If the baby’s heart rate slows during a contraction, this is a sign that it is not receiving enough oxygen, and could die. The heart rate signals are shown on an LCD monitor and are also played through built-in loudspeakers.

Although sophisticated heart rate monitors are widely available in developed countries, they tend to be expensive and fragile, and need batteries. This device, on the other hand, employs wind-up power, solar power, rechargeable batteries or mains power, and can be used anywhere.

Dolos

East London harbour engineer Eric Merrifield is usually credited with the invention of the dolos, one of South Africa’s best-known inventions; in fact, it was initially called “the Merrifield block”. However, research has revealed that it was Merrifield’s young draughtsman, Aubrey Krüger, who came up with the original design and made the first dolos.

In 1966, Merrifield instructed Krüger to design a concrete structure that could protect the East London harbour breakwater. After brainstorming some ideas with colleagues, Krüger went home and assembled a temporary structure using broom handles and string. His prototype dolos looked like an H with one leg turned through 90 degrees. It was named after the knuckles of a sheep, which it resembled. Merrifield liked Krüger’s idea and asked him to develop the design further. Soon, full-sized dolosse were cast in concrete and successfully placed along the seaward edge of the breakwater in East London, where they dissipated the power of the waves with signal success.
For those companies seeking to invest or do business in Africa, there are numerous cultural, legal, financial, infrastructural and risk management challenges to consider. We advise on the most efficient way of establishing businesses, including an examination of accounting, tax, legal, statutory and exchange control requirements in each country. This is coordinated from one office in South Africa.

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- Transfer duty
- Trusts

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