



Dear Client / Geagte Kliënt

Newsletter



Yet Another Indirect Tax / Nog 'n Skeppie Room

Die Prokureurs- en Advokate professies, was tot onlangs onderskeidelik, afsonderlik deur die Provinsiale Wetsgenootskappe en Plaaslike Balie-verenigings beheer, ooreenkomstig die terme van die Wet op Prokureurs, of die Wet op Advokate. Beide word egter sedert die inwerkingtrede van die Legal Practice Bill (Wet 20 van 2014) (LPA) verlede jaar deur die "Legal Practice Council (LPC) beheer.

The LPC is a statutory regulatory authority and does not have any professionals as members like the previous Law Societies and Bar Association always had. All admitted and enrolled legal practitioners (both attorneys and advocates) are now regulated by the LPC. The respective Provincial Councils and Bar Associations to which legal practitioners still belong, are now substructures of the LPC, but those only have delegated functions.

Hierdie verandering raak natuurlik hoofsaaklik ons as praktisyns, maar soos die ondervinding in Suid-Afrika geleer het, hou die skepping van statutêre liggame altyd 'n koste in vir die verbruiker en die nuwe LPC is geen uitsondering daarop nie. Die LPC moet sy befondsing van iewers kry en het dit toe op die model van sy Britse eweknie gebaseer.

The Legal Practitioners Fidelity Fund (LPFF) as a functionary of the LPC has entered into a Banking Arrangement with most banks in terms of which the LPFF will automatically sweep 5% of trust interest earned on section 86(4) trust investments, in terms of s 86(5) of the Legal Practice Act, to the nominated LPFF bank account.

Dit beteken dat enige persoon of entiteit, wie fondse op 'n rentedraende belegging in 'n trustrekening van 'n regspraktisyn hou, vyf present van die rente wat so verdien word vanaf 1 Maart vanjaar, aan die LPPF afstaan.

In terms of s 86(6) of the LPA, a legal practitioner may not deposit money in terms of section 86(2), nor invest money in terms of s 86(3) and (4) in accounts held at a bank which is not party to an arrangement with the LPPF as is provided for in s 63(1)(g), unless prior written consent of the LPPF has been obtained.

Daar sal deur die Suid-Afrikaanse Inkomstediens (SAID) van die deelnemende banke vereis word om 'n IT3b belasting-sertifikaat aan die regspraktisyn (of die regspraktisyn se kliënt) uit te reik vir die 95%-gedeelte van die rente, wat op enige aparte trust rekening, of ander rentedraende rekening, inkomste verdien. Byvoorbeeld, as die rente vir die maand R100 is, sal die IT3b vir R95 uitgereik word.

May our beloved Cape be blessed with good rains this winter. We trust the government won't skim 5% off the top!

Greetings / Groete

Hennie, Eberhard & Cheryl-Anne | *Directors*



Orders Relating To Meetings And Resolutions In Community Schemes

Danny van Zyl, associate attorney at Van Zyl Kruger Inc, was recently awarded his Master of Laws Degree from the University of Stellenbosch and wrote his thesis on the Community Schemes Ombud Service Act 9 of 2011. He shares certain aspects of his thesis with us in a series of articles to be featured in the next few newsletters.

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Revisiting Withholding Tax: pitfalls and penalties

When “foreigners” sell property in South Africa, current legislation ensures payment of Capital Gains Tax via a “Withholding Tax” provision, imposed on a non-resident seller, for the sale of immovable property located in South Africa in terms of Section 35A of the Income Tax Act (58 of 1962).

This does however not mean that just because someone does not have a South African Identity document or possesses a foreign passport, that he or she is necessarily a non-resident.



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What You Need To Know About The New Water By-Laws And How It Affects Cape Town Properties And Homeowners

The City Council of Cape Town voted on the 31st of May 2018 to approve a variety of proposed amendments to the Water By-law, which is mainly aimed at improving clarity as well as preparing the City to limit their water consumption for a more water-scarce future.

In a statement published on 13 June 2018, it confirmed the changes and encouraged Capetonians to familiarise themselves with the legislation determining what is required of them and added that the amendments do not replace the Level 6 water restrictions, which instead are implemented in addition to this By-law, when necessary.

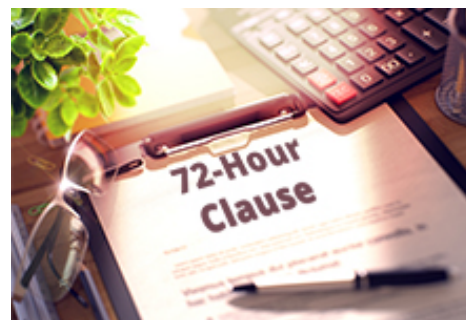
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Jy het reeds 'n Koopkontrak geteken – kan jy nog 'n Beter Aanbod aanvaar?

Die verkoop van eiendom, in besonder jou eie woning, is een van die meer stresvolle ervarings in die lewe. Gaan jy die regte koper kry? Teen die beste prys? Wat as dinge skeef loop?

Dan ontvang jy 'n aanbod wat aanvaarbaar is, hoewel nie perfek nie. Indien daar byvoorbeeld 'n verbandklousule in die kontrak is, en die koper se verbandaansoek 'n maand later afgekeur word, is waardevolle bemarkingstyd daarmee heen. Jy sal nooit weet of jy dalk net-net die “perfekte aanbod” misgeloop het terwyl jou koper besig was om vir die tiende keer bankvorme in te vul en FICA dokumente in te dien nie.

Ontspan en haal diep asem: daar is 'n oplossing – die “72-uur klousule” wat dikwels in standaard koopvooreenkomste voorkom. Ons bespreek die betekenis van hierdie klousule, hoe dit werk, wanneer jy dit nodig mag kry, en wat so 'n klousule altyd moet bevat. Ons gee ook 'n bietjie raad aan eiendomskopers.



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Besigheidsredding: Is Jou Borgskappe Afdwingbaar? 'n Les van R5.5 Miljoen vir Direkteure en Skuldeisers

Wanneer 'n maatskappy in besigheidredding geplaas word, trek skuldeisers dikwels aan die kortste ent. Indien jy as skuldeiser jou posisie verseker het deur middel van persoonlike borgskappe van daardie individue wat oor bates beskik (normaalweg die direkteure van die skuldenaar-maatskappy), sal jy so spoedig moontlik op daardie borgskappe wil steun ten einde jou verliese te verhaal of te verminder.

Wat gebeur wanneer jy instem tot 'n besigheidsreddingsplan waarvolgens die maatskappy (jou skuldenaar) se skulde aan jou uitgewis word? Beteken dit dat die borg se persoonlike aanspreeklikheid teenoor jou ook uitgewis word?

Ons kyk na die lesse wat beide skuldeisers en skuldenaars kan leer uit 'n onlangse saak waar twee borge probeer het om 'n R5.5 miljoen eis in die Hooggeregshof met hierdie einste argument te ontduik ...

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Directors at War and the Liquidation Option – A Tale of Sibling Rivalry

What happens when a company's board is deadlocked to the extent that directors can no longer agree on the decisions vital to the proper running of the company and its business?

If all else fails (and this is usually a last-prize option), liquidating the company and placing it into the hands of independent liquidators may be your only choice.

A sad tale (which played out recently in the High Court) of sibling in-fighting that reduced a successful and profitable property development company to dispute and deadlock provides a perfect example. We'll discuss the Court's decision, its reasoning, and the three grounds on which a court may liquidate a solvent company.



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