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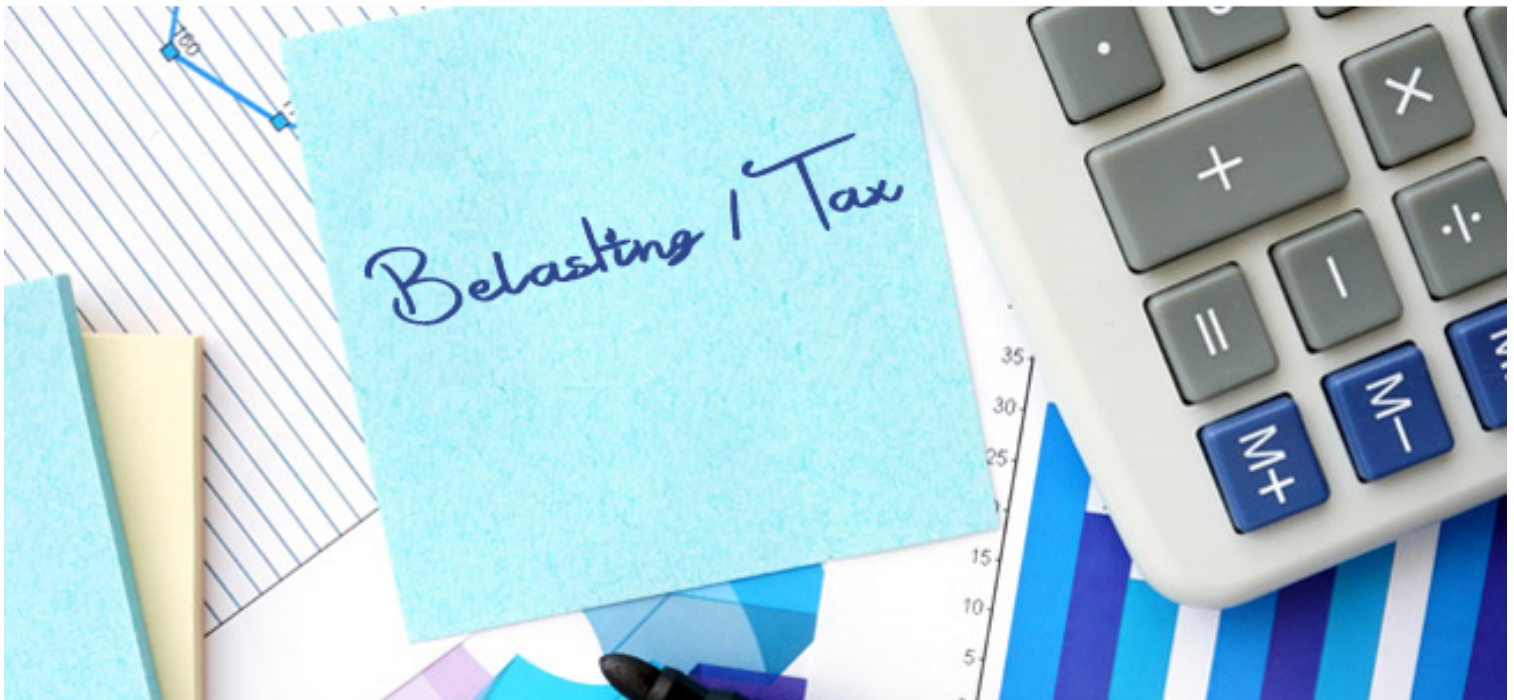
Dear Client / Geagte Kliënt

Newsletter

Belasting Bloutjie / Taxation Blues

Asof eiendom-ontwikkelaars nie in die huidige swak ekonomiese toestande genoeg uitdagings in die gesig staar nie, is hulle, hul prokureurs en ouditeure, teen einde verlede jaar begroet met die Appèlhof uitspraak in die saak *Milnerton Estates Limited v Commissioner for the South African Revenue Service (1159/2017) [2018] ZASCA 155*, wat vir hul verreikende kontantvloei uitdagings mag inhou.

In this matter the Appeal Court rejected the appeal of the appellant against its challenge of an income tax assessment by SARS requiring it to include the proceeds of the sales of a number of properties deemed to have accrued to the developer in terms of section 2(1) of the Income Tax Act in the year the agreements were signed despite the fact that transfer of the properties sold was only passed in the subsequent tax period.



Die uitspraak bevestig die beginsel neergelê in 'n vroeëre uitspraak van die appèlhof in *SIR v Silverglen Investments (Pty) Ltd 1969 (1) (SA 365 (A))* dat waar 'n ooreenkoms vir die verkoop van onroerende goed 'n opskortende voorwaarde bevat waarvolgens oordrag van eienaarskap in die Aktekantoor verdrag word tot betaling van enige gedeelte van die koopprys,

word die aankoopprys geag in die belastingjaar te val wat die ooreenkoms gesluit is ongeag die appellant se finale argument dat die laasgenoemde uitspraak regtens verkeerd was omdat artikel 24(1) van voormelde wet eintlik net van toepassing is op vaste eiendom wat op krediet terme verkoop was.

Property developers should therefore take note of this judgment and its interpretation of section 24(1) of the Act and ensure that where a sale agreement falls within the scope of this provision, they declare the income from the sale in the tax year that the agreement was concluded, even if payment of the purchase price and transfer of ownership only takes place in the following tax year.

Ontwikkelaars word aangeraai om kennis te neem van hierdie uitspraak vir hul beplanning vorentoe en veral ag te slaan op die kontantvloei implikasies daarvan met betrekking tot hul inkomstebelasting opgawes. Hul moet bewus wees dat die volle opbrengs van die verkoop in hul inkomstebelastingopgawes ingesluit moet word vir die jaar waarin die ooreenkoms onderteken is, in gevalle waar die betaling van die koopprys opgeskort word in lyn met die feite in die onderhawige saak. Steek gerus kers op by jou prokureur en of ouditeur om onaangename verrassings vorentoe te vermy.

For an in-depth discussion of this judgement and in particular the reasoning of the judges please refer to the article in “*The primacy of precedent*” in PWC’s Synopsis for November / December 2018, by following the link hereunder.

<https://www.pwc.co.za/en/assets/pdf/synopsis-nov-dec-2018.pdf>

Groete / Greetings

Hennie & Eberhard | Directors



Dealing With Financial Disputes In Community Schemes (Part Two)

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.

Click Read More link to view Part Two

[READ MORE](#)

Property Owners, Buyers and Agents: Check for the Title Deeds Before 25 February!

You sell your house/apartment/office/factory/plot of land. You instruct your conveyancer to pass transfer to the buyer, and start dreaming of what you will do with the proceeds.

But then your lawyer says “Hang on, you didn’t give me the property’s original title deed and I need it before I can pass transfer – where is it?”

Panic!

You can’t find it. The bank doesn’t have it (bondholders normally insist on keeping the title deeds of properties bonded to them as a security measure, at least until the loan is repaid in full and the bond cancelled). You didn’t leave it with your lawyer for safekeeping (perhaps you should have). You search high and low...



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