the CORE group

360°

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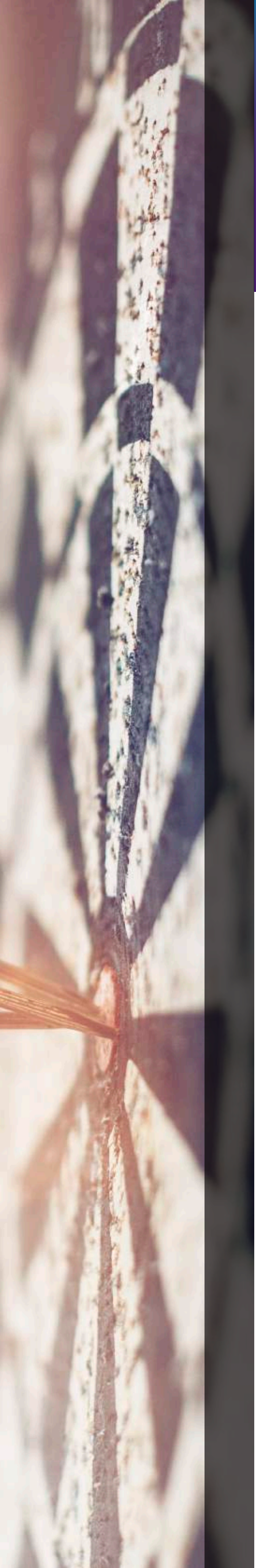
AIM AND HIT THE TARGET

the future - now



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Ten things you need to know about the budget

How government will raise R36 billion in revenue:

Spending will cost more
Government has taken the step to increase the VAT rate from 14% to 15%, raising an additional R22.9 billion to meet the fee-free higher education costs and reduce debt. This does not apply to 19 basic food items which include dried beans, samp, maize meal, rice and brown bread. Note, however, that National Treasury has deemed low GI bread and rye bread as non-essential food items and VAT will now apply.

Sugar tax is to be introduced and although the details are not yet released, this is expected to raise an additional R1.9 billion as a "health promotion" levy. The excise duty on luxury items will increase from 7% to 9% (this includes cosmetics, electronics, smart phones and golf balls) and excise duty increases on motor vehicles from 25% to 30%. There are also increases on plastic bags, incandescent light bulbs and the usual increase in "sin taxes" will see tax increases of between 6% to 10%.

All these increases will be in addition to the VAT increase, so expect your budget to feel the pressure. These are all effective from April 1 2018.

Don't be fooled by 'no increase in personal tax'
After the increase last year in the top tax bracket to 45% and a percentage increase in tax rates in 2016, no extra personal tax increases have been announced. However, the top four tax brackets will receive no relief from fiscal drag – in other words the tax tables will not be adjusted for inflation, while lower tax brackets will only receive partial relief.

This will effectively cost income tax payers an additional R6.8 billion, raising the total amount collected in personal income tax to nearly R506 billion. For example, an individual earning R550 000 a year receiving an inflation adjusted salary increase of 6% would pay an additional R8577 in tax.

Filling up your car will be more expensive
The increases to the fuel levy and Road Accident Fund levy are significant, increasing by 22c/l and 30c/l respectively. The fuel levy increase will add R1.22 billion to government revenue. This means a 50-litre tank of petrol will cost you R26 more and in total you are paying R168 in tax each time you fill up, and R96.50 to the RAF.

Estate duty wealth tax
Given significant increases in capital gains tax and dividend withholding tax in the last few years, no additional increases on investment taxes were announced. However, estate duty on estates worth more

than R30 million will be increased from 20% to 25%. To limit the staggering of donations in an attempt to avoid the higher estate duty rate, donations above R30 million in one tax year will also be taxed at 25%. This is expected to raise R150 million in additional tax.

Medical scheme tax credits phasing out

Although National Treasury has not scrapped the medical scheme tax credits, it is providing less than inflationary adjustments. Over the next three years below-inflation increases in medical tax credits will help government to fund the rollout of national health insurance. Medical tax credit increases from R303 to R310 (2%) for the first two beneficiaries, and R204 to R209 (2.5%) for remaining beneficiaries.

What government will spend on:

Fee-free higher education and training

This year R34.9 billion will be transferred to universities and R22.8 billion to the National Student Financial Aid Scheme. As announced in the State of the Nation Address, new first-year students with a family income below R350 000 a year at universities and TVET colleges in the 2018 academic year will be funded for the full cost of study. This will be rolled out in subsequent years until all years of study are covered. Returning NSFAS students at university will have their loans for 2018 onwards converted to a bursary.

Over the next three years R57 billion will be spent on higher education and training. It is the fastest-growing spending category at an annual average growth of 13.7 %. As the increases in tax revenue will not be sufficient to cover this, there will be cuts to other areas of government spending.

Increase in social grants

In order to offset the increase in VAT, an above-average increase in social grants was announced. The old age, disability and care dependency grants will increase by R90 to R1690 on 1 April and by another R10 to R1700 on 1 October. Child support grant will increase from R380 to R400 and then to R410 in April and October respectively. This year a total of R259 billion will be spent on social development.

NHI to get more funding

Over the next three years an additional R4.2 billion will be allocated to the rolling out of NHI, funded by amendments to the medical expenses tax subsidy.

Boost to small business

R2.1 billion will be allocated over the next three years to a small business fund developed between the departments of small business, science and technology and the national treasury to benefit small and medium enterprises during the early start-up phase.

Still too much goes to debt

Debt-servicing will cost government R180 billion this year and is expected to increase to R197 billion next year. This represents over 10% of the total expenditure by government and is almost equal to how much we spend on healthcare. Government debt for 2018/19 will reach R2.7 trillion, equal to 55% of our annual GDP.

Source: http://mayaonmoney.co.za/2018/02/10-things-need-know-budget/

The conversion of a close corporation to a private company

Since 1 May 2011, it is no longer possible to register a new close corporation in South Africa. However, you may still carry on trading under a close corporation that existed before 1 May 2011.

Many clients choose to own a close corporation and still prefer it, because a close corporation gives them the advantages of incorporation, lower costs and simpler administration. Under the new Companies Act of 2008, basically all the advantages that a close corporation had, can now also be obtained by having a private company, including:

- no need to be audited or produce audited financial statements;
- the same annual return fees;
- no annual general meeting.

Should close corporation members decide to convert their close corporation into a private company, the following procedures will be followed:

- Application to convert a close corporation by form COR18.1;
- A written resolution approving the conversion, signed by members holding in the aggregate at least 75% of the members' interest;
- A declaration and consent signed by the members;
- A declaration by current accountant/auditor;
- Mandate;
- Form COR39 indicating the initial directors of the company;
- Memorandum of Incorporation (MOI) to be formed by either submitting a COR15.1A, COR15.1B or a customised MOI for the company.

Additional documentation to be filed with the application if necessary:

- COR25 – change in year-end;
- COR44 – change in auditor or company secretary;
- COR21.1 – change in address;
- COR9.1 – name reservation if the name of the converted close corporation should change.

The above application will then be filed with the CIPC. A response on the conversion can be anticipated within 20 working days.

What happens with my company documents after the conversion?

- The CK1 form (registration certificate) is being replaced with a COR18.3;
- The entity will receive a COR14.1 and COR14.1A, the appointment forms of the newly appointed directors of the company;
- MOI (memorandum of incorporation) – the rules of the company, in either:
  - a standard form represented by a COR15.1A
  - a long form, represented by a COR15.1B
  - a customised MOI, should this be a preference
- Share certificates issued to the shareholders of the company.

CORE tax

Loans to companies and trusts: A practical look at section 7C

Many of us, especially those who have a significant number of assets and want some form of protection, have created trusts to benefit and administer our estates in such a way as to minimise risk and, as a consequence of common law and legislation, draw on the tax benefit it offers.

In the past, most donors chose to sell property to their trusts for tax planning purposes. Up to the recent amendments, donating property was far less beneficial because tax laws only allow for a R100 000 donation tax exemption when a person donates an asset to a trust and also, the donation is taxed at 20% of the value of the donation.

As another option, a person can sell the asset to a trust on loan. Subsequently, the trust will record a loan in favour of the seller and the loan will be subject to no interest or, at most, a below market interest rate. Section 7C was then brought into the Act specifically to curb this type of avoidance schemes and makes provision for donations tax to be levied at a rate of 20% to the extent that loans by natural persons or companies to a trust are not subject to the SARS official interest rate.

Since the introduction of the section 7C anti-avoidance measure, taxpayers have discovered ways to avoid the deemed annual donation triggered by the anti-avoidance measure, mostly by the use of two different type of schemes:

- Interest-free loans, advances or credit and low interest loans, advances or credit made to companies owned by trusts;
- Transfer of loan claims to current or future beneficiaries of trusts.

In order to curb the abovementioned avoidance, the Act was amended for interest free or low interest loans, advances or credits that are made by a natural person or a company (at the instance of a natural person) to certain companies to also fall under the anti-avoidance measures.

The companies affected by this change are all companies where at least 20% of the equity shares are held, directly or indirectly, or if the voting rights in that company can be exercised by the trust or by a beneficiary of the trust.

Under the second avoidance scheme, taxpayers who enter into an arrangement under which the loan claim of the natural person who made the loan, advance or credit to the trust is transferred to another natural person. The natural person that the loan claim is transferred to is usually a current beneficiary of the trust or a future beneficiary of the trust to which the loan, advance or credit is made, such as a child or a spouse. By subsequently transferring the loan claim, taxpayers argue that this breaks the link between the natural person who advanced the loan and the loan. Because of this, the natural person to whom the loan claim is transferred does not account for the deemed ongoing and annual donation as that natural person did not advance the loan to the trust.

To curb this scheme, another anti-avoidance provision was brought into the Act. Where a person that is a connected person in relation to a trust acquires a loan claim to an amount owing by that trust in respect of a loan, advance or credit that was originally advanced by a natural person or a company (at the instance of a natural person) to that trust, the person who acquires that claim will be deemed to have advanced the amount of that claim as a loan on the date that person acquired that claim.

When will section 7C apply to companies?

There is certain obvious scenarios where section 7C will apply, such as where Mr X owns 75% of the shares in company Y and makes an interest free loan to Company Y.

Then there are also the scenarios where the structure is a bit more complex, such a where Mr X owns 100% of the shares in company Z. Company Y held 100% of the shares in Company Z. Trust XYZ owns 22% of the shares in Company Y and Mr X is the only beneficiary of the trust. Where a loan would be advance in this instance, it will also be subject to section 7C.

What possible alternatives/solutions is there for the avoidance of section 7C?

Where loans were advance by a natural person to a company, it might be beneficial to convert the loan to share capital. Care should be taken to ensure that the value of the share capital in the end will be the same as the value of the loan to avoid that section 19 of the Income Tax Act or paragraph 12A of the Eighth Schedule takes effect. As such a lot of care should be taken that the exchange is done at market value.

The disadvantage of this alternative is that it puts the loan back into the hands of the natural person for estate duty purposes and the growth on these shares will then again take place in the hands of the natural person.

Where the loan was advance to a trust, it would seem that the most effective way to deal with this loans in the long term would be by donating the property to the trust. This does, however, have a severe cash-flow effect and was not done in the past as it was too expensive.

Tax laws only allow for a R100 000 donation tax exemption when a person donates an asset to a trust and also, the donation is taxed at 20% of the value of the donation.

However, if one say that you make a donation to the value of R9 000 000, the donation tax thereon calculated at 20% comes to R1 800 000. In the same scenario, if the selling price of an asset is R9 000 000 and it is done by ways of an interest free loan, the section 7C deemed donation will be calculated as R9 000 000 times the official interest rate (currently 7.75%), the deemed donation comes to R697 500 per annum. The donation tax on this amount would mean a yearly cash flow of R139 500 for donation tax. If the whole scenario is looked at in such a way, it will take 12.9 years before the same donation tax would have been paid on the deemed interest than on the donation of the asset.

Therefore, although it will have an unwanted cash-flow impact, it might seem that the only way to be cost-effective in the long run will be to donate the assets.

Section 7C sure does bring challenges along with it and only the future will tell in which direction we will go.

Prepared by CORE Tax
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CORE
trusts & estates

Is your deed of trust really up to date?

Much is being written about deeds of trust and specifically about stipulations in deeds of trust that could cause problems. This include instances where one of the trustees has too much authority in terms of the deed of trust, which can lead to that person effectively controlling the board of trustees. This article focuses on the positive – those stipulations that should be in a deed of trust in order to make life a bit easier for the trustees.

When a family trust is set up initially, the estate planner is often still young and the children small. The beneficiaries of the trust, parents and children, all have the same needs, namely care and provision. It is thus easy for trustees to manage these needs.

However, twenty years later this trust could hold three farms and all three sons are probably involved in the farming business with their father. The idea is that each son should "inherit" a farm. But now all the farms belong to a discretionary trust and not to the father, who can make decisions about the inheritance. All three farms belong to the board of trustees in their official capacity and they have to manage these to the benefit of the beneficiaries. This could cause tension as the sons might have their own families to care for but no guarantee that the trustees will continue to care for their families should they no longer be there to take care of their interests.

A solution can be to structure the deed of trust in such a way that instead of one group of beneficiaries more groups of beneficiaries are described – in this case three groups, with the parents and each of the sons and his dependents the beneficiaries of the various groups. It can be stipulated that all groups of beneficiaries must have representation on the board of trustees at all times and that the trustees may identify specific assets of the trust that can be administered to the advantage of a specific group of beneficiaries. It may even be stipulated that, when the trustees exercise their discretion to distribute income or capital from the trust, it is always done in a specific ratio between the groups of beneficiaries.

Another useful stipulation to include in a deed of trust is to assign specific authority to the remaining trustees to sign the necessary forms in order to claim from an insurance policy in case of the death of a trustee who was the insured life in terms of life insurance.

Insurance policies of which the trust is the owner often serve as provision for the deceased's dependents. If the trust authorisation letter has to be changed in order to remove the deceased as a trustee and to appoint someone else it can be a long time before the death benefit could be claimed.

Another stipulation in this regard is where someone wants their pension or annuity benefits to be paid to their family trust to provide for their dependents. However, this creates a problem with section 37C of the Pension Act. In terms of this section the trustees of the pension fund have to determine who the dependents of the deceased are before deciding on a fair distribution. The result is that the benefit may not be paid to a trust because the trustees of the trust might also benefit other people with this benefit. The solution is to include a specific stipulation in the deed of trust that gives trustees the authority to use the benefits from a pension or annuity fund specifically to the advantage of the dependents and to keep a separate account of this in order to adhere to the stipulations of section 37C of the Pension Act.

Please make sure that your deeds of trust are in order.

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CORE valuations

Replacement value vs. market value vs. municipal value

In the field of property valuations people often do not fully understand the difference between replacement value, market value and municipal value. This article illustrates the differences through some practical examples:

Replacement value refers to the estimated amount that a person would pay to replace an asset at a certain time and according to its current worth by using the same standard of finishings. This value will be relevant in insuring your property or assets in the event of damages incurred.

Practical example: People often insure their properties at market value or, even worse, at a low municipal valuation. This could be disastrous when claiming for insurance purposes. Should you insure your house at a market value of R800 000 and the replacement value was actually R1 400 000, you will be under-insured at about 42.5 %. This will also mean that should your claim be R100 000 on your home and your insurance company found that you were under-insured, they will only pay out R57 500 instead of the actual loss of R100 000. It is therefore imperative that you insure at the correct replacement value.

Market value is the estimated amount for which an asset should exchange hands on the date of valuation between a willing buyer and a willing seller after being properly marketed.

Practical examples: When buying or selling a property a person should look at the market value of a property. This would be the value of the property in the current market. If you put your property in the market at a too high value, it will be in the market for a long time. On the other hand, should you sell your property at a lower value you run the risk of financial loss. Rather get a professional valuation and make sure of the correct property value.

This is also a good idea even when using an estate agent, as the professional report will give you more bargaining power with the agent and the potential buyer. Estate agents are there to find you the right house, but with an independent third party's valuation, you will know it is at the right price. A recent example is for a valuation done for a client who emigrated to Australia. The client was prepared to sell the property at a municipal value of R1 720 000. However, CORE Valuations valued the property at R2 450 000. After negotiations, the potential buyer agreed to a sale price of R1 900 000. This means that the client received R180 000 more by just spending a couple of thousand on a professional valuation. Make sure that you are selling at market value!

People should also be careful when improving their properties in certain areas of a town. Let's say you have a property with a market value of R500 000. Without determining the market value first, you spend R300 000 on improvements. You might now be under the impression that the property has a value of approximately

R800 000 to R900 000. However, market research then shows the highest property in your area sold for only R600 000. This immediately resulted in an over-capitalisation of R200 000. Make sure you know the market value of your property!

Municipal value is the value determined by local authorities by means of making a periodical survey of the land and all improvements in their jurisdiction. This survey is carried out by a municipal valuer, appointed by the local authority. This valuer determines the value by using a mass appraising system. Such valuation then helps the local authority in charging municipal tax on the properties.

Practical example: People should also check their latest municipal valuations. If your property has been valued too high, you will pay higher property tax. Although the tariffs vary from municipality to municipality as well as property type to property type, in some areas it could mean an extra R24 per year for each R1 000 valued too high. In the latest Johannesburg Valuation Roll, the value of some properties quadrupled! If we then apply the same tariff, as indicated above, property tax on a property which increased from R5 000 000 to R20 000 000 will mean an increase on property tax from R118 960 per year to R475 840.

In the fragile market of today it is well worth spending a few thousand rand on a professional valuation in order to make sure you don't lose hundreds of thousands!

Prepared by CORE Valuations
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Executrain – making education exciting

It is not often that you hear the words “fun” and “learning” in the same sentence. Bridging this gap is why CORE Executrain was developed. As leaders in the professional training industry, CORE Executrain understands the dilemma our clients are faced with when hearing the phrase “Continuing Professional Development”. Too often it means a lot of time-consuming and boring work before you can reap the rewards. Though the idea of self-development is exciting, the proses is usually a bit dull, extinguishing any form of motivation. At CORE Executrain we know that having fun is the key to make any learning process exciting.

It is a well-known fact that having fun has a positive effect on motivation. Motivation not only influences what we learn and how fast we learn, but also how much we retain of what we are trying to master. The saying goes that the proof of the pudding is in the eating, but in our case the success is in the seminars. The huge success of our series of live seminars can largely be attributed to the level of engagement our hosts entice from their audiences. By taking scenarios provided by individuals attending the seminars, our hosts are able to form appropriate case studies to explain the effects of legislative amendments as well as the implementation of new legislation applicable to the seminar’s topic. This makes every seminar different, fun and educational!

Although our CGT (Capital Gains Tax) seminar is mainly focused on the impact of CGT on the disposal and acquisition of assets (including investment decisions), it also includes a short overview of the CGT rules. This makes the seminar easy to grasp by any person involved in capital gains related transactions – not only tax practitioners and attorneys.

Our Trusts and Estates seminars are mainly aimed at professionals such as estate planners, brokers, auditors and lawyers, but are developed in such a way as to cater to any person involved in estate and tax planning. This seminar also concentrates on practical estate planning, making it enlightening to anyone who decides to attend.

Winston Churchill once said, “Personally I’m always ready to learn, although I do not always like being taught.” At CORE Executrain we believe that if you take the time to make every learning experience a compelling and enjoyable one, you will encourage your clients’ desire for knowledge, building a better professional legacy.

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