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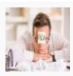
FICA: WILL THE REVISED ACT STILL BE A FOUR LETTER WORD?



The Financial Intelligence Centre Act (FICA) has been operating since 2001 but lately has been revised to bring it into line with global practices and to sharpen its focus of fighting money laundering and terrorism financing.

So common has FICA become that people and banks now talk about "being FICA'd".

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The outcomes of FICA before its revision

Locally, we went for an all-encompassing blanket approach which affects the entire population. In other countries a more risk-based approach was taken.

The impact of the methods used in South Africa was and is that every time we opened a new account or took out an insurance policy or some similar financial decision, we were obliged to submit FICA documents – at the very least, our ID plus proof of residence.

The vast amount of data submitted to (mainly) banks swamped their systems and there are numerous instances of people having to repeatedly re-submit their FICA documents.

Of equal concern was that FICA was more a set of principles than a laid-down methodology which meant different banks required different documents. For example, for proof of residence some banks accepted cell phone accounts emailed to the recipient whilst others only accepted documents physically delivered to a home address (an increasingly rare delivery method).

The FICA process did not allow for any latitude and if you failed to submit your documents on time, you would not be able to use your bank account.

The main changes and how they affect you

The revised FICA requires a risk-based approach from June 2017 (the revisions come into effect in a two pronged approach – the first in June and the balance in October 2017).

Financial institutions will need to identify both foreign "Prominent Public Officials" and domestic "Prominent Individuals". In what is referred to as "Know Your Customer" (KYC), officials need to assess the risks involved with these customers – for example, whether they also operate via trusts or other legal entities.

There is a list of who qualifies as domestic Prominent Individuals; such as politicians both local and national, officers of State Operated Entities and CEOs and finance directors of large companies.

Ongoing due diligence will need to be done on these groups of people and the onus is on the financial institution to ensure compliance with FICA.

South Africa has signed International agreements and will thus assist the United Nations Convention investigating potential perpetrators. Perhaps most importantly, it will make things more difficult for money launderers and other fraudsters.

The implication of this is that FICA should become relatively straightforward for most people as the previously onerous requirements of FICA should lessen for them.

Let's wait and see but the spirit of the amended legislation should make lives easier for most businesses and individuals.

ROBOTS AND THE RISE OF AI: WILL NEW TECHNOLOGY LEAD TO GREATER UNEMPLOYMENT?

"The factory of the future will have only two employees, a man and a dog. The man will be there to feed the dog. The dog will be there to keep the man from touching the equipment." (Warren Bennis, American scholar and author)

We often read how the advent of new technologies, such as Artificial Intelligence (AI), will result in higher job losses. And of course the last thing we need in South Africa is increased unemployment.

A lesson from history: The ATM story

ATMs turned 50 in June and at the time of their invention, it was predicted that substantial job losses would follow.

In fact employment levels rose as banks used the savings from fewer tellers to invest in more branches to sell other bank products such as mortgages and insurance. This resulted in more jobs created at better pay as ATMs reduced repetitive work for more skilled employees.

The logical deduction from this is that, historically, the productivity gained from technology should actually lead to more economic growth with people having higher incomes.

Globally, productivity has been low since 2004 and incomes have not grown significantly except for the top 1% of earners. This seems counter-intuitive as we are in the middle of a technological revolution – let's look at why that is.

The global labour pool

The technological revolution of the 1980s gave a big push to globalisation which integrated economies around the world. Jeans were designed in New York, cut in Vietnam, assembled in China and rolled out globally.

This integration introduced nine hundred million new workers from emerging markets to world labour markets. This led to a surplus of labour and depressed wages globally.

The paradox of current productivity

Today with wages low because of excess global labour, there is little incentive to push for productivity initiatives. In essence, this leaves an uncomfortable status quo with the middle class feeling stuck, the poor making modest gains whilst the highest earners at the top get even richer.

Research has also shown that there is a lag effect between new technology and productivity gains. The introduction of electricity helps explain this. By the 1890s electricity was being mass produced for consumers but it took until the1920s before it was used for widespread industrial production. The reason cited for this is that to use electricity, factories had to be completely redesigned and it took thirty years to figure out how best to do this.

These two factors (excess global labour and the lag effect) explain why, despite technological advances, we are currently experiencing low productivity.

Where does this leave South Africa?

Talk of mass layoffs due to technological improvements in the short term is probably exaggerated. History suggests, however, that in all probability in the next generation, new

In the meantime, there are opportunities to integrate with the global market via unskilled labour. In time these employees enhance their knowledge and begin to move up the skills ladder. It happened in Asia – why can't it happen here?

PROTECT YOUR CLIENTS' PERSONAL INFORMATION FROM HACKERS!

We have been speaking of hacking and ransomware for a while and it just grows and continues to make news.

In a recent case in England, a small to medium-sized entity (SME) was fined GBP 60,000 (over R1m) for failing to take "basic steps" to prevent hackers from gaining access to clients' personal information, including their banking details.

It is important for South Africa, despite the Protection of Personal Information Act (POPI) not yet being effective, as personal information is protected by our constitutional right to privacy. In any case negligence in protecting this information, if it leads to loss, could expose you to a substantial damages claim.

A UK case illustrates the danger

A video hire company with more than 26,000 customers had a coding error on its login page. This enabled a hacker to gain access to the names, addresses and bank account details of its customer data base.

Authorities found that the company had failed to take "basic steps" to protect customer information. These "basic steps" were:

- Adequate testing on their website would have revealed the coding error,
- Customer passwords were simple and prone to attack, and
- Their decryption key was not secure

security algorithms as hackers are aware of most algorithms.

What is "personal information"?

"Personal information" has several definitions in South African law, but POPI, even though it is yet to commence, suggests that it will cover information such as:

- A person's name (including where applicable a juristic person e.g. a company),
- Contact details,
- Religion,
- Sexual orientation,
- Personal views,
- Private correspondence,
- Health records,
- Employment records,
- Financial records,
- Biometrics (DNA, fingerprints) etc.

Check your systems now!

POPI has been promulgated but is waiting for the government to gazette a date for it to be fully effective (after which a one year grace period will commence). The administrative fines for transgressions will then be up to R10m. That is in addition to your existing risk of being sued for millions in damages.

It pays to ensure now that personal information under your control is adequately protected to prevent any chance of being sued for negligence. This will also help you get ready for POPI.

PROGRAMME: TIME IS RUNNING OUT, AND AUTOMATIC INTERNATIONAL EXCHANGE OF TAX INFORMATION IS KICKING IN

There has been widespread reporting that globally, revenue authorities are clamping down on tax havens. As from next month, tax authorities from over 50 countries (set to grow to over 100 by September 2018) will be automatically reporting to their counterpart tax offices on, amongst other things, bank accounts and investments held by their nationals. This is in terms of the OECD's automatic exchange of tax information policy.

With such information exchanged, SARS will undoubtedly be in an even better position to request relevant material, issue assessments and potentially prosecute tax offenders. In addition, Exchange Control will also be informed and could commence proceedings against individuals and entities that have unauthorised forex holdings.

Those wishing to take advantage of the Special Voluntary Disclosure Programme (SVDP) have until the end of August 2017 to submit their applications for amnesty relief, which includes immunity from prosecution and reduced penalties.

If you are accessing the SVDP, do so quickly as the application process may be time consuming.

Speak to your accountant now if you are in any doubt.

YOUR TAX DEADLINES FOR AUGUST (AND SOME SARS HUMOUR)

If you are an individual provisional taxpayer, the first 2018 provisional payment is due on 31 August 2017.

On another tack altogether, who knew SARS had a sense of fun? Read "Tax and Fun" on the SARS website for -

- "Strange facts"

records"

- "Why not try our Tax Quiz?"
- "And the odd bit of tax knowledge you might never have known if it hadn't been for the SARS website".

Enjoy!

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