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CA(SA)DotNews

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How Many Days Will You Be Working For The Taxman This Year?

A local think tank measures the amount of time it takes for taxpayers to pay their income taxes. In 2016, it will take until 25 May ("Tax Freedom Day") before taxpayers can earn for themselves – in other words from 1 January to 25 May (146 days) you effectively pay your taxes and from 26 May to 31 December your earnings are your own.

This is 5 days longer than 2015 and 43 days more than in 1994! Currently for every R2.54 we earn R1 is paid in taxes. In 1994 of every R3.62 we earned, R1 went to the fiscus.

We desperately need economic growth but this is being undermined as taxpayers are one of the key pillars to stimulate growth.

More concerning is that 1.1 million people (3.7% of the population) pay more than 70% of the income tax bill.

Whilst these are alarming statistics how do South African taxpayers stack up globally?

Global Trends – are we taxed too heavily?

Governments are tightening up on taxpayer deductions as pressure to pay country debt increases. In 2015, world personal taxes rose by 0.41%. Social security taxes rose by 0.66%. VAT has spread around the globe and 160 nations have implemented a VAT system.

What is of interest is that the global consensus for the optimal rate for VAT is seen at between 15 to 20%. This means there is scope to increase South Africa's VAT rate to at least 15%. That would bring in R20

Subscribe

billion in increased government revenue. There have been hints from the Treasury that a VAT increase is being seriously considered for the 2017/18 tax year.

The other important factor is that South Africa has minimal Social Security taxes (Unemployment Insurance Fund at 2% of earnings and The Compensation for Occupational Injuries and Diseases Act which starts at 0.11% of staff earnings). In other developing countries such as Russia they are over 30%.

Local corporate rates also stack up favourably globally. In fact we have the sixth lowest tax rate in Africa.

Our top marginal tax rate of 41% puts us at number 31 in the world.

So all in all tax rates charged in South Africa stack up reasonably well versus other nations.

The major concern is the narrowness of our personal income tax base with just under 4% of the population paying over 70% of income tax. It should also be noted that most of the tax increases in the last few budgets have targeted this group. Clearly this is unsustainable and it puts at risk the increased collections that SARS have been showing these past years.

Catch 22 and the tax base

It also highlights the Catch 22 situation we are now in. The government has to increase tax to reduce the budget deficit but as it does this so it puts pressure on the 4% who pay most of the taxes. The solution to this is to increase economic growth which will widen the tax base. But one of the main engines for economic growth is the 4% who will have little incentive to ignite economic growth as they focus on paying higher taxes.

Taxpayer Beware: SARS Can Now Unilaterally Extend "Prescription Of Assessment" Periods

Until the recent change in our tax laws, prescription of assessments (the expiry date of when SARS could still reassess a return submitted) in practically all cases took effect:

- After SARS issued an assessment - 3 years after the date of assessment
- After the taxpayer issued a self-assessment (such as VAT or your PAYE submissions) - 5 years after the date of the self-assessment
    - If the taxpayer did not complete a self-assessment, 5 years after SARS issued an assessment
    - In cases where no self-assessment was required, 5 years after the payment was due.

Having the certainty of fixed prescription periods is an important part of balancing honest taxpayer's rights with the Commissioner's right to collect taxes that are due. So why the change?

Why has SARS changed this?

Revenue argues that –

- An inordinate amount of time is often spent clarifying whether or not SARS is entitled to information which it requests.
- There are cases where the taxpayer is slow in providing requested information, knowing that prescription will soon come into effect.
- Finally, many of the cases are extremely complex and cannot be resolved before prescription takes effect.

What are the new prescription periods and how do they affect you?

To provide at least some balance for taxpayer's rights, the new right to extend differentiates between less complex but obstructive cases and complex matters. In principle the former seeks merely to extend the

period to match that which the taxpayer has obstructed SARS whereas the latter provides a stated maximum period to continue to audit and investigate complex matters irrespective of taxpayer assistance.

The two changes are reflected as follows:

1. Obstructive matters

   If a taxpayer fails to provide SARS with “relevant material” within the time frame specified, then prescription may be extended by a period “approximate” to the delay in submitting the information.

   Similarly, SARS may extend prescription by the time taken to resolve whether or not SARS was entitled to the information requested.

   When SARS decides to extend prescription, the taxpayer is to be given a notice period of 30 days. This notice period is to be within the prescription time frames i.e. 3 years or 5 years from date of assessment.

   As SARS determines what is “relevant material” and “approximate”, this gives Revenue wide latitude in watering down prescription and also no maximum period is prescribed.

2. Complex matters

   Prescription may be similarly extended where a tax audit or investigation relates to:

   - The application of the doctrine of substance over form;
   - Anti- avoidance provisions;
   - The taxation of hybrid entities or hybrid instruments; or
   - Transfer pricing provisions.

   In this case a notice period of 60 days is required.

If you are about to face a tax audit or investigation in these areas (note that it is Revenue who decides if they are applicable), it will be important you provide information to SARS as timeously as possible. You will no longer have prescription time on your side.

If a taxpayer wants to contest these provisions, the tax law provides no objection or dispute process. You can only invoke (PAJA) the Public Access to Justice Act or a High Court review of the decision which means going to court – a costly exercise.

The powers given to SARS are widespread – **it is important to seek expert advice if you face an extension of prescription for assessments.**

Relief In Sight For Workers Losing Their Jobs

The parliamentary Portfolio Committee on Labour has recommended amendments to the Unemployment Insurance Act (UIF). As this received support from all parties, it is almost certain to be promulgated into law in the next few months.

In view of the difficult economic conditions and high unemployment in South Africa, this is welcome news.

The major amendment is that unemployment benefits will be extended to 12 months from the current 8 months.

Other improved benefits include:

- Increased maternity benefits
- Benefits to learners and civil servants in learnership programs

- UIF benefits for people on short time.

This is sound legislation as the UIF is considerably over-funded which also means there is little likelihood of UIF contributions going up any time soon.

Prepare Now For Leasing Changes That Will Impact Your Business

If your accountant uses IFRS ("International Financial Reporting Standards") in compiling your financial statements, and if you lease assets, then changes are coming that you need to start preparing for. The International Accounting Standards Board has mandated new accounting treatment from 1 January 2019.

Many businesses have cash flow issues, and as leasing conserves cash, they are users of leasing services. For these businesses, it is worth getting to grips with these new rules.

The good news is there is plenty of time to prepare for the change but the changes will be complex and could have an effect on your ability to get loan finance.

How does it affect me?

With a few exceptions (see below), operating leases will fall away. Instead of writing off lease payments to the income statement, you will be required to bring the value of the leased asset onto your balance sheet and provide for the lease repayments as a liability. Depending on the amount of leases you have, this could materially impact on your balance sheet.

The income statement will also reflect changes. Operating lease costs will now be shown as interest expense and depreciation.

The major changes

The major changes will be:

- All leases will need to be reviewed and unless they fall within the limited exemption rules will need to be capitalised.
    - Exemptions include leases of 12 months or less or minor items (see example below).
    - Leases for intellectual property, licensing agreements, leases for nongenerative resources (oil, minerals), service agreements and leases for biological assets are also exempt.
- You will be required to identify and strip out non-lease components e.g. a photocopier lease contains a service agreement of, say, R150 per month. This R150 per month will be shown separately in the income statement (see example)
- All contracts are to be scrutinised to see if they contain a "right of use". If they do they will probably fall into the new rules.
- Your asset base increases as the value of the lease is shown as an asset on your balance sheet.
- You show more debt on your balance sheet as the liability for the lease will be included in the balance sheet.
- Overall the changes net out over time but generally expenses will increase in the first few years and then decline in future years.
- Operating profit increases but depreciation and interest expense rise.
- Your cash flows are unchanged.
- Key business ratios change such as Earnings per Share, Return on Equity and the gearing of the

business (debt to equity ratio). This could affect how banks view the strength of your balance sheet.

- It can also have internal implications for example if staff bonuses are calculated using say, ROE, their bonus will alter.

Have a look at this example

An example best illustrates the changes to your financial statements –

EXAMPLE	
	Rand Cost
A business leases equipment on a 3 year lease	R50,000
It leases a tablet for 2 years	R8,000
It also leases a photocopier for 12 months	R10,000
Annual lease cost equipment (Includes maintenance cost of R1800)	R20,880
Annual lease cost for tablet	R4,380
Annual lease cost for photocopier	R10,488

Financial Statements Under New IFRS Rules				
	Year 1	Year 2	Year 3	Total
	Balance Sheet			
Fixed Assets	R50,000	R33,333	R16,666	
Lease Liability	-R50,000	-R34,803	-R12,752	
	Income Statement			
Maintenance Costs	R1,800	R1,800	R1,800	R5,400
Depreciation	R16,667	R16,667	R16,667	R50,000
Interest	R3,883	R2,458	R899	R7,240
Operating lease	R14,868	R4,380		R19,248
Total	R37,218	R25,304	R19,366	R81,888

Financial Statements Under Current IFRS Rules				
	Year 1	Year 2	Year 3	Total
	Balance Sheet			
Fixed Assets	0	0	0	
Lease Liability	0	0	0	
	Income Statement			
Maintenance Costs				
Depreciation				
Interest				
Operating lease rentals	R35,748	R25,260	R20,880	R81,888
Total	R35,748	R25,260	R20,880	R81,888

(If the tables above do not display correctly, please see the "online version" – link above the compliments slip)

NOTES

1. The balance sheet will show a fixed asset for the equipment and a liability for lease owings under the new IFRS rules.

2. The differences in the Income Statements net out but note the increased expense shown in year 1 and 2.

3. There is no change to lease treatment for small items (tablet) and leases of 12 months or less (photocopier).

4. Maintenance costs are stripped from the lease and shown separately under the new rules.

5. Cash flows do not change under either scenario.

6. Lease cost calculated at an interest and discount rate of 9%.

Start planning now

Depending on the number of leases and contracts you have this could be a time consuming and complex process – especially as you will have to set up new systems, accounting policies and methods of valuing leases. Also you need time to assess the effect this could have on your ability to borrow funds.

Speak to your accountant who can guide you through this process.

Tax Free Saving Accounts (TFSA) Are Working – Are You Taking Advantage Of Them?

In the 2015 Budget, Finance Minister Nene introduced a tax free savings incentive. It allowed R30,000 per person per annum to be invested in a variety of funds including unit trusts, exchange tracker funds (ETFs), savings accounts and insurance products. The TFSA is capped at R500,000 contribution per individual.

Within four months of the launch of TFSA more than R280 million rand had been invested by more than 46,000 investors. Research has shown that TFSAs will outperform other traditional investments as there is no tax payable.

If you haven't yet invested in TFSAs speak to your accountant or broker.

Your Tax Deadlines For April

Only the normal run-of-the-mill tax deadlines in April, but the annual employer PAYE reconciliation (EMP501) is due on 31 May. As this can take some time to do, the earlier you begin this process, the more time you leave yourself to iron out errors. Remember there are penalties for late submissions.

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