

January 2016

*"If you wish to reach the highest, begin at the lowest".
Publilius Syrus*

MAKE THE INCOME TAX ACT WORK FOR YOU!

Corporate restructures are not always simple and the tax implications may be brutal. Although some restructure transactions give rise to a disposition and would likely result in a liability for normal tax they do not always result in gains that truly affect a person's liability to contribute to revenue.

However, the Income Tax Act (the "Act") provide relief mechanisms (i.e. Corporate Rules) for companies implementing restructure transactions which permit income or gains attracted by such transaction to be deferred for a period of time. Generally described as 'rollover' or 'holdover' reliefs, the Corporate Rules are designed to remove the tax obstacles, if any.

Many clients and practitioners are unaware of these provisions and they realise the tax implication only when it is too late to be mitigated. The Corporate Rules are interwoven with anti-tax avoidance rules, which add considerable complexity to the rollover provisions. For further detail and information please contact our offices to discuss before implementation. The incorrect application of the rollover provisions may result in severe detriment to your company.

Law & Laughter

Joke: : What's the difference between a mosquito and a lawyer?
A: One is a blood-sucking parasite, the other is an insect.

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BEWARE: MANDATORY ROTATION OF COMPANY AUDITORS

There are numerous safeguard measures in place which address auditor independence in South African such as the Independent Regulatory Board for Auditors (IRBA). The Companies Act (the "Act") now supplement such safeguard measures and requires audit partner rotation every five years. The Act came into operation in May 2011, making this year a rotational year of auditors or designated auditors since the inception of the Act.

The reasoning for the rotation of auditors is to ensure independence of auditors. The Act provides for a further safeguard measure to ensure auditor independence and state that a person may not be appointed as auditor of a company if such person provided any non-assurance services for the company.

The Act is extremely strict on independence and any non-assurance work that is considered to be "related secretarial or bookkeeping services" will disqualify an audit firm from being appointed as auditors.

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