

MAY 2019

SMALL BUSINESSES: MAKE THE MOST OF YOUR TAX BREAKS!

"There are two systems of taxation in our country: one for the informed and one for the uninformed." (U.S. Judge Learned Hand)

Whether you have recently started a new venture or have had a small business for a while don't forget that SARS offers two types of favourable tax treatments for small entities:

- Turnover Tax on micro businesses
- Tax on Small Business Corporations (SBCs).



Turnover Tax

This is a tax on entities with turnover of R1 million or less per annum. Tax rates are:

TURNOVER TAX FOR MICRO BUSINESSES - NEW TAX TABLE	
Taxable Turnover	New Turnover Tax Rates
R0 – R335,000	Nil
R335,001 – R500,000	1% of taxable turnover over R335,000
R500,001 – R750,000	R1,650 + 2% of taxable turnover over R500,000
R750,001 and above	R6,650 + 3% of taxable turnover over R750,000

The maximum tax payable is R14,150 per annum assuming a turnover of R1 million. This is a very low amount – for example, assume the entity is a company and makes R200,000 taxable income, then it will pay R56,000 in income tax versus R14,150 above.

Turnover Tax businesses pay no other income taxes (such as Provisional Tax and Capital Gains Tax) but will need to collect and hand over Employee Tax, and VAT should the business entity choose to voluntarily register for VAT.

In terms of who may register for the tax the field is broad - companies, sole proprietors, partnerships, close corporations and cooperatives are eligible.

Another break is that these entities need only keep limited records as follows:

1. Income received
2. Dividends declared
3. Any Asset over R10,000
4. Any Liability over R10,000 at year end.

There are restrictions placed on the business, the main ones being:

- Owners cannot hold investments in other companies except listed entities and other public-interest entities such as bodies corporate
- The business must have its year end on 28 February (to comply with SARS requirements in terms of dates when tax payments are to be made)
- If more than 20% of income received is from investments or professional services, the business will not qualify
- NGOs, public benefit organisations and recreational clubs cannot apply
- Labour brokers and personal service providers are also not eligible
- The proceeds from the sale of capital assets cannot exceed R1.5 million in a three year period.

As soon as turnover exceeds R1 million in a business' financial year, it must de-register as a Turnover Tax entity.

Turnover Tax is not that popular with organisations. Commentators have speculated this is due to:

- The SARS administration workload.
- Keeping only limited records reduces the business' ability to analyse how well (or badly) it is doing. Having information is particularly important in the early stages of a business.
- A further important aspect is that with turnover tax you cannot deduct your expenses – so if your business is a loss-making one (as many start-ups are) or if its taxable income (revenue less expenses) is minimal, you could well **pay** more tax on the turnover tax basis than on the normal income tax basis. You cannot carry forward any losses you incur from one year into the next year as this is only a tax on turnover. Over time, this can negatively affect cash flow.
- To qualify for the Turnover Tax, you must register before the tax year starts and thus you need to weigh up carefully if Turnover Tax is best for your business.

Small Business Corporations

SBCs are one step up from Turnover Tax entities and must be:

1. A company
2. A close corporation
3. A personal liability company or
4. A cooperative.

Turnover cannot exceed R20 million a year and once taxable income goes above R550,000 the SBC becomes liable for the 28% corporate tax rate.

SMALL BUSINESS CORPORATIONS - NEW TAX TABLE	
Taxable Income	New SBC Tax Rates
R0 – R79,000	Nil
R79,001 – R365,000	7% of taxable income over R79,000
R365,001 – R550,000	R20,020 + 21% of taxable income over R365,000
R550,001 and above	R58,870 + 28% of the amount over R550,000

These are attractive rates as a normal company would pay R154,000 when taxable income is R550,000 – **so at that level SBCs save just over R95,000 in tax.**

The restrictions applicable to Turnover Tax (above) also largely apply to SBCs. Also the company's shares must be held by only "natural persons" (some trusts also qualify – take specific advice if applicable). Importantly all shareholders in a SBC may only hold shares in that one SBC and no other company, CC or co-operative (there are some exclusions including for listed share investments), otherwise it will be disqualified from the special tax regime.

In addition, SBCs qualify for accelerated tax depreciation – if plant or machinery is used in a process of manufacture then the whole cost can be written off in the first year of acquiring it. Other assets also qualify for faster tax write offs.

As a rule of thumb if choosing between the two tax regimes, SBC favours capital-intensive or low mark-up entities.

Take advice!

Both the Turnover Tax and SBC allowances can be attractive to small businesses, but the above is of necessity only a summary. Speak to your accountant if you think your business may qualify for, and benefit from, either of these dispensations.

QUICK WINS TO GET OUR ECONOMY GOING AGAIN

“I approach every problem with optimism” (Nelson Mandela)

The mood of optimism that pervaded a year ago is rapidly fading – the Business Confidence Index is on a steady decline. Every 1% rise in business confidence results in 0.5% growth in the economy – as President Ramaphosa recognises, growth in investment creates economic activity and from this flows jobs and a rise in GDP.

But there are always quick wins out there and these can start the momentum to getting the economy going again.



Boost tourism

Tourism doesn't require a huge amount of upskilling but 20% of global jobs created in 2017 were in the tourism sector – youth and women are major beneficiaries of jobs and are two groups currently experiencing high unemployment.

To kick-start tourism, change the Visa requirements for tourists whereby they get a visa on arrival – if it's easy for tourists to come here, they will definitely come. We are on similar time zones to Europe (our main trading market), have a beautiful coastline and interior plus wildlife and have an interesting story to tell.

Building infrastructure for tourism is relatively easy and quick – for example, look at the number of B&Bs and Airbnb in your area. In Costa Rica, 27% of GDP comes from tourism.

Make it easy to do business

South Africa ranks 82 out of 190 economies on the world index in terms of ease of doing business – our worst ranking ever. With will and leadership, this can be swiftly changed. Government has targeted to bring this down to being in the top 50 in the next 3 years, but four years ago we were in the top 40 (our best ranking was 32 in 2008). Surely, this can be done quickly.

Build housing

Maggie Thatcher showed what a difference housing can make not just for the economy but also for long term sustainability. Housing gets construction moving (a quick job creator), stimulates the service economy (bonds and insurance) and there is plenty of value added in terms of appliances, gardens etc.

More important, encouraging ownership of property brings more people into the middle class which gives them a stake in ensuring stability in the nation.

Getting the economy going and improving morale can be done with quick interventions.

EMPLOYERS - NEED REDUCING STAFF CONFLICT WITH EMPLOYEE RIGHTS?

The Companies Act gives directors wide powers to manage the organisation – the Act states “The business and affairs of a company must be managed by or under the direction of its board”. In a recent case a furniture company ran into economic difficulties and resolved that it needed to cut costs by reducing staff in its stores.

The company then issued a Section 189(3) Notice to the main union of employees – this is a Labour Relations Act stipulation that employees be notified when the company, for operational requirements, considers reducing staff numbers.



The Labour Relations Act states there must be consultation between management and employees and “the employer and the other consulting parties must, in the consultation envisaged ..., engage in a meaningful joint consensus-seeking process and attempt to reach consensus on - (a) appropriate measures - (i) to avoid the dismissals; (ii) to minimise the number of dismissals; (iii) to change the timing of the dismissals; and (iv) to mitigate the adverse effects of the dismissals”.

Accordingly the company began an intensive process of meetings with the union – four meetings were held, information asked for by the union was given and the company considered all union proposals, including one that actually reduced the number of staff retrenched.

The union's reaction

One of the documents forwarded to the union was the resolution to reduce staff. The resolution read "...as a result of the ongoing poor economic trading conditions, ...the Group must further reduce store staff numbers through operational requirements to reduce operational costs."

The union read this as the company already having made the decision to retrench staff and that it was merely going through the motions of consulting with employees.

What the Labour Appeal Court said

The Labour Court's judgment was in favour of the company and this was appealed. Again, the Labour Appeal Court found in favour of the company.

A company, it held, is fully entitled to "...to form a prima facie view on retrenchments, even a firm one, provided it demonstrates and keeps an open mind in the subsequent process of consultation."

The steps the company took in terms of meetings, considering union proposals and supplying the information the union asked for demonstrates that management fulfilled its obligations to take part in a "joint consensus-seeking process".

This judgement gives a degree of certainty when approaching retrenchments – act in good faith as per the law and you stack the odds in your favour of getting affirmation from the Courts. It also highlights the fact that there need be no conflict between directors acting in the best interests of the company and Labour law.

As always with our labour laws, there are complex issues at play here and the cost of getting them wrong is high. Seek professional advice on your specific circumstances!

TAX AND SOLAR ENERGY PLANTS: YOUR BUSINESS CAN DEDUCT THE COSTS UPFRONT

"If only there was some kind of an infinite power source that was free to use all day every day..." (Anon)

In a recent binding ruling, SARS confirmed it will allow the cost of solar power units. The capital costs that may be deducted are:

- Photovoltaic solar panels;
- AC inverters;
- DC combiner boxes;
- Racking; and
- Cables and wiring.

In addition related allowable costs of installation are:

- Installation planning expenses;
- Panels delivery costs;
- Installation expenses; and
- Installation safety officer costs.

If the solar unit per site generates less than 1 megawatt of power, the full cost is allowable in the year the plant was commissioned according to the ruling. If the equipment generates 1 megawatt or more energy, then 50% can be deducted in year one, 30% in year 2 and 20% in year 3. Note that if the company is a SBC (Small Business Corporation), the capital allowances under the SBC tax allowance regime (i.e. 50/30/20) must be claimed.

Remember the normal rules apply in terms of qualifying for a deduction – the plant must be owned by the taxpayer, it must be used for the purposes of trade by the taxpayer and the plant must be brought into first time use by the taxpayer.

This is good news for people tired of load shedding.



SARS – IMPORTANT UPDATE ON VAT FOR E-SERVICES FROM FOREIGN SUPPLIERS

This has been causing waves since SARS stated its intentions of making electronic services subject to VAT last year. Now the final regulations have been published and are effective from 1 April 2019.

Of significance is the change in the definition of electronic services - in the original draft regulations e-services were specifically listed but the new definition is very wide – “any services supplied by means of an **electronic agent, electronic communication or the internet** for any consideration” (our emphasis).



Furthermore, the inclusion of business to business (B2B) supplies is a significant departure from the global trend to only include business to consumer (B2C) supplies as the former is an “in and out”, increasing the tax administrative cost rather than tax collections.

The exclusions from the definition are still –

1. Educational services supplied from a place in an export country and regulated by an educational authority in terms of the laws of that export country; or
2. Telecommunications services; or
3. Services supplied from a place in an export country by a company that is not a resident of the Republic to a company that is a resident of the Republic if –
 - Both those companies form part of the same group of companies; and
 - The company that is not a resident of the Republic itself supplies those services exclusively for the purposes of consumption of those services by the company that is a resident of the Republic.

If in doubt, speak to your accountant on this.

YOUR TAX AND OTHER DEADLINES FOR MAY 2019

Your Employer Annual Reconciliation Declaration (EMP501) for the period 1 March 2018 to 28 February 2019 is due on or before 31 May. This relates to your monthly EMP201 declarations and IRP5s, IT3(a)s etc generated.

Secondly the Department of Labour has extended the date for the submission of your 2018 Return of Earnings to the Compensation Commissioner to 31 May.

As it is important to get both returns totally accurate, ask your accountant for help in any doubt.

