



## **South African Fiscal Association**

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20 February 2007

Newsletter 2/2007

**Dear members**

### **First seminar for 2007: Sections 80A to 80L**

We confirm that the first seminar is going ahead on the dates set out hereunder. Please ensure that you re-do your bookings as the contact person in Johannesburg has changed. Please note that this seminar is strictly limited to members and staff of corporate members.

We are indeed privileged to have secured speakers of the calibre of Advocates Broomberg SC and Solomon SC to address us on this topic. The seminar will commence with a comparison between the old Section 103(1) and the new Section 80A to 80L, followed by a discussion on the effect that the new provisions will have on decided case law, such as the Conhage case. The latter part of the seminar will consist of case studies, as applied to the new Sections 80A to 80L.

Suggestions for case studies in Newsletter 1/2007 were: Will any of the following situations be caught by sections 80A to 80L: A redeemable preference share with a term of three years and one day (section 8E); Issuing shares to a new investor instead of selling existing shares (avoid paying CGT); capitalising a foreign subsidiary with capital and not loans (avoid taxable interest); donate half your estate to your wife (estate planning); changing the reporting currency of a CFC to avoid tax on forex differences; decide to pay back owners capital and replace it with third party borrowings to decrease cost of capital because of deductible interest.

Since Newsletter 1/2007 members have sent us the following case study suggestions:

1. A company with reserves that it wishes to declare as a dividend borrows shares from another entity over the period that the shares are due to declare a dividend, so that it gets a STC credit and reduces its STC liability on its dividend declared. The fee charged by the lender is less than the STC it saved.

2. South African company 50/50 owned by a local company and foreign company. The local company capital contribution is 100% by means of equity (after utilizing Sec 42)-it gets class "A" shares. The offshore company wishes to make use of the Sec 10 (h) interest exemption and its capital contribution is 25% equity (class "B" shares) and 75% loan capital. The shareholders agreement provides that the loan capital is subject to the same restrictions on repayment as is the share premium on the "A" shares.  
Could this arrangement be described as abnormal, and is there a risk of attack under Sec 80A?
3. Discuss the effective date that Part IIA (the new sections 80A to 80L) came into operation and specifically the part in bold hereunder:  
"Part IIA inserted by ... deemed to have come into operation on 2 November 2006, and applicable to any arrangement (**or any steps therein or parts thereof**) entered into on or after that date."

#### Dates, venues and booking details:

**Date:** 06 March 2007  
**Place:** Cape Town  
PricewaterhouseCoopers  
No 1 Waterhouse Place  
Century City  
**Time:** 18h00 to 19h30  
**Topic:** Sections 80A to 80L  
**Speakers:** Advocate Eddie Broomberg SC  
**Bookings:** [jolandie.james@za.pwc.com](mailto:jolandie.james@za.pwc.com) Tel no: 021- 529 2368

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**Date:** 07 March 2007  
**Place:** Johannesburg  
KPMG Auditorium, 85 Empire Road, Parktown  
**Time:** 18h00 to 19h30  
**Topic:** Sections 80A to 80L  
**Speakers:** Advocates Eddie Broomberg SC and Peter Solomon SC  
**Bookings:** [albert.stevens@kpmg.co.za](mailto:albert.stevens@kpmg.co.za) Tel no: 011 - 647 6836

IFA advised that they intended to post a reprint of the 2006 Cahiers for South African members on the 14 February 2007. We still await confirmation from them on this!

We will advise shortly regarding the viewing of the DVD sessions on the Amsterdam congress and will send out a separate notification regarding the venue and dates.

**Please take special note to book again for the Johannesburg venue!**

**Regards**  
**Charl du Toit**  
**President: SAFA**