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# Pit stops along the route of the financial year

We live in an era in which time flies and we are often in such a hurry that we miss the beauty next to the road. Sometimes we are forced to stop on our journey to somewhere through Mother Nature and sometimes we stop voluntarily to take in the beauty that surrounds us.

As on our journey through life, there are a number of pit stops which we should be aware of during the financial year. How we experience these pit stops depends on the implications of these stops for our business and our lives. By knowing these pit stops, we can plan better and thus make the journey much more pleasant.

## Here are the important pit stops on the annual calendar:

**January**

SARS:  
Submission of tax returns for trusts & individuals

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**February**

FINANCIAL YEAR-END:  
Stock takes;  
Livestock numbers;  
Payment of second provisional tax; Submission of tax returns with February year-end

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**May**

Submission of annual IRP5 reconciliations;  
Submission of annual return on earnings to the compensation fund.

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**August**

Payment of first provisional tax

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**September**

Payment of third voluntary payment

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**October**

Submission of six-monthly IRP5 reconciliation

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## Dispute resolution process and condonation of late objection

A taxpayer who is aggrieved by an assessment made on the taxpayer or by certain decisions made under the Tax Admin Act or tax acts may object to and appeal against those assessments or decisions under the Tax Admin Act. However, it should be highlighted that the period during which an objection or appeal may be lodged is limited. An objection against an assessment or decision must be lodged in the manner, under the terms and within the period prescribed in the rules.

If a person's objection has been disallowed, they may appeal to the Tax Board or Tax Court against that outcome and in such an event the appeal must be lodged in the manner, under the terms and within the periods prescribed in the Tax Admin Act and the rules. A senior SARS official may, within prescribed limits, extend the period prescribed in the rules within which an objection or appeal must be lodged. An aggrieved taxpayer may, before lodging an objection, request the reasons for the assessment within 30 days from the date of assessment.

A notice of objection may be issued to the Commissioner, within 30 days after the date of the assessment or decision when no reasons for the assessment are requested by the taxpayer; the delivery of a notice by SARS stating that adequate reasons for the assessment had been provided; or the delivery of a notice by SARS providing the reasons for the assessment as requested by a taxpayer.

It should be highlighted that the definition of a day is defined as a business day in terms of Rule 1 of the Tax Admin Act. A business day means any day which is not a Saturday, Sunday or public holiday, and excludes the days between 16 December of each year and 15 January of the following year, both days inclusive.

An objection that is not lodged within the time limit of 30 business days is an invalid objection. However, there is an escape clause. A senior SARS official may extend the period for lodging an objection by another 30 days if satisfied that reasonable grounds exist for the delay in lodging the objection. A taxpayer can also request an extension before the expiry date of that period if they are aware that the deadline will not be met. The extension will run from the expiry of the 30 business days stipulated in the rules irrespective of when it is requested.

For the purpose of considering an extension to the period for lodging an objection, the senior SARS official is required to consider all relevant matters. These would include the reasons for the delay; the length of the delay; the prospects of success on the merits; and any other relevant factor. A senior SARS official may also extend the date for lodging an objection by between 30 business days and three years if satisfied that exceptional circumstances exist which gave rise to the delay in lodging the objection. No extension can be granted for a delay of more than three years from the date of assessment or decision, or an objection that relates to a change in the practice generally prevailing at the date of assessment or decision.

If the taxpayer is still dissatisfied with SARS's decision to disallow the objection, the taxpayer may appeal against that decision within 30 business days after the date of the notice informing the taxpayer of the

decision. A senior SARS official may extend the period of 30 business days prescribed by the rules within which to lodge an appeal by 21 business days if satisfied that reasonable grounds exist for the delay in noting the appeal or up to 45 business days, if exceptional circumstances exist that justify an extension beyond 21 business days. Exceptional circumstances may include, for example, a natural or human-made disaster, a civil disturbance or disruption in services, a serious illness or accident, or serious emotional or mental distress.

In a recent court case, IT 0038/2015, the taxpayer was audited by SARS in May 2014. Assessments were raised against the taxpayer in December 2014 in respect of various taxes. The taxpayer had to lodge its objection by 2 March 2015, but only did so on 5 June 2015, meaning it was 65 business days later. SARS disallowed the objection in a letter dated 22 June 2015, as “no exceptional reasons had been furnished”, upon which the taxpayer appealed against SARS.

During the judgement, the court held that in order to satisfy the “exceptional circumstances” requirement in section 104(5)(a) of the TAA, the onus was on the taxpayer to prove that there were “... unusual facts ... which have a causal connection to the delay which resulted”.

The taxpayer had a number of arguments:

- First, the assessments and objections thereto involved complex issues of law. This argument was rejected as the nature of the complexities were never indicated.
- Second, the delay was due to the courts being closed over December 2014 and January 2015, during the court recess period. The court rejected this argument as the courts’ closure had no impact on lodging the objection to SARS on time.
- Third, the taxpayer alleged that it was negotiating with SARS from December 2014 to March 2015. Except for a visit by the taxpayer’s auditor to the SARS offices on 19 January 2015, there was no evidence that meetings had taken place between the taxpayer and SARS. This argument was consequently rejected.
- Fourth, the taxpayer became dissatisfied with the abilities of its auditor and stopped using his services. The court rejected this argument and held that the taxpayer seemed to be dissatisfied with SARS’ response as opposed to the competence of its auditor. This appeared to be the case, as a letter prepared by the auditor was very similar to an undated opinion of counsel, which formed part of the papers and was apparently acceptable to the taxpayer.
- Fifth, the taxpayer was only able to obtain new professional advice from a practitioner in Florida and received the name of his legal representative in April 2015, who then prepared an undated opinion for the taxpayer. As the taxpayer is based in Springs, on the West Rand, the court took judicial notice of the fact that there were a number of other attorneys’ firms in the “... Witwatersrand region and up into Sandton ...”, that the taxpayer could have approached after receiving the assessments in December 2014.

The court concluded that none of these arguments proved the existence of unusual facts, which were causally connected to the delay.

This legislation might cause risk for tax practitioners if a late objection is lodged since there is no guarantee that it will be accepted. Tax practitioners might be held liable if it can be proven that the delay were caused by them. Therefore, care should be taken to stay within the given time frames for lodging an objection or appeal.

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## Social protection, food production and the demand for food

A recent report of the United Nations' Food and Agriculture Organisation (FAO) that caught the eye focuses on the impact of cash payments (grants or social protection) on the improvement of the socio-economic conditions and decision-making abilities of women in rural areas. The most important findings support other evidence that points to higher productivity on primary agricultural level where women are in control versus what men can deliver in similar circumstances.

Social protection in the form of cash payments from government is standard practice in more than 50 countries around the world, according to the World Bank. This protection is primarily aimed at poverty alleviation – a type of safety net – and not at economic empowerment. However, the outcomes (although unforeseen) are forcing policymakers to reconsider the aim and impact of these grants. This change in perspective is the result of the fact that the recipients of social protection in almost all instances are poor women in rural areas. What is important though is what these women achieve with their grant money. Measuring the impact is of course a challenge. However, more and more evidence points to the fact that grants in the hands of women in rural areas provide financial control, which leads to empowerment and in an unforeseen manner contributes or can contribute towards rural development.

Women are considered to be economically empowered when they have the ability and desire to make and execute economic/financial decisions, reap the reward of this empowerment and have the power to do it. There are reported instances of improved land use, ownership of livestock, agriculture and increased expenditure on agricultural inputs where women were the primary beneficiaries.

In South Africa the nearly 1 out of every 2 households (45.5%) benefits from the nearly R121 billion through seven long-term grants, according to Statistics South Africa. For every R100 spent, R42 go to families and children, R41 to pensioners and R16 to those who are ill or handicapped. When taking into account that the poorest 30% of the population now spend more than 50% of their income on food and the fact that food inflation is highest for this group, grants play an indispensable role. It provides a safety net and is also relevant in terms of the demand for food. These grants account for about 4% of the GDP of South Africa. In the right hands, those of women in rural areas, significant growth within unique value chains could be created. It should become an additional performance test, especially in light of doubt over the relevant department's ability to continue managing grant payments during 2017.

A mind shift from the general public is also required as a number of misconceptions regarding grants have been debunked by research conducted by the University of Johannesburg. These include that grants make people lazy and dependent on the state. However, the opposite is true, namely that people do not want to be dependent and most grant recipients are looking for employment. Grants cannot provide in all necessary needs. Secondly, the misconception that teenagers deliberately fall pregnant to qualify for children's grants has been refuted through evidence that proves that very few teenage mothers apply for children's grants. Similarly there are allegations that parents claim/receive children's grants for children who are not living with them. However, research indicates that 92.2% of the recipients of children's grants live with their parents/guardians. There is also a general misconception that grants are squandered on alcohol, etc. However, the opposite is true, which is promising, namely that the largest part of grants are used for basic necessities such as food and other expenses like school fees and health.

As with all other renewable resources, agriculture should keep in mind the effectiveness of delivering grants. Good information is available on the reach of each R100 grant, but the cost of "delivering" the R100 is equally important. Agriculture is very dependent on the demand that is generated and any contribution to the supply side could complement agriculture's goal of affordable food and the resultant decrease in household food insecurity.

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## Some possible impacts of the **Trump** administration

The presidency of Donald Trump has the potential to be a revolutionary moment in global politics. The new US president appears to reject some of the basic principles on which American foreign policy has been based since the end of the Second World War, including the promotion of international trade and a global security system based on a network of US-led alliances. The question is what will happen when Trump's big ideas collide with the real world? Gideon Rachman of the Financial Times compiled this issue-by-issue guide to some of the main places and problems to watch out for in 2017:

### **Russia**

Trump is an open admirer of Vladimir Putin, which could lead him to lift sanctions on Russia and to accept the annexation of Crimea. But any such policies are likely to bring Trump into direct conflict with the US intelligence community and with influential members of his own Republican party.

### **North Korea**

The biggest looming security crisis facing Trump is probably North Korea. By the end of the Obama years, concerns were mounting over North Korea's nuclear capabilities. Trump's initial comments on the subject suggest that he believes that increased pressure from China could force the North Koreans to abandon their nuclear programme. But gaining Beijing's co-operation could be impossible – against a background of rows over trade and Taiwan.

### **Trade**

During the election campaign, Trump was visceral in his denunciations of China. Those who hoped that Trump would abandon protectionism after winning office were quickly disappointed. On the contrary, the new president placed protectionists in key positions in his administration. If Trump follows through on his threat to impose swinging tariffs on Chinese goods, he would certainly provoke retaliation. A trade war would ensue, poisoning commercial relations between the first and second largest economies in the world – and damaging the entire global economy.

### **China**

The threat of a real war between the US and China has also risen following Trump's election. The deliberate but careful attempts of the Obama administration to push back against Chinese ambitions in the Asia-Pacific region are likely to be replaced by a new Trump approach that is much more openly confrontational. If there is a broader strategic thrust to Trump's thinking, it could be to split apart the informal alliance between Russia and China – and instead form a Washington-Moscow axis designed at containing Chinese influence.

### **Europe**

There are crucial elections in France, the Netherlands and Germany this year. There is now fear in the French and German governments that Trump may seek to help the European far-right. In that case, both the Kremlin and the White House would be working towards the defeat of the German chancellor.

### **Brexit**

One huge disruptive factor for the global economy and for the Western alliance is Britain's determination to leave the EU. The formal negotiation process is unlikely to go well because the gap between the expectations of the British and EU sides is enormous. The British want to restore control over immigration from Europe and restore the supremacy of UK law – while maintaining complete free trade with Europe. The EU will refuse to do this. Unfortunately for the UK, the negotiating process hugely favours the EU because if no new agreement is reached, the UK will simply fall out of the EU after two years. The British may look to the Trump administration for assistance – either in the form of pressure on the EU, or through the offer of an alternative free-trade deal with the US.

### **The Middle East and terrorism**

Trump has consistently advocated a much more ferocious approach to the war on "radical Islamic terrorism". But his advisers disagree about what that might mean. Some want the US military to go plunging back into the Middle East. Others argue that such a policy would push America back into the quagmire of war – while provoking new terror attacks. They will advocate a more isolationist approach that focuses on homeland security.

Source: <http://www.coronation.com/za/institutional/the-new-trumpian-world-january-2017#>

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## Estate planning: How do I obtain affordable professional advice?

We often hear how important proper estate planning is. Estate planning entails a strategy and the development of a plan to protect your assets in life and following your death as well as to structure these assets in such a manner as to enjoy optimal tax advantages and concessions.

One of the most important estate planning documents is a properly drafted will. Even for the most basic planning a client should have a properly drafted will. Normal planning is preceded by a trial administration of a client's estate conducted to establish the costs and taxes involved. This involves an analysis of your assets and liabilities as well as the costs payable at death. Many people are under the impression that the only costs payable at death are outstanding debt. However, there are many hidden costs which are often forgotten. These include amongst others estate costs such as funeral costs, the executor's fee, valuation and advertising costs as well as transfer fees of fixed property. There are also a number of taxes payable at death, including income tax, estate duty, capital gains tax, etc.

A person's insurance portfolio forms an important part of his/her asset structure and should be included in detail as part of proper estate planning. It also serves as important provision to provide the correct amount of money at the correct time, firstly to ensure all responsibilities are met and secondly to make provision for the deceased's dependents.

Proper estate planning should also include a revision of the structure of a client's estate to determine whether current structures are optimal or whether new or alternative options should be considered. Existing trust deeds should be reviewed to ensure that it keeps up with changing legislation and court decisions.

Due to its nature a lot of time is spent on proper estate planning and should professional advice be utilised, there will be costs involved. In this regard CORE Trusts & Estates and CORE Financial Services present you with a unique value proposition. It entails that CORE Financial Services undertakes to stand in for some or even all the costs of estate planning should an insurance need be identified as part of the estate planning and should you be prepared to address this insurance shortfall through CORE Financial Services. Please contact us should you require any further information in this regard.

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## POPI and its implications for your business

The promulgation of The Protection of Personal Information Act (POPI) in the Gazette on 26 November 2013 means you are required to update your PAIA Manual to incorporate the POPI.

### What is POPI?

The purpose of the POPI Act is to ensure that all South African institutions conduct themselves in a responsible manner when collecting, processing, storing and sharing another entity's personal information, by holding them accountable. ALL information users now must have strict chain-of-custody processes in place.

### By when?

The President has declared parts of the Protection of Personal Information Act No 4 of 2013 effective from 11 April 2014. The National Assembly appointed the Information Regulator on 7 September 2016. The Regulator will enforce compliance.

### Who must do what?

This is actually very good news. Our personal information has now become "treasured goods", which means you now have the legal rights of protection and the ability to exercise control over your information. Businesses or persons who use/hold/verify or even request your personal information must now conform to the Act.

### Your staff, clients, suppliers, associates and co-owners and you have the right to know and consent to:

- When you share your information
- What you choose to share
- How your data will be used
- Have access to your information
- Know who has access to your information
- Know where your information is stored
- Be assured of the accuracy of your information

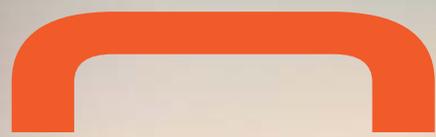
### What is "personal information"?

Personal information includes: ID/ passport number, date of birth, age, phone number, email, physical address, gender, race, biometric data, criminal record, employment history, salary information, etc.

### What if I don't?

Up to R10 million in fines or 10 years in jail! The act has serious implications for representatives such as company directors as well as compliance officers and principals. **NO BUSINESS IS EXEMPTED FROM COMPLYING WITH THE ACT.**

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