

NEWSLETTER



Central Chamber

Inside this issue:

| | Page |
|--|-------------|
| Capital Gains Tax | 2 |
| Corporate Tax Rates | 2 |
| Directors and Officers Liability | 2 |
| Proposed National Retirement Fund for All Employees | 2 |
| Renouncing the Benefits of Excussion | 3 |
| SA Companies Involved in Corruption in Other Countries | 3 |
| Fraud Alert – Impersonation of Crown Prince of Saudi Arabia | 3 |
| Executive Development Programme | 4 |
| Road Deaths Cripple SA Economy | 4 |
| 2 Day Labour Relations Course | 5 |
| Central Chamber Training Courses 2004 | 6 |

JUNE 2004

CAPITAL GAINS TAX

(Item 644) Acknowledgements ICOSA
Corporate Governance Technical
Newsletter

Readers are advised that a South Africa resident will, generally, be required to account for capital gains on his or her foreign investments. In certain instances however, the double taxation agreements between South Africa and the country in which the investment was situated, results in the taxing right vesting in that country.

Taxation experts emphasise that there is no basis for the ring-fencing of foreign capital losses. It therefore, appears that a capital loss on a foreign investment may be offset against a capital gain on a South African investment. This is of course subject to the terms of such double taxation agreement as may be in existence.

CORPORATE TAX RATES

(Item 645) Acknowledgements ICOSA
Corporate Governance Technical
Newsletter

The international average corporate tax rates reflected in a recent study are as follows:

| | |
|-------------------|--------|
| * OECD countries: | 29.96% |
| EU countries: | 31.32% |
| Korea: | 29.00% |
| Malaysia: | 28.00% |
| Russia: | 24.00% |

The South African corporate rate of 30%, which when coupled to STC results in a rate of 37.8%, is obviously too high.

DIRECTORS AND OFFICERS LIABILITY

(Item 646) Acknowledgements ICOSA
Corporate Governance Technical
Newsletter

In the case of Terblanche NO and others v Damji and Another 203 (5) sa 489 (C), the applicant applied for an order that the respondent be held personally liable for the liabilities of the company of which he was the sole shareholder and director.

The Court, in addressing the circumstances, found that Section 424 of the Companies Act required a director to be knowingly party to the carrying on of the business in a reckless manner before he or she incurred liability.

A director may however, in certain circumstances be considered to be a party to the reckless carrying on of business without him or herself

actively taking part in the reckless carrying on of the business.

The Court found that the word “reckless” means at the very least, gross negligence. Accordingly, after applying the principles to the case, it found the director personally liable, without any limitation of liability for all the debts of the company.

The abovementioned case emphasizes that directors are required to apply skill, diligence and the utmost good faith in carrying out their duties.

PROPOSED NATIONAL RETIREMENT FUND FOR ALL EMPLOYEES

(Item 647) Acknowledgements ICOSA
Corporate Governance Technical
Newsletter

It is understood that the Taylor Commission, which is otherwise known as the Committee of Enquiry into a Comprehensive System of Social Security, has released a report which contains a recommendation that a national retirement fund be established.

It is evident that the cash flow implications for small business’s contribution to a national retirement fund and to the proposed compulsory medical aid, could be dramatic.

Perhaps the final proposals will only apply to employers with a set number of employees as is currently the case with skills development levies

RENOUNCING THE BENEFITS OF EXCUSSION

(Item 648) Acknowledgements ICOSA
Corporate Governance Technical
Newsletter

Readers are reminded that a surety who renounces the benefit of excussion can be sued, on the basis of a suretyship agreement, even if the creditor has not exhausted all available avenues to obtain payment from the principal debtor. This may result in the surety being found liable before the principal debtor’s estate has been finally sequestrated, or indeed before the legal action for the recovery of debt has been finalised.

SOUTH AFRICAN COMPANIES INVOLVED IN CORRUPTION IN OTHER COUNTRIES

(Item 649) Acknowledgements ICOSA
Corporate Governance Technical
Newsletter

The Government has indicated that it plans to pass legislation to prosecute South African companies accused of corruption in other countries.

It is believed that the new South African cabinet will consider bringing South Africa into line with the convention of the Organisation for Economic Co-operation and Development on combating bribery of foreign public officials in international business transactions.

ROBBERY OF PRE-PRESS EQUIPMENT

A member company recently opened up one morning and found several Apple Mac stations missing.

Should any member be offered 2nd hand equipment of this nature, under suspicious circumstances, please contact the Chamber Director.

FRAUD ALERT – IMPERSONATION OF CROWN PRINCE OF SAUDI ARABIA

(Item 650) Acknowledgements SACOB
Corporate Governance Technical
Newsletter

SACOB has received a letter from Baker & McKenzie, a legal firm in the UK, alerting business to the fact that a

number of companies in the US and Canada have been targeted by a fraudster falsely claiming to be an investment consultant representing HRH Prince Abdullah Bin Abdul Aziz Al Saud, the Crown Prince of Saudi Arabia. This fraud has been perpetrated by a Mr Mohammed Al-Hassan (alternatively known as Alhaji Al-Hassan), as director of the registered company Ocean Investment Consultants Ltd ("OIC"), company No. 04282625, which was dissolved on 17 June 2003. Mr Al-Hassan may continue to perpetrate this fraud through a different company.

Messrs Baker & McKenzie have requested that we alert our members to this fraud, and have further suggested that any companies who may have information about Mr Al-Hassan or his wife Kudirat Al-Hassan, or OIC, to send this information to them to assist them in their enquiries.

Messrs Baker & McKenzie's contact details are as follows:

Mr Tom Cassels

100 New Bridge Street

London EC4V 6JA, UK

Tel: +44 (0) 20 7919 1925; Fax: +44 (0) 20 7919 1999;

e-mail info@bakernet.com;
www.bakernet.com

BOOK NOW FOR THE EXECUTIVE DEVELOPMENT PROGRAMME

(Item 636)

As mentioned in our last newsletter, the Chamber is busy arranging the 4th annual E D P, presented by the Gordon Institute of Business Science and sponsored by First Paper House. The sub-committee of the Chamber Executive Committee – together with the G I B S advisers – are continually adjusting the programme and timing of this event, in order to ensure delivery of the most appropriate content and making it attractive to individuals.

This year, the Programme will be staged on 21st and 22nd July (Wednesday and Thursday) with an optional extra of a one-day course on Tuesday 20th July, covering Finance for Non-financial Managers. This is a shift away from previous years when the Programme ran Thursday/Friday/Saturday. It has been suggested that Fridays are extremely difficult, especially for small companies with a very flat management structure. To avoid this, we are trying a midweek event – kept well away from month end. A further amendment this year will have the Programme run at the Cross Media Training Centre, instead of the G I B S Campus in Illovo.

The cost of attending the Programme has been kept the same as last year, in order to make it even more attractive. It must be stressed that this would not be possible, were it not for the generosity of First Paper House. The aim of the programme is to keep entrepreneurs in the printing industry fully aware of changes in business and how best to cope with increasingly complex issues presented to management.

Statistics reveal a steady and continuous reduction in the number of companies involved in the Printing, Newspaper and Packaging industry. Analysis of the reason for this decline reveals inadequate management training or poor management application is usually the reason for the demise of companies. Members are urged to give this matter their serious consideration.

Please see the attached brochure giving more details of this programme – members are encouraged to make every attempt to attend – even if they have attended previous Programmes.

ROAD DEATHS CRIPPLE SA ECONOMY

(Item 52) Acknowledgements NAFCOCJCCI

Irresponsible driving is costing the South African economy R16 million

a day. Approximately 40 people are killed in road accidents daily with an estimated cost per death, including loss of earnings and funeral costs, amounting to R420 000. "South African business can no longer ignore the severity of the situation" says Moira Winslow, chairperson of Drive Alive, a non-profit organization committed to promoting road safety. "Road deaths are negatively affecting the South African economy. We have now reached a point where the carnage on our roads is so severe that the repercussions are not only felt by the families involved, but also by the larger business community as well," she adds.

"Although there appears to be an overwhelming sense of complacency in many sectors, Drive Alive is not prepared to stand on the sidelines and watch the devastation continue."

Drive Alive has been actively involved in road safety since 1989 and is committed to: educating South African youth on road safety; positively influencing the attitudes of road users; and creating a climate in which government recognizes the necessity for increased traffic law enforcement and implementation.

Educational Programmes:

Forty-seven percent of all South African road fatalities are pedestrians with more than 1100 children under the age of 19 years killed on our roads annually. Drive Alive has implemented various educational programmes in the most affected communities.

Drive Alive's educational outreach programmes have been lauded by the international road safety community for being responsible for decreasing the number of pedestrian fatalities. In 2003 Drive Alive educated more than 15 000 learners and supplied reflective school uniforms in high-density areas, resulting in a 95 per cent decrease in pedestrian fatalities in those areas.

About Drive Alive: Formed in 1989, Drive Alive is a non-profit organization, registered with the Department of Social Welfare and Pensions. Drive Alive is a member of South African National Road Safety Board and the European Federation of Road Crash Victims, and sits on the steering committee of the Global Road Safety partnership (GRSP) in South Africa.

For further information, call Moira Winslow on 011 788- 9789 or email : safety@drivealive.org.za.

VISIT OUR WEBSITE
www.pifsa.org

- The Labour Relations Act (No. 66 1995) and the Legal Implications
- New Bargaining Institutions and Rights (LRA)
- The Right to Strike and Right to Lock-out
- Dealing with Conflict and Employee Grievances
- Maintaining Discipline on the Shop Floor
- Conflicting areas on the Shop Floor
- Managing AIDS/HIV in the Workplace
- An overview of the Basic Conditions of Employment Act

2 Day Labour Relations Course

This course gives an overview of the interpretation of the Labour Relations Act and the Basic Conditions of Employment Act applicable to our Industry

Course Contents:

An overview of the Labour Relations Act and the Basic Terms and Conditions Act applicable to the printing and packaging Industry

- General
- Trade Union Representatives/Shop Stewards

Date for 2004: T B A

Duration: 2 Days

Time: 08h30 – 16h30

Course Fee: R1612.00 per delegate
(inclusive of VAT, lunch, tea/coffee and course notes)

