

CREATING AN
OASIS

AMIDST A FINANCIAL DROUGHT

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Diesel Rebates

It is a well-known fact that, included in the fuel charges, there are certain levies, for example, a levy for the Road Accident Fund which will be used to help victims of road accidents. Some sectors, however, do not use the road network of South Africa, but do use a substantial volume of diesel to perform their activities. In order to encourage and enable primary production in the Republic, a refund is offered on the fuel and Road Accident Fund (RAF) levies charged on diesel and biodiesel used in such production.

The diesel refund system provides a refund on the fuel and Road Accident Fund (RAF) levies paid on diesel by qualifying industries in the following categories:

- on land;
- offshore;
- harbour vessels;
- rail; and
- electricity generation plants.

The diesel rebate system is currently governed through the Customs and Excise Act, although it is administered by SARS through the Value-Added-Tax system. Currently, SARS is looking into ways to improve the administration of the diesel rebate system as the diesel rebate does not have any actual bearing on the VAT system (not part of the VAT Act), but the cash flow effect of claiming a diesel rebate is reflected in the VAT system and claims should therefore be verified.

It should be noted that VAT returns on which diesel rebates are claimed should be submitted by the 25th of the month, even if the return is submitted and paid via E-Filing. Any enterprise carrying on eligible activities that is registered for VAT purposes, either compulsory or voluntary, may apply for diesel refund registration by completing the appropriate application form, *VAT 101D – Application for registration of diesel / biodiesel refund*.

If a person registered for VAT becomes aware that he / she is entitled to register for the diesel refund system, he / she may apply for registration with retrospective effect of up to two years preceding the date of diesel registration application and may claim back diesel refunds for the preceding two year period on condition that he / she complies with the conditions for the claiming of a diesel refund (burden of proof and qualifying activities).

The on-land sectors which will qualify for a refund include mining, forestry and farming. Own primary production activities in farming mean the production of farming products, by the vendor, for gain on a farming property and the vendor will be eligible for the diesel refund in respect of those activities.

There is a complete list of the primary activities available in the SARS Reference Guide for Diesel/Biodiesel refund – available on the SARS Home page. Some of the activities included are the growing of crops, harvesting and storing of crops on the farming property, the breeding and caring for animals and reptiles, the rounding up or herding of livestock, any activity undertaken for the purpose of soil or water conservation, etc.

It is important to note that no refund may be claimed in respect of any transport on a wet basis. There are certain activities which are specifically excluded from the claiming of the rebate, for example, where the nature of the product is to be changed so that it is no longer considered to be an agricultural activity, such as the processing of grapes into wine. The refund is only claimable if diesel is given on dry basis and not on wet basis. This means that the farmer must supply diesel to a contractor if the contractor does, for example, the harvesting or transport for the farmer. If the contractor buys the diesel and then bills the farmer for diesel and harvesting costs / transportation costs, the farmer cannot claim the refund on diesel by the contractor.

It is important to note that the rebate should be claimed on the usage, and not on the purchase, of diesel. Therefore, it is of extreme importance that both a diesel storage logbook and a diesel usage logbook is kept to determine how much of the diesel received/purchased was used for primary farming operations.

The diesel usage logbook should indicate how many litres are received from storage by which vehicle / machine and the purpose for which it was used. If this documentation is not available upon request, SARS will make an adjustment and penalties and interest may be charged.

A logbook should be kept for each bulk tank of diesel (diesel storage logbook), as well as a separate logbook for each vehicle/engine that uses/receives diesel from the bulk storage tanks (diesel usage logbook).

Interpretation of legislation may even go so far as to require that separate logbooks are kept per farming activity. Each tank must have a logbook in which the details of any diesel drained from the tank is recorded. This includes the date, vehicle details and the volume of diesel.

Details regarding purchases of diesel should also be recorded and should include the invoice date and invoice number, total litres purchased, supplier's name and address and the date of delivery. All documents to substantiate the refund claim must be kept for a period of 5 years from the date of use or disposal of the diesel / biodiesel or the refund return, whichever occurs last.

Prepared by CORE Tax.
For more information contact : +27 (0) 51 448 8188



Can a decrease in food wastage relief pressure on resources?

There is a difference between food loss and food wastage. Food wastage refers to food that leaves the farm gate but does not reach the consumer. Food loss refers to losses during harvest and processing – up to 40% is lost in this way in developing countries.

The same percentage of food is lost in developed countries because it ends up in the rubbish bins of homes, restaurants and shops. Up to one third of all food goes to waste in this manner – an estimated 1.3 billion tonnes of edible food, or more than half the world's grain production. For Europe and North America these losses are estimated at between 95 and 116 kg per capita and for South and Southeast Asia as well as Sub-Saharan Africa between 6 and 11 kg per capita ends up uneaten in rubbish bins. Wastage in America alone runs to almost \$218 billion or 1.3% of the GDP and an estimated 1.4 billion hectares are under threat worldwide. This is more than the land surface of China. Put in other words, it means that the products from 30% of the land surface currently used for food production never reach the consumer.

An estimated 2 billion malnourished people can be fed with losses of this magnitude. More importantly, for every 20% saving in losses an additional 870 million hungry people can be provided with food. If losses in Latin America and Africa can be curbed, an additional 600 million people can be given food, according to the FAO. There is a lot of work, starting at home in Africa, but such a goal comes with a warning in terms of perspective. A decrease in food losses should always be worth more than the cost to achieve this decrease, and in this regard a number of well-meaning aid organisations are failing.

Products that leave the farm gate are processed to consumable commodities through countless services and products applied in this process. The so-called marketing margin explains the difference between farm gate price and consumer price. As consumers' needs change, more and more value is added in the value chain. The difference consists of cost and profit, because any processes is entitled to fair remuneration. In most instances farmers are price-takers and the demand for their products is a derivative.

The National Marketing Council publishes regular reports on the marketing margin and the producers' share in the consumer rand. Normally the last-mentioned decreases as the sophistication of consumers increases. More added value is sold in the final demand product than in the farm equivalent of the product. The latest analysis of the Marketing Council points to the impact of current changes at farm level. For grade A2/A3 lamb the farm value has increased to more than 82% in April this year. In April this year the marketing margin was an average of R13.31 per kg, or nearly 29% more than in February 2017. This tendency points to the extent that the market has absorbed the increase in farm gate prices, because the market will not be able to afford current farm gate prices at normal margins. For grade A2/A3 beef, producers were not as lucky, because the farm value of what the consumer pays was estimated at just less than R60 in April, which means that the margin has decreased by nearly 3% to R30.79 from February to April 2017. However, the farm value of the final demand product has increased by 4.3% during the same period.

In terms of grain (white maize in particular) there is very good news for consumers. The marketing margin of 5kg Super maize flour has decreased from R4141 per ton in February to just more than R3000 per ton. The farm value was just lower than 55% in February, but has increased to nearly 65% in April, with small increases in the margin for the year until April 2017. The sharp decrease in the marketing margin is the result of lower farm gate prices, but the increase in the percentage of farm value points to the fact that the market absorbs the impact of lower farm gate prices. This can help producers to soften the impact of the record harvest on farm prices, but will not be sustainable from the viewpoint of those in the processing chain.

Although price is important in the choice of consumption, respect for the product in terms of its origin and cost within the entire value chain is crucial. Consumers will have to be responsible for not wasting food and should demand the same respect from the processes involved from farm gate to store shelf.

Prepared by CORE Business Development.
For more information contact : +27 (0) 51 448 8188

It's not all bad news in terms of financial markets

The local equity market gained some further ground in April on the back of the sharp gains in industrial rand-hedge shares. The industrial sector on the JSE gained 6%, and Naspers accounted for approximately half of this return, mirroring the strong gains made in Tencent. The JSE All Share Index ended up 3.6% for the month. Earnings across the market were flat. This meant that the 12 months trailing PE (price-to-earnings) increased marginally to 20.2.

The March gains in global markets continued into April, with most global equity markets recording gains. The MSCI All Country Index gained 1.6% for the month and is now up 8.6% year-to-date. The global equity markets edged higher despite some threat of military action between the US and North Korea, and concerns regarding the elections in France. In the US market the NASDAQ achieved its sixth straight monthly gain, with the index also reaching a new milestone as it traded above the 6000 level for the first time. In general valuations are not cheap, but are reliant on interest rates remaining low and the continuation of a favourable monetary policy.

Listed property shares prices continued to move upwards - not as strongly as in 2016, but still up a credible 0.5% in April. Against the backdrop of the South African cabinet reshuffle and the dismissal of Pravin Gordhan as finance minister towards the end of March, not many would have expected listed property to show positive gains in April. However, a portfolio can be constructed within this sector with a one year forward yield of 9.6%, which makes the asset class relatively attractive on a yield basis.

Inflation tapered back from the 6.3% level to 6.1% at the end of March. The Reserve Bank has kept the repo rate unchanged at the current 7%. Before the "Gordhan-gate" saga, it was anticipated that interest rates could be lowered later in the year, but now consumers can expect interest rate hikes in the near future. As rates on fixed income move up steadily, they provide a viable alternative to risk assets. Consequently cash provides an alternative for investors against a backdrop of expensive equity markets.

The rand hardly reacted after S&P Global's announcement to downgrade South Africa to a sub-investment grade rating. The currency ended April slightly stronger against the US Dollar. This was mostly due to the US Dollar weakening against most of the major international currencies. The currency has now appreciated over 6% against the US dollar over the past year. However, the rand has weakened by more than 7% since it was trading at R12.45 towards the end of March.

Despite the credit downgrades in early April, local bonds defied logic and returned 1.4% for April. It was widely anticipated that there would be a sharp spike in South African government bond yields as soon as the long expected credit downgrade materialised. On a one year basis local bonds are the best performing asset class, returning 10.6% to the end of April. As local bonds offer investors an attractive nominal yield, with the R186 at 8.7%, foreign investors have continued to buy South African bonds. However, if South African bonds drop out of the global investable index due to further credit downgrades, the demand for local bonds can drop significantly and might lead to a sharp increase in yields.

While US short term interest rates increased in December 2016 and again in March 2017, it seems that the process of normalising interest rates is going to take longer than initially anticipated. US Government bonds remain a safe haven with the current yield on the US 10-year treasury at 2.28%. The US 10-year generic bond strengthened from 2.38% in March to 2.28% in April. Other international bonds yields also ended lower in April, with the UK 10-year bond strengthening from 1.14% to 1.08% and the Euro Zone 10-year generic bond yielding slightly lower from 0.33% to 0.32%.

For any further information or questions relating to your investment portfolio please do not hesitate to contact CORE Financial Solutions.

Source: <http://www.seedinvestments.co.za/wp-content/uploads/2017/04/2017-04-Seed-Market-Overview.pdf>

Prepared by CORE Financial Solutions.
For more information contact : +27 (0) 51 448 8188



Planning your will requires insight and knowledge

Someone who is drawing up a will can bequeath only that which he or she owns (for example, assets belonging to a trust cannot be bequeathed). There are two kinds of bequests: Specific bequests (also called legates), where the assets as well as the heir are specified, and general bequests, where that which is left, is bequeathed (also called the remainder).

Certain bequests and wishes must be thought through carefully. If an heir is insolvent or might become insolvent, rather bequeath the assets to a trust for the person and his family. This could prevent debtors from claiming the inheritance.

Weapons and ammunition can only be inherited by an adult with an applicable weapons license or someone who could obtain such a license. Thus children and trusts cannot inherit a father's weapons. If the mother cannot obtain such a license, arrangements should be made beforehand with, for example, a family member who can take the inheritance under his licenses until the heir turns 18 years old. In such a case an agreement should be drawn up that determines that the appointed person will keep the weapons "in trust" in order to avoid that it becomes entangled with the estate of the person holding the weapons temporarily.

Business owners may bequeath their shares or interest in a business to their family or sell it to their business partners at their death. Section 35 of the Closed Corporations Act limits a person's authority to handle with his interest in a Closed Corporation. The members have to give permission for membership to be transferred to new members. Without permission the executor will be forced to sell the interest to the surviving members.

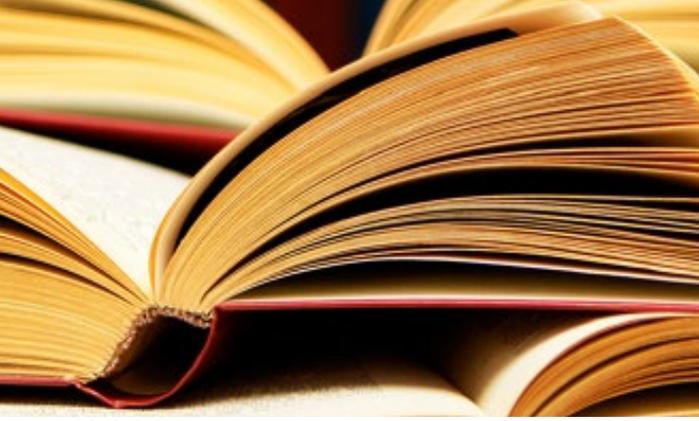
Unborn children can also inherit. Such an inheritance is usually in a trust bequeathed to the trustees, who receive and manage it on behalf of the unborn children.

Someone who is not mentally competent can also draw up a will when that person is having a lucid moment. Such a lucid moment can be short or longer, depending on the nature of the mental damage. For such a will to be declared legal it is advisable to have a medical doctor present during the lucid moment to declare that the person was fully conscious during the drawing up and signing of the will.

Where a person who is divorced and who received custody of the children and who dies later, the children will always go to the natural parent, even if the will determines who the legal guardian should be.

From the above it is clear that drawing up a proper will is not only crucial, but that one should set out drawing up a will armed with the necessary information and knowledge. CORE Trusts & Estates can be of assistance.

Prepared by CORE Trusts & Estates.
For more information contact : +27 (0) 51 448 8188



Practice Guides issued by the B-BBEE Commission

The B-BBEE Commission was established to oversee the implementation of the Broad-Based Black Economic Empowerment Act 53 of 2003 as amended by Act 46 of 2013 (“the Act”), which includes: the provision of explanatory notices, nonbinding advisory opinions and clarification services to improve the understanding of the Act.

The B-BBEE Commission has thus far issued four Practice Guides. Each of the Practice Guides contains the following very important statements:

“This Practice Guide is issued as a nonbinding guide purely to assist with the interpretation to ensure consistency in the application of the Act.”

“This Practice Guide does not constitute a legal document or a ruling of the B-BBEE Commission on the issue concerned. Further, although this Practice Guide is not binding on the B-BBEE Commission, it does set out the approach that the B-BBEE Commission is likely to take on any matters relating to...” (Then specifies the topic of that specific Practice Guide).

The Practice Guides then end with statements such as:

“All verification professionals have a responsibility and duty to provide entities with proper advice and guidance, including the implementation of this guide for the determination of the B-BBEE status of entities in a manner that upholds B-BBEE objectives.”

“In terms of section 130 (2) a verification professional, procurement officer or any official of an organ of state or public entity who becomes aware of the commission of, or attempt to commit, any offence referred to under section 130 (1) and fails to report it, is guilty of an offence.” (Then refers to the penalties that may be enforced should a person or entity be found to have violated the Act).

The intention is therefore clear: The B-BBEE Commission expects measured entities and verification professionals to apply these principles, even though the Practice Guides are not legally binding.

Principles covered by the Practice Guides

For the purposes of this article the 2016 Practice Guides are only briefly mentioned.

Practice Guide 01 of 2016 – The recognition of third-party procurement

The Commission stated that after careful consideration of the practice on the treatment of third-party procurement spend, they deemed it necessary to provide clarification. The example used in the Practice Guide is that of a travel agency:



It is suggested that when a third party only realises the commission it receives as its revenue, the measured entity may then only “claim” the commission portion (R 5k) of the procurement against the B-BBEE certificate of the third party (B) and should claim the cost that the third party had incurred (R 10k) against the B-BBEE certificate of the actual supplier (A).

Practice Guide 02 of 2016 – B-BBEE certificates for EMEs and QSEs

The Amended Codes stated that an EME is merely required, on an annual basis, to state under oath its B-BBEE credentials or obtain a CIPC Certificate to that effect for as long as the annual turnover is below R10 million. This Practice Guide states the following:

“However, it is important to note that should the empowerment status of the entity change any time after it has made such an affidavit or obtaining the certificate from CIPC, the entity is obligated to disclose that fact when submitting its B-BBEE status to any person, organ of state or public entity, and desist from knowingly submitting an affidavit or CIPC certificate with incorrect or false information as that would amount to non-compliance with the Act, and perjury.”

Practice Guide 01 of 2017 – Enhanced recognition for EMEs and QSEs through application of the modified flow through principle

In terms of Code Series 100 (Ownership), a measured entity may apply the modified flow through principle to determine black ownership, where in the chain of ownership black people have a flow-through level of participation of at least 51%. Then, only once in that entire ownership structure of the measured entity, such black ownership may be treated as if it was 100%.

The Codes also provide for a very specific definition of what is considered to be “51% black-owned” by stipulating three requirements:

- 1) Black people must hold at least 51% of the exercisable voting rights;
- 2) Black people must hold at least 51% of the economic interest; and
- 3) The entity must earn all the points for Net Value.

The Commission, in this Practice Guide, refers to an “exception” to the extent to which measured entities can rely on the modified flow through principle to calculate black ownership. The Commission expresses its view, based on the objectives of the B-BBEE Act, that the calculation of the 51% and 100% black ownership for EMEs and QSEs may only be through application of the flow-through principle. Practically that means that an EME or QSE may not apply the modified flow-through principle in calculating its black ownership in order to achieve the 51% black ownership, which will allow the entity to gain Level 2 exempt status via application of the modified flow-through principle.

A 51% black-owned QSE that wishes to make use of the Level 2 exempt status must therefore have flow-through black ownership of at least 51%. The same rule would apply to EMEs.

Note: The flow-through and modified flow-through principle will be discussed in more detail during Core BEE's quarterly webinar on 29 June 2017.

Practice Guide 02 of 2017 – Application of the 2007 Codes of Good Practice

It is interesting to note that the latest Practice Guide was recently issued in May 2017, but deals with a timing issue that, according to this notice, should have been applicable in May 2016 already.

The Amended Codes came into effect on 1 May 2015. The Dti issued a General Notice in Government Gazette 38799 on 15 May 2015, providing a transitional period for the implementation of the Amended Codes. The notice stated that all B-BBEE verification in respect of a financial year ending on or before 30 April 2015 can be conducted using the old codes (*Gazette* No 29617 of 9 February 2007); and all B-BBEE verification in respect of a financial year ending after 1 May 2015 must be conducted using the Amended Codes, with the exception of sector codes.

Verification agencies would usually allow a client to use annual financial statements for a period of 18 months subsequent to the end of a financial year. For example: If the financial year of a measured entity ended on 28 February 2015 (and thus prior to 30 April 2015), it would generally be acceptable to use the financial statements for the year ended 28 February 2015 for B-BBEE verification purposes up until 31 August 2016, provided those are the most recent financial statements available at that point in time. The consequence would then be that at that point, the entity could be measured according to the 2007 Codes.

However, what the Commission has now indicated is that application of the “old Codes” was only permissible for B-BBEE verifications that were conducted for the first year in which the Amended Codes came into effect, which meant that all B-BBEE verifications conducted on or after 1 May 2016 had to be based on the Amended Codes, irrespective of financial year, with exception of sector codes.

This Practice Guide has caused total confusion in the market, and at the moment there is uncertainty on what the legal ramifications may be. Many verification agencies have already expressed concern as it may mean that many B-BBEE verification certificates would have to be withdrawn. A further unintended consequence may be that measured entities might have received certificates from suppliers that were rated as such, in which case it will mean that such certificates will need to be disallowed from the supplier spend.

For any B-BBEE-related assistance, please contact the CORE BEE team.

Prepared by CORE BEE
For more information contact : +27 (0) 51 448 8188



Don't lie to your insurer – here's why

Lies, fibs or alternative facts, it doesn't matter what you call it or what shade of white it takes on, lying to your short-term insurer is never a good idea, says Soul Abraham of Mutual & Federal. When it comes to insurance, some customers have been known to bend the truth to reduce their perceived risk. Failing to inform your financial services provider of key facts regarding your assets or risk profile is never advisable. "Yes, you may save money at the onset but somewhere down the line your non-disclosure will come back to bite you," Abraham says.

"Often, insurers root out mistakes early on. In the course of processing applications, details are checked by referencing various and extensive databases, and at a minimum, that would mean more expensive premiums or even any cover being denied by service providers," he says. Furthermore, if initial misrepresentations are revealed further down the line or when claims are submitted, your cover will be void. It is essentially fraud. Apart from not being insured, potential legal consequences also exist.

Abraham says that inflating or overstating claims makes up some of the largest cases of fraud in the local industry. The Association for Savings and Investments South Africa (ASISA) recently released claims fraud statistics for 2015, which revealed that while the number of cases of fraud and dishonesty uncovered almost halved from 8 306 cases in 2014 to 4 381 in 2015, the average value of these claims has risen substantially. "The bottom line however not revealing the true value or state of your affairs, whether in oversight or by intent, like underestimating your valuables or not revealing your alarm system is broken, there is no doubt that your policy will not pay out what you expected and not sufficiently cover your losses."

Abraham says as a policyholder, you need to not only be truthful with your insurer but also re-evaluate your circumstances and cover constantly. It is also important to understand the general principles of short-term insurance, he says. Mutual & Federal provides the following advice to potential and standing policyholders to ensure they always have all their bases covered:

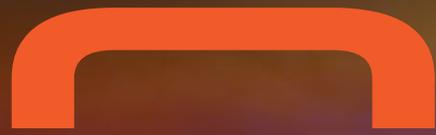
- The assessment of your risk profile and subsequent premium and insurance cover is based on the full disclosure of all material information. Be honest with the facts when you take out insurance, and maintain this honesty throughout your relationship. You don't want your cover to become voidable when the non-disclosure becomes known.
- You can't insure something in which you don't have an interest. For example, when adult children move back home and bring with them their own assets, which they don't bother to insure. Unfortunately, parents cannot cover the risks on their behalf but can include their name on the policy so that these assets are included.
- Most people don't have adequate cover for their household contents and the insurer can penalise you for being under-insured and can pay you out in terms of the average value of assets as stipulated on the policy. It is important to revalue your assets annually to ensure you have sufficient cover. You don't want to fall short when assets need to be replaced.

- Be aware that the onus is on you to prove your losses. Keep proof of purchases of valuable items, take photographs of each item in your home and keep a record of it.
- Take note of exclusions like “no water damage”. Some insurance companies exclude water damage to an engine.
- Be aware of multiple excesses. Some policies apply multiple excesses, meaning that in addition to your standard excess others may apply. For example, young or new drivers who haven’t had a license for a certain number of years, can be liable for an additional excess. Another example would be if you have an accident within six months of obtaining cover.

“Most importantly, read your policy carefully. If there is anything that you don’t understand, ask your broker or insurer to explain it to you. Furthermore, if you have a complaint against your insurer, you can contact the Ombudsman directly. The role of the office of the Ombudsman for Short-term Insurance is to provide an independent, fair and cheap dispute-resolution service to the public. You can contact the ombudsman on telephone 011 726 8900 or sharecall 0860 726 5501 or email info@osti.co.za. Or go to their www.osti.co.za,” concludes Abraham.

Source: <https://www.fanews.co.za/article/short-term-insurance/15/general/1217/don-t-lie-to-your-insurer-here-s-why/22267>

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For more information contact : +27 (0) 51 448 8188



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