Theron Le Roux
Accountants / Rekenmeesters

We care about your business

Assosiaat Algemene Rekenmeester (SA • Associate General Accountant (SA)
Professionele Rekenmeester (SA) • Professional Accountant (SA)
Belastingpraktisyn • Tax practitioner

38 Akasia Street George East 6529 • ✉ 4529 George East 6539 • Tel: 044 871 5067 • Fax: 044 871 5082

WITH COMPLIMENTS

e-mail : jgmt@jgmt.co.za

AGA(SA)
ASSOCIATE GENERAL ACCOUNTANTS SOUTH AFRICA

Forward email

Online Printable Version

KEEPING YOU IN TOUCH

ca[sa].news

In this Issue

JUNE 2012

BEWARE: BIG BROTHER SARS IS WATCHING!

Subscribe

Taxpayers beware: SARS are now going to third parties to collect information about you. They already have all your IRP 5 information captured in their system – you can easily see this if you are on E-filing.

SARS have now written to all banks and financial institutions requiring them to send a return to SARS twice a year, containing the following:

- Account number, identity number or registration number of the owner, whether the account is FICA'ed, and income tax number of the account holder
- Amounts deposited, invested or lent to the taxpayer
- Interest received or accrued to the taxpayer
- Monthly movements on the account i.e. totals of debits and credits on the account
- The first return covers the period 1 March to 31 August 2012 and the second from 1 September to end February 2013.

What does this mean? To date institutions have sent IT3s to taxpayers detailing the amount of interest earned or paid and the final balance on the account at end February. It's possible (although not clear) that SARS will have this information loaded directly into their system and when you do your 2013 return, SARS may already know how much interest you earned or paid.

Be ready for queries

The other significant point is that SARS will have access to your transactions and may ask you why, for example, there was a large deposit into your account and whether the deposit is included in your taxable income. *Be ready to answer any such queries so you don't get yourself into an awkward situation with SARS.*

Now that SARS is getting information from third parties about you, one wonders what their next step will be. Big Brother is getting closer all the time!

YOUR WILL: THINK, AND PLAN IT

We don't like to think about our mortality. At the same time we don't want to leave our affairs in a mess for our family and friends to sort out. Not giving careful thought to our estate could reduce the benefits to our beneficiaries. It could also be financially harmful to them.

The starting point: what do I own and what do I owe?

1. Write down all of your assets. To ensure you account for them all, check your records and check with your accountant and any other financial advisers you have. It is funny how sometimes assets pop out we never knew we had.

2. What are my liabilities? Most of the information should flow from our assets. *Don't forget things like sureties you may have provided* – these may be called up on your death. If so, you need to plan accordingly. You also need to be aware of what happens to your liabilities after you die. Some will be paid out with insurance policies, like mortgage bonds and others will, as with sureties, fall due for payment. We need to plan for any eventualities.

What falls into my estate for estate duty and what is excluded?

Some of your assets do not fall into your estate such as certain exempt life insurance policies (others are "deemed" to be property in the estate). These proceeds go directly to your nominated beneficiaries. The important consideration here is to keep track of all beneficiaries and make sure they are registered with your insurance company, so that paying them out runs smoothly after your death. As you can see, your will is an ongoing process and needs continuous updating – *diarise to do so at least annually*.

Other assets excluded altogether from your estate are pension fund and other retirement payments made due to your death. Be aware that pension fund trustees have the right to alter amounts you leave to your heirs.

The first R3.5m of your estate is exempt from estate duty, as is anything you leave to a surviving spouse (a bequest to your spouse firstly falls into your estate, but is then allowed as a deduction). As the R3.5m abatement per estate is now portable between spouses, correct estate planning could give you a potential total rebate of R7m in the estate of the second dying spouse.

These exclusions and abatements are important as estate duty of 20% will be levied on the remaining gross value of your estate. Clearly, you will want to minimise estate duty payable.

Note:

1. The assets mentioned above do not fall into your estate for estate duty purposes, but they may be taken into account when calculating executor's fees etc.

2. Estate planning is a complex exercise, and there are many potential pitfalls – you need for example to take possible Capital Gains Tax implications into account. Seek proper advice to ensure that your estate is optimally structured, and consider having your will drawn professionally.

Who do I want to leave it to?

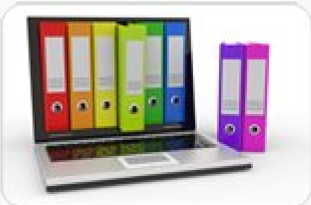
Once we are on top of our assets and liabilities we need to decide who will be a beneficiary and how much will each one inherit? Again we need to give this careful consideration, bearing in mind the discretion pension fund trustees have.

Should I appoint an independent executor?

You need to satisfy yourself that your executor(s) has the requisite skills to administer your estate. You should also bear in mind that your heirs may fall out over the will. If you have doubts, it will be worth appointing one independent executor who will bring experience and impartiality to the winding up of your estate.

Estate planning should not happen in your old age. Start as early as you can and keep monitoring and, if necessary, updating your will.

HOW DO YOU FILE YOUR EMAILS? IT COULD BE IMPORTANT



An avalanche of information

There's no doubt that emails have become our main method of communicating in our business dealings – it is estimated that 90% of our correspondence is by email. It used to be a Herculean task to archive physical documents. The ease of email has meant that the number of documents we create has risen exponentially.

Many businesses faced with this avalanche of information delete emails after a certain period – perhaps as little as three months. Contrast that with the US where all emails are routinely kept for a period of three years.

The risks – and how to avoid them

What are the implications of not keeping emails and/or having no easy way of retrieving them?

The courts now recognise emails as a source of evidence. Laws require us to keep documentation for laid-down periods – for example SARS requires fifteen years. Thus, if we replace our emails on a regular basis, we run the risk of potentially destroying evidence. And that could even be a criminal offence – Goldman Sacks paid a US $8 million fine for destroying emails central to a criminal case. Further, if we have a dispute with a staff member it could be important to have kept a record of his or her emails to see for example if they have been defaming their colleagues or abusing their email usage.

Government has passed legislation on electronic communications including emails. The Electronic Communications Act lays down the how emails are to be stored:

- The information is to stay in its original format (this is to prevent tampering with emails)
- The origin and to whom the document was sent must be identifiable. The date and time the document was sent are also to be shown
- The emails are to be easily accessible

From this it is clear that management needs to have a good document management system along with good use of technology and robust controls like limiting access to sensitive information and good storage facilities. Firewalls, back-ups and a disclaimer policy also come into the mix.

The Constitution guarantees every citizen the right to privacy and part of a document management system must be to put stringent safeguards in place to protect private personal information.

Risk considerations and good governance also dictate that control of information, well indexed for ease of retrieval and kept safely for a minimum period of time is implemented by the business.

So how long should you keep emails?

Finally, how long should the information be kept? It depends under which Act it falls – SARS as mentioned is fifteen years. A rule of thumb (and it is only a rule of thumb, so take advice in any doubt) would be to keep all information not governed by specific legislation for three years. After three years prescription lapses so it makes sense to keep information for at least three years.

In summary, don’t take this lightly - there is much to consider in how we treat and store our emails.

FINANCE 101: WHAT DOES THE E-TOLL DEBACLE MEAN FOR ORDINARY SOUTH AFRICANS?

What are we to make of the recent e-tolling affair? Yes, it was a victory for democracy in the sense that civil society stood up and opposed government efforts to steamroll e-tolling onto Gauteng road users. The scheme’s opponents were successful as the High Court has granted an urgent interdict to suspend the introduction of e-tolling – a ruling which will reportedly now be appealed by government.

Why was government (in particular Finance Minister Pravin Gordhan) so committed to introducing e-tolling, and so committed to the “User pays” principle? At the moment the Minister treads a very fine line. On the one hand, he is trying to create jobs by financing infrastructural projects (such as the rollout of improved rail services and of course improving Gauteng’s roads). On the other hand, he is trying to keep government expenditure under tight control to prevent the budget deficit from escalating above the budgeted figure of 4.6%.

How does government create jobs via infrastructural projects? By their nature such projects are labour intensive; for example, building new roads means plenty of low skilled jobs. Minister Gordhan aims to reduce unemployment by as much as a quarter via government’s infrastructural programme. And bear in mind that unemployment, currently at 25%, is the biggest challenge facing the country.

Why is Minister Gordhan also intent on keeping government expenditure on budget? Ratings agencies like Fitch have put it to the government that they are concerned that state expenditure will spiral leaving the government with a too large deficit to finance. The ratings agencies are skeptical that the Minister can keep the deficit at 4.6% and reduce it to below 4% in the next few years. They point to the government salary bill which is budgeted to grow by 5% this year. Already COSATU is gearing up for a fight over government salary increases.

South Africa suffered a ratings downgrade earlier this year and we do not want to see another downgrade. This is because downgrades push up the cost of government borrowings and add to the government deficit. *Ultimately, this is funded by the taxpayer.*

If you overlay this onto to the global situation where Greece, Spain, Italy and Portugal are dragging the global economy down due to their nations' high indebtedness, it becomes obvious why Minister Gordhan is determined to keep South Africa's debt at manageable levels. *A few more downgrades and we could see some unwelcome economic times ahead.*

The future of e-tolling is now up in the air. The debt of SANRAL (the management company of e-tolling) is R20 billion which government will have to pick up if e-tolling is abandoned. There is no doubt that government could afford this but it comes at a bad time when government is trying to create jobs via infrastructural jobs and to keep its debt levels under control. E-tolling threatens to undermine government's credibility in these two sensitive areas.