

Nuusbrief van The Core Group

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Appointment of a trust as a member of a close corporation

On 1 January 2006, the CIPC published Practice Note 1 in which trusts can become members of a close corporation.

Some of the requirements as follows:

- No juristic person shall directly or indirectly be a beneficiary of the trust;
- The number of natural persons entitled to receive any benefit from the trust and the number of members of the close corporation must not exceed ten (10); and
- The trustees personally have all the obligations and rights of a member.

The application to appoint a trust as a member of a close corporation entails the following:

1. CK2 document filled and signed as required;
2. Resolution by members authorising the new member appointment;
3. Resignation letter (if applicable) of current member(s);
4. Mandate authorising a third-party to submit the relevant documentation to the Registrar;
5. Letter of Authority issued by the Master of the High Court;
6. Special power of attorney appointing a representative for the trust, signed by all trustees;
7. Confirmation letter by the appointed representative of the trust, confirming:
 - i. The name, registration number and address of the trust;
 - ii. Full names and surnames of all trustees and ID numbers;
 - iii. The number of beneficiaries of the trust, with full names, surnames and ID numbers;
8. Copy of the section in the Trust Deed specifying the beneficiaries of the trust; and
9. ID documents of third-party, current appointed members on the close corporation and the representative trustee of the trust.

Feel free to contact CORE Co Services for assistance with your trust appointment as members of a close corporation.

Prepared by Annette Prinsloo for CORE Co Services (Pty) Ltd
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Draft proposed amendments to Section 7B of the Income Tax Act – variable remuneration

In 2013, Section 7B was introduced to the Income Tax Act (“Act”). The main aim of this section was to match the timing between accrual and payment of various forms of variable remuneration. Consequently, the introduction of Section 7B made provision for certain amounts to be deemed to accrue to the employee when they are actually paid.

However, the current scope of Section 7B is limited. There are certain types of variable remuneration that are not currently catered for in this section. This includes, for example, night shift allowances and standby allowances paid by employers to employees.

The proposed amendment to Section 7B replaces defined specific types of payments constituting variable remuneration with generic characteristics. The objective of the proposed amendment is thus to expand the definition of “variable remuneration” to include other types of income, for example, night shift allowances and standby allowances paid by employers.

The proposed wording currently appears to limit rather than expand the definition of variable remuneration. Like the principle underpinning the concept of “capital”, the principle underpinning the concept of “variable remuneration” as set out in the Explanatory Memorandum does not lend itself to precise description.

In many instances involving variable remuneration, the amount of the remuneration would be capable of determination “prior to the entitlement of payment” of that amount. An example of this would be an employee who approaches an employer for permission to work two hours of overtime. Furthermore, there is a provision that an amount will fall within the definition of variable remuneration to the extent that the amount cannot be determined prior to the entitlement of payment of that amount. For an amount to fall within a person’s gross income, it must be a determinable sum in the hands of the taxpayer. Thus, the current proposed amendments seem to be superfluous.

It is also problematic to suggest that an employer cannot determine the identity of its employees. Uncertainty exists as to why Section 7B would not apply if the employee becomes entitled to payment of the amount two months after the month in which the approval is given, and not in the month after approval was given as set out in the Explanatory Memorandum. Payments to employees that are approved by the employer, for example annual bonuses, are not always paid out in the month following the month in which the amount was approved by the employer. For example, the Remuneration Committee may approve the amount to be paid as an annual bonus to employees in say, October, with the intention of paying the bonuses to the employees in December.

Since the timing for payment of the bonus will not coincide with the timing in subsection (iii) of the proposed amendment, it will not fall within the definition of variable remuneration and will accrue to the employee once the employee becomes unconditionally entitled to the amount. This could result in the employer having to withhold employees’ tax in respect of the bonus prior to receipt thereof by the employee.

An employer will usually be able to determine the amount payable to the employee where the employee works a standard number of hours per night while on night shift and is paid in accordance with a specific hourly rate. However, where employees work night shift or are on standby they may be paid their night shift allowances and/or standby allowances for the full month, only on the last day of the month. A problem arises for the employer where the payroll run takes place earlier in the month, for example on the 25th of the month, and the employer is unable to undertake a second payroll run to pay the employees' tax, Skills Development Levies and Unemployment Insurance Fund contributions over to the South African Revenue Service by the 7th of the following month, in respect of the night shift allowances and standby allowances paid to employees on the last day of the preceding month.

Therefore, problems are foreseen if the proposed amendments are not reconsidered in favour of the status quo with the addition of defined categories of remuneration that it is sought to be included in Section 7B. The principle underpinning the concept of variable remuneration is not easily defined.

Prepared by CORE TAX
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If it were a stand-alone country, California's \$2.5 trillion economy would be the sixth largest in the world, approximately equal to the size of the United Kingdom's. Texas' \$1.6 trillion economy is similar to Canada's – and on its own would be the 10th largest. New York boasts a \$1.5 trillion economy, which ranks it just behind Texas but ahead of no. 12 South Korea (\$1.4 trillion), no. 13 Russia (\$1.28 trillion) and no. 14 Australia (\$1.26 trillion). With a combined economy of \$5.74 trillion, those three US states together would be the third-largest economy on the planet.

There are two important caveats to the US economic map. First, dynamic changes in the global economy are hidden when looking at the map frozen at a point in time. In 2007, both Germany and China – at the time ranked as largest economies no. 3 and no. 4, respectively – were smaller than the economies of Texas and California combined. Today, while Germany is still smaller, China's economy is more than twice as big. In 2007, India's \$800 billion economy was on par with Florida's. Today, it's three times larger than the Sunshine State's. Both China and India have made great leaps forward.

Second, the US economic map does not adjust for population growth. Here's why that's important: California and Texas have a combined population of 67 million. China's population is 1.38 billion. Assume China becomes the largest economy in the world over the next 10 years. Even if – and that's a big "if" – China continues to grow at its current pace, by 2050, its citizens will only be 50% as wealthy as United States citizens on a per capita basis.

Why Buffett is bullish

During the past decade, there's been a lot of jockeying for position among the world's global economies. Conventional wisdom has it that this has happened at a great cost to the United States. The facts state otherwise. In 2016, the United States produced 24.7% of the world's GDP with only about 4.5% of the world's population. That's roughly the same percentage of global production as in 2007 – the year before the global financial crisis. It's also the same proportion as it was in 1980 – the year Ronald Reagan was elected.

So yes, the US economy has its challenges – exploding government debt, a stagnant middle class and a broken healthcare system. As a long-term investor, Warren Buffett understands that today's political and economic noise is just that. He rightly cautions against the mistake of betting against America. And the US economic map provides a vivid reminder of just where America stands on the global stage. This perspective is important because now, with increasingly pessimistic headlines, it is more important than ever to recognize the many opportunities the American economy and stock market still offer investors.

Source: www.wealthyretirement.com (author: Nicholas Vardy)

Prepared by CORE FINANCIAL SOLUTIONS
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CORE Online Academy - the benefits of online learning for working professionals

In today's day and age, with long to-do lists and busy schedules, many working professionals who want to further their education and enhance their skills just cannot seem to find the time to attend classes. This is where online learning can help. Online learning provides young professionals with the opportunity to earn online degrees, improve job-performance and to develop skills that will aid them in attaining all their career and personal goals.

CORE Online Academy was developed with these busy individuals in mind. It provides learners with affordable, high-quality courses for workplace skills development and personal enrichment.

Online learning portals such as CORE Online Academy provide learners with numerous benefits, including:

1. Improves knowledge retention

Online learning provides the learner with the ability to learn at their own pace and in their own time. This improves knowledge retention. Learners can navigate through each module as they please, instead of having to keep up with their peers. Learners can do online courses at times where it is most convenient for them, which means that they can truly immerse themselves in the experience.

2. No time? No problem!

CORE Online Academy provides our learners with 24/7 access to our learning portal, which means that learners can access the courses whenever they have the time to do so. Online learning fits into any schedule effortlessly.

3. Anytime, anywhere, any device

Busy individuals tend not to enrol in classes, because they always seem to be pressed for time, especially today. If they enrol in a class that they should physically attend, they often have to choose between their education, professional responsibilities or personal obligations. Online learning, however, does not interfere with one's busy schedule, as it can be done anywhere, anytime, and on any internet-enabled device.

4. Customisable learning experience

No two learners are the same, which means that no two learning experiences should be the same. Online learning provides working professionals with the opportunity to have a customisable learning experience, so they have control over what they learn, how they learn and when they learn.

5. Empowers and motivates

Last but not least, online learning can empower and motivate young professionals. It empowers them to take control of their own education and aids them in attaining both their personal and career goals by acquiring the skills to do so. Busy individuals can take full responsibility of their own education and skills development, which provides them with the motivation to become active participants in their own education and learning experience.

CORE Online Academy provides learners with various workplace skills courses as well as personal enrichment courses. Take control of your education and start learning with CORE Online Academy today.

Prepared by CORE Executrain
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Strenghtfinder coach

Disconnection before connection

Connect vs Disconnect

En route to the 4th Industrial Revolution everything is becoming increasingly more connected, to the point of not being able to disconnect. Unfortunately this comes at the cost of the most important connection, namely to self.

In order to reconnect with ourselves we have to disconnect from our omnipresent devices, gadgets, screens and social media. Being connected in a shallow way to the entire world can prevent us from being deeply connected to those closest to us (A. Huffington in her book Thrive).

Even though we are connected 24/7 with family, friends and co-workers on digital platforms it does not imply that we have meaningful relationships with them. Meaningful relationships are built on human to human platforms in an office, in your friend's home or in your mother's kitchen, disconnected from the cyber world.

Happiness vs Meaning

Happiness is defined as a temporary emotional state determined by external forces whilst meaning is a state of being determined by an internal sense of belonging and worth.

Research has shown that people in affluent developed countries score seemingly high on the Happy Index, but low on the Life has Meaning Index. Ironically poorer developing countries score high on the Life has Meaning Index. There are a myriad of reasons, but one of them is due to the lack of technological connection and the existence of physical human interaction.

Meaning in the work place

We spend most of our waking hours in the work place with colleagues, managers and employees. Since meaning implies a sense of belonging and worth, the requirement to experience meaning is physical human interaction which can evolve into meaningful relationships.

Certain messages should just not be done on digital platforms. Do not mail a birthday card to your next door colleague. Rather walk over, shake his hand, make eye contact and engage your brain to wish him a special day. Do not congratulate an employee only through a circular mail on his degree, rather step inside his office and ask him about his experience and his future plans.

The universal need amongst human beings is to belong and to feel worthy. That only happens when people are engaged in meaningful relationships. The measure of employee engagement will always be influenced by the quality of meaningful relationships in the work place.

Connection culture starts with you

The leader determines the culture of connection in the team. When last did you have a one-on-one conversation with your team members? Do you know how their families are doing, or did you just sign the special leave form without engaging?

Strenghtfinder coach

How to start a culture of connection

There are many ways to do this, but one-on-ones might be one of the easiest and most effective ways to start connection. Here are some simple pointers:

- One-on-one sessions
- Disconnect your devices
- Set up an informal tone for the session.
- Explain to the team member that it is not a performance review but an honest connection in order to build relationships.
- There is no set agenda and most of the talking should be done by the employee.
- Get good at asking probing questions. People only ask questions when they are truly interested in someone else.
- Explore the employee's personal and corporate goals and dreams.
- Offer assistance and/or advice when appropriate.
- Ask for feedback about your management style.
- Wrap up and summarise the session.
- Reschedule the follow-up session.

Yes, connection is time-consuming, but not an optional extra if you want your employees to be engaged and taking ownership of their areas of responsibility.

If you want to be seen as an outstanding leader, you will have to become a catalyst for connection in your company.

Socrates said, "Know Thyself is the beginning of wisdom." I would rephrase it for our current world as "Reconnect to Self."



Prepared by Mariaan Maartens
StrengthsFinder Coach





Navigating the current “marriage and relationship landscape” in South Africa

South Africa is a country with one of the most democratic and inclusive constitutions in the world. This is a necessity to accommodate all the diverse cultures, races, sexual orientations, genders, ethnic backgrounds, languages and religions of the people that constitute our rainbow nation. This inclusivity and acceptance of our differences is evident when you look at all the different acts, statutes and case law that is currently applied to determine the legal consequences of the different types of marriages and relationships that we are currently trying to accommodate in our country.

To keep abreast of all the rules applicable to marriages and of the constant changes brought about by case law present a challenge. This is important and relevant information for legal practitioners, accountants and financial advisors as the implications and applications of these rules have far-reaching effects for their clients that are not solely limited to their financial well-being. We must be able to understand these rules and be able to explain to clients the legal consequences of their choices of either marriage, civil partnerships or domestic partnerships. The choice they make will have an impact, not just while this chosen union lasts, but also at the dissolution of such due to death or divorce.

Included herein is a schematic representation with as much of the relevant information governing all the current forms of marriages and partnerships available in South Africa, which Acts governs these and if the partners are treated as spouses for the benefit of the Maintenance of the Surviving Spouses Act 27 of 1990, Intestate Succession Act 81 of 1987 and for Pension Benefits. There is also some important case law mentioned that has caused new developments for that specific type of union. Luckily, South African Law is also not stationary and legislative changes do happen – in some areas faster than we would like and in other areas much slower than needed.

The South African Law Review Commission has introduced Project 144, focused on a single marriage statute. It closed for comments by the public on 31 August 2019. The aim of this, according to Home Affairs Minister Aaron Motsoaledi, is to provide “a new, single marriage act that will enable South Africans of different sexual orientation, religious and cultural persuasions to conclude legal marriages that will accord with the constitutional principle of equality”. This document promises a lot of positive changes and aims to create a uniform approach to the treatment of all the different types of unions in South Africa.

The practical implementation of a single marriages act to govern all the different marriages and unions we have available might be more of a challenge. A “one size fits all approach” has not proved to be all that successful in our country.

Only time will tell how this act will improve the current situation. But, as this proposal is still in its initial stages, we still need to navigate the confusing landscape of different acts, case law and common law that we have currently applicable. Hopefully the “roadmap” supplied below might make this journey a bit smoother.

SCHEMATIC REPRESENTATION OF THE CURRENT "MARRIAGE AND RELATIONSHIP LANDSCAPE" IN SOUTH AFRICA*					
MARRIAGES				LIFE PARTNERS	CIVIL PARTNERSHIP
CIVIL MARRIAGES (Common law Marriage)	MARRIAGES UNDER CIVIL UNION ACT	CUSTOMARY MARRIAGES	RELIGIOUS MARRIAGES (non-state law)	DOMESTIC PARTNERSHIP	CIVIL PARTNERSHIPS UNDER CIVIL UNION ACT
Opposite-sex couples Monogamy only	Same-sex & opposite-sex couples Monogamy only	Monogamous and polygamous customary marriages	Monogamous and polygamous customary marriages	Same-sex & opposite-sex couples Monogamy only	Same-sex & opposite-sex couples Monogamy only
MARRIAGE ACT, 25 OF 1961	CIVIL UNION ACT, 17 OF 2006 (marriage)	RECOGNITION OF CUSTOMARY MARRIAGES ACT 120 OF 1998	MUSLIM MARRIAGE • Not a formal marriage in SA law - technically no COP • (Dealt with as out of COP) • Maintenance of Surviving Spouses Act and Intestate Succession Act applicable. • Partners can claim pension interest. • Khan v Khan 2005 (2) SA 272 (T). • Daniels v Campbell 2001 7 BCLR 735 (CC). • Women's Legal Centre Trust v President of the Republic of South Africa and Others, Faru v Bingham N.O. and Others, Esau v Esau and Others (22481/2014, 4466/2013, 15877/2015) [2015] ZAWCHC 109; [2015] 4 All SA 591 (WCC); 2015 (8) SA 598 (WCC) (31 August 2015).	• Piecemeal recognition provided by courts and legislature. • Not a formal marriage in SA Law - technically no community of property. • Dealt with as if out of COP. • Can conclude a contract to govern aspects such as division of property upon termination of the partnerships. • Maintenance of the surviving spouses act NOT applicable. • Intestate Succession Act applicable to permanent same-sex partners not extended to heterosexual domestic partnerships. • No rights to pension benefits.	CIVIL UNION Act, 17 of 2006
<ul style="list-style-type: none"> • If no antenuptial contract (ANC) - in community of property. (COP) • If ANC: either out of COP excluding the accrual system or out of COP with the accrual system. • Maintenance of Surviving Spouses Act and Intestate Succession Act applicable. • Partners can claim pension interest. 	<ul style="list-style-type: none"> • If no ANC - in COP • If ANC: either out of COP excluding the accrual system or out of COP with the accrual system. • Maintenance of Surviving Spouses Act and Intestate Succession Act applicable. • Partners can claim pension interest. 	<ul style="list-style-type: none"> • Monogamous marriage: In COP • Polygamous marriage: before 15/11/2000 out of COP. • Polygamous marriage after 15/11/2000 - in COP • Maintenance of Surviving Spouses Act and Intestate Succession Act applicable. • Partners can claim pension interest. • Gumede (Born Shange) v President of the RSA and others (2006) JOL 22879 CC. • On 24 July 2019 approved submission of the Draft Recognition of Customary Marriages Amendment Bill of 2019 to parliament. • So expect changes 			<ul style="list-style-type: none"> • If no ANC - in COP • If ANC: either out of COP excluding the accrual system or out of COP with the accrual system. • Civil Partnerships under the Civil Unions Act differs in that it recognises partnerships that are not solemnised by marriage. • This affords couples who choose not to marry the right to enjoy the benefits that marriage brings, in terms of sharing in the joint estate. • Minister of Home Affairs and Another v Fourie and Another (CCT 40/04) (2005) TACC 19; 2006 (3) BCLR 355 (CC); 2006 (1) SA 524 (CC) (1 December 2005)

*Based on the scheme provided by J& Robinson et al Introduction to South African Family Law 6th e Printing Things, Potchefstroom 2016 40 and a scheme provided by Nici McDonald PSG for UFS diploma and adapted by Christa Raubenbach

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