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Dear Member

Tax Debt Assistance

By: Bernard Inc.

Irrespective of whether you are a commercial client or private individual, our tax law department can assist you with a Tax Solution to minimise your tax exposure. Our Tax Law Attorneys will assist you by utilising company structures and other legal mechanisms to achieve your end goal of being tax compliant while at the same time minimising your tax exposure.

We offer legal advice and ancillary services in the following areas of tax law:

International tax

We provide our clients with tax advice in their international trade by considering tax rates applicable in other countries, tax exchange control on the client's foreign investments and the implication of double taxation agreements.

Corporate Tax

Our team reviews all tax implications on the day to day actions of our corporate clients. This will include:

- reviewing the tax implications of mergers, acquisitions and joint ventures;
- providing detailed tax opinions on the exposure of tax in employment tax incentives and restructures;
- advising on the tax implications of corporate restructures; and
- advising on the treatment of industry specific taxes including renewal energy sectors and mining sectors.

Customs and International Trade

We provide our clients with legal advice on industry specific customs and excise duties and are able to assist with any dispute resolution and litigation in this regard.

Trusts and incentive-based schemes

We are able to advise clients on:

- the tax implications of utilising trusts in structures;
- the tax implications when moving assets into trusts; and
- employment incentive based schemes including employment tax incentives resulting from such schemes.

Tax debt assistance (Compromise with SARS)

In our current economic climate South African businesses find themselves in a constant battle to sustain a positive cash flow which is a prerequisite for a successfully run business. Without a positive cash flow, it is difficult to remain in good standing with creditors and businesses often face the very real choice between either paying their employees and other necessary expenses in order to keep to doors open or to pay VAT and/or PAYE to SARS.

Although illegal, in almost all circumstances businesses choose the former. Unfortunately it only achieves relief in the short term with the long term result being that businesses are subjected to a hostile collection of outstanding taxes by SARS.

This leads to businesses finding themselves in a situation where they either:

- cannot or do not know how to approach SARS in order to structure an agreement that is both affordable by the business and acceptable to SARS and therefore ignore the requests; or
- accept terms stipulated by SARS, that in most instances are not affordable and then default on the agreement.

In both of the above instances the business faces further collection proceedings where funds are collected directly from bank accounts or the sheriff attaches property belonging to the company and required for conducting its business.

Our attorneys assist businesses to manage this process by negotiating terms that are both affordable to the business and acceptable to SARS. The Tax Administration Act makes provision for either a settlement in the form of a compromise or payment arrangements in terms of a deferment agreement.

It is from these two broad line options that we construct formal arrangements with SARS in order to suspend further collection proceedings and assist the business to become fully compliant with SARS. Our clients therefore can continue to trade without SARS closing the business down. We realise that each business is unique with different circumstances and requirements. As a result, we assess each matter on a case by case basis and then formulate a strategy to resolve the dispute with SARS. We therefore remove the burden from the business-owner to deal with SARS directly which allows him or her to rather focus on running the business.

Our services relating to tax disputes include the following

- Objections and Appeals;
- Suspension of Payment;
- Compromise Application;
- Deferment Application;
- Acquiring Tax Clearance Certificate;
- Review to High Court.

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