

## PERSONALISED LEGAL ASSISTANCE

Professional legal and property consulting

### **SONNENBERG & ASSOCIATES PROPERTY AND LEGAL ADVICE NEWSLETTER #122**

#### **1. Legal quotes**

"They (lawyers) do tricks even I can't figure out." [Harry Houdini]

"I decided law was the exact opposite of sex; even when it was good, it was lousy." [Mortimer Zuckerman]

"Whenever you wish to do anything against the law, always consult a good solicitor first." [George Bernard Shaw]

#### **2. Legal short**

An attorney telling bedtime stories to his children: "...Then Goldilocks broke and entered and committed various acts of burglary..."

#### **3. Inspiring quotes**

"The best people possess a feeling for beauty, the courage to take risks, the discipline to tell the truth, the capacity for sacrifice. Ironically, these virtues make them vulnerable; they are often wounded, sometimes destroyed." [Ernest Hemingway]

"Humility is not thinking less of yourself; it's thinking of yourself less." [C S Lewis]

"Not everything that is faced can be changed, but nothing can be changed until it is faced." [Lucille Ball]

#### **4. No more interest-free loans to Trusts**

On **January 11 2017**, President Zuma signed several Bills into law, including **the Taxation Laws Amendment Act** ("the Act"), which deals with Interest-free or low-interest loans to trusts.

This bill has been adopted following the recommendations on the taxation of trusts by the Davis Tax Committee and is part of an on-going attempt by the fiscus to close as many tax loop holes as possible to bring more money into Treasury's coffers (which is understandable in light of the current political climate and the drawn-out battle between the President and the Minister of Finance).

In estate planning (until now), it has been **advantageous for the founder of a trust to sell his or her assets to a trust**, and **granting the trust an interest-free loan**. The funds from that loan are then applied by the trust as payment for the assets. In this scenario, **donations tax is not triggered** (because an interest-free loan is generally not regarded as a donation) and **neither is Estate Duty** (the assets are not included in the founder's estate at death).

To counter the above-mentioned, **The Taxation Laws Amendment Act has introduced a new section (section 7C), which aims to limit the ability of taxpayers to transfer wealth to their trusts without being subject to tax.**

The section applies where a natural person (or a company which is a '**connected person**' in relation to that natural person) makes a low-interest or an interest-free loan to a trust in relation to which that natural person is a 'connected person'.

The section provides that, **as from 1 March 2017, the difference between what is termed the "official rate of interest", currently at 8%, and the amount of interest actually charged on the loan to the trust must be deemed to be a continuing donation made by the trust.**

**The donation by the founder of the trust will also be subject to donations tax at a rate of 20%.**

The promulgation of the Act will make a massive impact on family trusts, which have historically been funded by way of interest-free or low-interest loans.

Watch this space: we are expecting the February 2017 budget to further burden the tax payer.

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