

THE NEWSLETTER WITH A DIFFERENCE

M.C. MONTHLY

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Die dikwels vergete belasting-Skenkingsbelasting

Dikwels kry 'n koper fondse om 'n eiendom te koop vanaf 'n familielid of sy ouers. Agente moet kan onderskei wanneer die fondse van so 'n skenking skenkingsbelasting sal aantrek en die koper en die skenker adviseer oor die waarskynlikheid dat skenkingsbelasting betaalbaar is voordat die koopaanbod onderteken word.

Indien die eiendom aan 'n familielid verkoop word, vir 'n bedrag minder as die markwaarde daarvan, word die verskil tussen die koopprys en die markwaarde ook geag as 'n skenking deur die verkoper.

Die skenker betaal 20% skenkingsbelasting op sodanige skenking. As die skenking meer as R30 000 000 is, word dit teen 25% belas.

Daar is maniere om hierdie skenkings te struktureer, byvoorbeeld as 'n lening.

Die eerste R100 000 wat in 'n jaar deur 'n individu geskenk word, is vrygestel van skenkingsbelasting.

In die geval van 'n maatskappy, trust of beslote korporasie is slegs die eerste R10 000 vrygestel.

Skenkings tussen gades, Suid-Afrikaanse groepmaatskappye, asook skenkings aan sekere openbare welsynsorganisasies, is vrygestel van skenkingsbelasting.

Skenkingsbelasting is bykomend tot die BTW of hereregte betaalbaar op die koopprys van die eiendom.

Agente is nie belastingkenners nie en moet nie probeer om belastingadvies te gee nie, maar 'n agent moet ten minste 'n kliënt kan adviseer om belastingadvies van sy of haar ouditeur te verkry.

Kontak ons gerus vir advies in die verband.

The often forgotten tax- Donations Tax

Often a purchaser receives funds to purchase a property from a family member or parents. Agents should be able to discern when the funds from such a donation will attract donations tax, and should advise the purchaser and the donor of the likelihood of donations tax being due before the offer to purchase is signed.

If a seller sells a property below market value to a family member the difference between the true market value and the selling price is also regarded as a donation.

The donor will pay 20% donations tax on such donation. If the donation is more than R30 000 000 it will be taxed at 25%.

There are better ways to structure these taxable donations for example through a loan.

The first R100 000 donated by an individual in a year is exempt from donations tax.

In the case of a company, trust or close corporation only the first R10 000 donation is exempt.

Donations between spouses, South African group companies as well as donations to certain public benefit organisations are exempt from donations tax.

Donations tax is payable in addition to the VAT or transfer duty due on the purchase price of the property.

Agents are not tax experts and shouldn't endeavour to give tax advice, but an agent should at least be able to advise a client to obtain tax advice from his or her auditor.

Contact us for advice in this regard.



Written by/Geskryf deur: Sonja du Toit

The administration of a trust – duties of the trustee

The duties of a trustee can be divided into 3 categories:

1) Duties before the administration of the trust can commence

Before the trustees can commence with any administrative duties or act on behalf of the trust, a letter of Authority must be issued by the Master of the High Court. For the Letter of Authority to be issued, the trust deed together with supporting documents are lodged at the Master. If the Master finds it all to be in order, a Letter of Authority is issued, confirming the appointment of the trustees and the registration of the trust. All actions by trustees on behalf of the trust before such Letter of Authority is issued, will be void.

2) Duties of the trustee when administering the trust assets

The primary duty of the trustee is to give effect to the conditions of the trust deed. He or she must administer the trust assets in such a manner that the objectives of the trust are achieved. The trustee has a general duty to administer the trust assets for the benefit of the beneficiaries. These duties derive from the common law, the Trust Property Control Act 57 of 1988 and the trust deed. To summarise, these duties are:

- * To take possession of the trust assets, including the collection of debts;
- * To administer the trust in accordance with the provisions of the trust deed;
- * To exercise discretion when dealing with trust matters;
- * General duty to preserve the trust assets taking into consideration the powers of the trustee;
- * Administer income obtained from trust assets;
- * Accountability towards beneficiaries;
- * Trust assets must be kept separate from the trustees' personal assets;
- * Preserve all documents relating to the trust dealings;
- * Trustees must act impartially when dealing with trust matters and when exercising their discretion;
- * Trustee must, in performing his or her duties, act with care, diligence and skill.

3) Consequences for a trustee failing to comply with his/her duties

In the event that a trustee fails to comply with a request of the Master, or to perform in accordance with the trust deed or by law, the Master or any person having an interest may apply to the court for a court order directing the trustee to comply. The Master also has the power to remove the trustee from office. In certain instances a trustee can be held personally liable for acting negligently in administering trust assets.



Written by/Geskryf deur: Nicole Alberts

Die administrasie van 'n trust – pligte van die trustee

Die pligte van 'n trustee kan verdeel word in drie kategorieë:

1) Pligte voor die aanvang van trustadministrasie

Voor 'n trustee kan begin met enige administrasie of handelinge namens die trust, moet 'n Magtigingsbrief deur die Meester van die Hoë Hof uitgereik word. Vir hierdie Magtigingsbrief om uitgereik te word moet die trustakte, tesame met ondersteunende dokumente, by die Meester ingedien word. Indien die Meester alles in orde vind, sal 'n Magtigingsbrief uitgereik word wat die aanstelling van die trustees asook die registrasie van die trust bevestig. Alle handelinge namens die trust voor uitreiking van die Magtigingsbrief sal nietig wees.

2) Pligte van die trustee tydens administrasie van trustbates

Die trustee se primêre funksie is om uitvoering van die voorwaardes van die trustakte te verseker. Hy of sy moet die trustbates op so manier administreer dat die doelwitte van trust bereik kan word. Die trustee het 'n algemene plig om die trustbates te administreer tot die voordeel van die begunstigdes. Hierdie pligte spruit uit die volgende: die gemeneereg, die Wet op Beheer van Trustgoed 57 van 1988 sowel as die trustakte. Hierdie pligte kan opgesom word as volg:

- * Besitneming van trustbates insluitend skuldinvorderings;
- * Administrasie van die trust in ooreenstemming met die bepalinge uiteengesit in die trust akte;
- * Uitoefening van diskresie wanneer met trustaangeleenthede gehandel word;
- * 'n Algemene bewaringsplig van die trustbates met inagneming van die trustees se magte;
- * Administreer die inkomste verdien deur trustbates;
- * Verantwoordbaarheid teenoor begunstigdes;
- * Die trustbates en die trustees se persoonlike bates moet apart van mekaar gehou word;
- * Bewaring van alle dokumente in verband met trust handelinge;
- * Trustees moet onpartydig optree wanneer hulle optree namens die trust en hulle diskresie uitoefen;
- * 'n Trustee moet in die uitoefening van sy/haar pligte optree met die nodige sorg, ywer en vaardigheid.

3) Gevolge wanneer die trustee versuim om aan sy/haar pligte te voldoen

In die geval waar 'n trustee versuim om 'n versoek vanaf die Meester uit te oefen, of versuim om volgens die trustakte of wet op te tree, kan die Meester of enige ander belanghebbende persoon aansoek doen by die hof vir die toestaan van 'n hofbevel om sodanige trustee te verplig om sy verpligtinge na te kom. Verder is die Meester by magte om 'n trustee uit sy pos te verwyder. In sommige gevalle kan die trustee persoonlik aanspreeklik gehou word indien daar nalatig met trustbates gehandel word.

M.C. VAN DER BERG INC
ATTORNEYS, CONVEYANCERS & NOTARIES

Your Property Attorneys

MINOR BUILDING WORKS

All structures on a property must be on municipal approved building plans in terms of the National Building Regulations and Building Standards Act. This includes any building works defined as "minor building work". Written application for any building works, has to be made to the municipality (more specifically the building control officers) and it is in the building authority's discretion if plans will be required for the minor building works or not.

The following is defined as "minor building works" in terms of legislation, and will only require consent by the municipality to commence with the building thereof, or if they so decide to have formal plans drawn up and approved by them:

- 1) The erection of:
 - * poultry houses that are no more than ten square metres in size,
 - * aviaries that are no bigger than twenty square metres,
 - * solid fuel stores (for storing wood, coal, anthracite or similar) that are no more than ten square metres in area and no higher than two metres,
 - * tool sheds that are smaller than ten square metres,
 - * childrens' playhouses that are no more than five square metres,
 - * cycle sheds, no more than five square metres,
 - * greenhouses that are a maximum of fifteen square metres,
 - * open-sided car, caravan or boat shelters or carports that do not exceed forty square metres in size,
 - * any freestanding wall built with masonry, concrete, steel, aluminium, or timber or any wire fence that does not exceed 1,8 m in height at any point above ground level and does not retain soil,
- 2) The replacement of a roof (or part of a roof) with the same or similar materials;
- 3) The conversion of a door into a window, or a window into a door, without increasing the width of the opening;
- 4) The making of an opening in a wall that doesn't affect the structural safety of the building concerned;
- 5) The partitioning or enlarging of any room by the erection or demolition of an internal wall, as long as it doesn't affect the structural safety of the building.

In practice the municipality will require formal plans for all of the abovementioned.

Written by/Geskryf deur: Ramona Michael



FREQUENTLY ASKED BOND QUESTIONS/ GEREELDE VERBAND VRAE

CANCELLATION OF SELLER'S EXISTING BOND

The existing bond registered over a property must be cancelled in the deeds office to enable the unencumbered transfer of the property into the name of the purchaser. Notwithstanding the fact that the bond has been settled in full, it must be formally cancelled in the deeds office by a conveyancer. Cancellation of the existing bond will be effected simultaneously with the transfer of the property at the deeds office.

KANSSELLASIE VAN DIE VERKOPER SE HUIDIGE VERBAND

Die bestaande verband wat oor 'n eiendom geregistreer is, moet in die aktekantoor gekanselleer word om die eiendom te kan oordra aan die koper. Selfs in gevalle waar die lening ten volle afbetaal is, moet dit formeel by die aktekantoor gekanselleer word deur 'n aktevervaardiger. Die kansellasie van die verband geskied gelyktydig met die registrasie van die eiendom in die aktekantoor.



Written by/Geskryf deur: Chanèl Ferguson

What our clients have to say / Wat ons kliënte sê

- ◆ I appreciate the regular feedback and professional manner in which you, on behalf of your firm, has handled my application. I would appreciate it if you could convey my satisfaction with your professional conduct to your managers.
- ◆ Ek wil net bevestig dat ek baie gelukkig is met die diens wat ek van julle ontvang het. Die inligting wat julle deurgee het my gehelp om die proses te verstaan en julle weeklikse verslag hou mens op hoogte van die stappe in die proses. 'n Gemiddelde persoon soos ek verkoop nie vaste bates elke jaar nie en ek was heel gerus dat alles goed hanteer word en dat daar niks is om oor te stres nie. Ek sal verseker mense aanbeveel om aan julle deur te klof vir enige dienste wat julle lewer. Weereens baie dankie aan die span wat om my transaksie gewerk het.
- ◆ We would like to express our sincere thanks for the positive experience we have had in dealing with you all. We had been through an issue previously which was horrific to say the least, but this experience has been the absolute opposite and made us realise that there are still trustworthy honest people.

Werknemer van die maand

Carien Scheepers het by die firma aangesluit op 4 Junie 2016.

Sy is aangestel as administratiewe assistent en was al werksaam in ons verband sowel as transportafdelings.

Sy is tans 'n assistent vir Retha Karemaker.

Weens haar bekwaamheid, rustige geaardheid en pligsgetrouheid, is sy 'n ware aanwinst vir M.C. van der Berg Ingelyf!



Carien Scheepers

SUDOKU

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Ethical Code- EAAB

No estate agent shall –

3.9 accept a mandate in respect of any immovable property if the performance of the mandate requires specialised skill or knowledge falling outside his field of competence, unless he will in the performance of the mandate be assisted by a person who has the required skill or knowledge and this fact is disclosed in writing to the client;

Boereraat – Bak en Brou

- ◆ 'n Knippie kaneel verleen 'n pikante smaak aan kakao.
- ◆ Gooi 'n stukkie botter in vla - dit voorkom dat dit 'n velletjie maak.
- ◆ Gooi 'n klein bietjie koeksoda of suurlemoensap by om jellie vinniger te laat stol.
- ◆ Hou altyd 'n houertafelsout gereed by die stoof, sou die pan met vet of olie vlam vat kan jy dit smoor deur sout daaroor te gooi.
- ◆ Melk sal nie oorkook as daar 'n albaster in die melkkastral geplaas word nie.

Soos baie van julle reeds weet is ons vir etlike jare al betrokke by 'n tehuis vir kwadrupleë, genaamd Huis Remme-Los. Weens hulle gestremdheid kan die agt inwoners nie 'n inkomste verdien nie en is hulle oorgelaat aan die finansiële ondersteuning van die Lotto.

Ongelukkig ontvang hulle slegs ongeveer 'n derde van hulle inkomste uit hierdie bron en is hulle verder afhanklik van buite instansies, soos M.C. van der Berg Ingelyf, om hulle finansiële by te staan.

Die inwoners van die tehuis is afhanklik van verskeie duur hulpmiddels asook 'n groot aantal ondersteunings personeel. Ons het 'n paar jaar gelede die besluit geneem om by die tehuis betrokke te raak en hulle finansiële te ondersteun. Elke tweede jaar hou ons 'n groot fondsinsamelingsprojek in die vorm van 'n konsert ten bate van ons vriende in die tehuis.

Hierdie jaar is dit weer sulke tyd en op die 6de Junie 2018 reël ons 'n konsert ten bate van Huis Remme-Los in die Atterbury teater.

Ons borg die aand, en die welbekende Touch of Class tree op. Kontak ons gerus indien u betrokke wil raak met die ondersteuning van hierdie projek.

Weereens dankie aan diegene wat ons hande hierin oor die afgelope paar jaar versterk het.

