



South African Fiscal Association

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17 July 2007

Newsletter 5/2007

Dear members

SEMINAR: Tax and exchange control implications relating to cross border transactions

We confirm that the second seminar is going ahead on the dates set out hereunder. You may place your bookings with the ladies mentioned hereunder. Please note that this seminar is strictly limited to members and staff of corporate members.

The South African economy is booming and South Africans continue to expand their businesses offshore. Tax issues on cross border transactions therefore become more and more of an issue. In addition, although there has been a relaxation in foreign exchange controls, there are still restrictions affecting the flexibility of business people to structure offshore investments.

We plan to deal with three different topics:

A while ago SAFA presented a seminar dealing with NEPAD and the specific tax problems when investing into Africa. Following up on this topic we have secured **Mr Martin Grote, National Treasury's Tax Specialist** to inform us on developments on this front.

Martin's presentation will cover the African record regarding tax effort vs tax potential, the high tax compliance costs and high trade facilitation costs in Africa, Africa's poor record in terms of tax reform and relatively high profit taxes (CIT), background to work done in SADC on tax co-ordination and related matters.

Secondly we are fortunate to have secured **Avril van Boom, Assistant General Manager** and **Johan Joubert, Senior Manager** from the South African Reserve Bank to speak about specific forex issues. Their presentation will be based around the following issues:

All offshore investments by South African residents need to be approved by the SARB. The comment is often made that the SARB does not have a fixed set of rules but considers each application on the basis of what is good for South Africa. So, what is the legal framework within which the SARB operates? What are the criteria that are taken into account when considering an application? What are the important issues that applicants should address in their applications? What is the position if an offshore company that has been approved by the SARB wants to make further direct investments? What is the situation if the South African

resident has a minority interest (say 25%) in a foreign group and that group decides to make an investment of which the SARB does not approve? What is the latest position on the SARB's "anti-loop" approach, in other words e.g. that a South African company cannot invest in a non-SADC country (say Europe) which then invests back into SADC?

Thirdly we are most fortunate to have secured **Miss Yanga Mputa, a Director, International Tax, Tax policy unit** from National Treasury to explain their view on the new approach to the conclusion of bilateral double tax treaties, which encapsulates the following issues:

The number of South African double tax treaties ("DTA") have increased to more than 50. From the taxpayer's perspective an explicit channel of communication has been lacking. It appears that a new approach of consultation with taxpayers before a new DTA is concluded has been adopted. This is a very welcome change. In terms of this new approach National Treasury has for example sent out questionnaires requesting information on investments in Kenya and Syria, before negotiations take place with these countries. Yanga will address us on the new approach and related issues, including the rationale for the specific questions to taxpayers investing in countries who are already treaty partners or are considered as treaty partners. Maybe she could enlighten us on which model treaty is preferred by South Africa and give us an indication of new treaty partners on the short-list.

Dates, venues and booking details:

Date: 31 July 2007
Place: Johannesburg
 KPMG Auditorium, 85 Empire Road, Parktown
Time: 18h00 to 19h30
Topic: Tax and exchange control implications relating to cross border transactions
Speakers: Martin Grote / Avril van Boom/ Johan Joubert/ Yanga Mputa
Bookings: Tania.Bezuidenhout@kpmg.co.za Tel no: 011 - 647 5700

Date: 2 August 2007
Place: Cape Town
 PricewaterhouseCoopers
 No 1 Waterhouse Place
 Century City
Time: 18h00 to 19h30
Topic: Tax and exchange control implications relating to cross border transactions
Speakers: Martin Grote / Avril van Boom/ Johan Joubert/ Yanga Mputa
Bookings: jolandie.james@za.pwc.com Tel no: 021- 529 2368

Annual General Meeting

Notice is hereby repeated that the AGM for SAFA will take place in Johannesburg at the KPMG offices in a designated room shortly before the seminar on 31 July 2007, all members are welcome to attend.

IFA Congress 2007 - Kyoto Japan

I repeat that detail relating to the annual IFA congress in Kyoto may be found through the IFA link on our SAFA website - www.ifa-safa.org . For those who are still interested, please find out all about the topics and dates of the congress by visiting the website which has a host of information.

Regards
Charl du Toit
President: SAFA