



Tax First

Namibia Newsletter

June 2013

Trustees' necks on the line - is your trust administration in order?

Trustees have duties prescribed by statute, common law and the trust deed. In performing these duties, they should act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another.

The following circumstances are a few which could justify the removal of a trustee from office or result in trustees becoming personally liable for losses of a trust if they do not perform their duties accordingly:

- Where a trustee, without furnishing any explanation for his conduct, removes trust funds from an apparently safe investment with a financial institution and apply these for his/her personal use ;
- Where the trustee treats the trust and its assets as his own, for example by selling the trust assets without the proper approval of the other trustees as required by the trust deed;
- Where the trust deed requires that, if a decision is to be taken, especially the sale of immovable property, notice must be given to all the trustees so that they may decide thereon, and the trustee deliberately refrains from informing one of his co-trustees of the intended decision;
- Where the trustee expresses no independent views about the matters affecting the trust, but relies entirely upon a dominant co-trustee and approves of his (potentially wrongful) conduct.

It is important to note that a majority of trustees in office may form a quorum internally at a trust meeting, however it is not the majority vote, but rather the resolution by the entire board of trustees, which will bind a trust.

A trust operates on resolutions, and not votes.

It is therefore imperative that:

- all the trustees participate in decision making of trust affairs;
- the appropriate procedures are followed for amendments to the trust deeds;
- resolutions are properly documented and signed;
- the rights of beneficiaries in terms of the trust deed are carefully considered when dealing with trust assets and income;
- financial records are properly maintained and approved by the trustees.

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Bulletin:

As from 22 July 2013, no cheque payments will be accepted for cross-border payments in the Common Monetary Area (CMA).

This applies to all cross border cheques, Rand draft notes & Rand Travellers' cheques between Namibia, South Africa, Lesotho & Swaziland. Commercial banks have indicated that the cheques will be returned as unpaid.

Alternatives - EFT (normal EFT/Internet Banking) transfers, forex transfers and credit card payments.

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This newsletter and previous issues are available on
www.pwc.com/na/en/publications/tax-first

Also in this issue:

- 2** Social Security Compliance
- 2** Common Pitfalls - Apportionment of wear & tear
- 3** Government Gazettes during May 2013
- 3** Tax Calendar - June 2013



Remember:

Payroll administrators are reminded to load the new individual tax tables on the payroll system and ensure that PAYE deductions are adjusted accordingly for the next payroll.

To view the new individual tax tables please scan this code to view our Namibia Tax rate and Reference Card online , or visit our site at: <http://pwc.to/13hxHLR>



Social Security Compliance

The Social Security Commission is entitled to levy interest for non-compliance.

It is thus important to diarise the deadlines for the respective returns and payment due for Social Security and Employees' Compensation.

For normal Social Security, i.e. contribution towards Maternity, Sick and Death benefits, are due and payable to the Commission by the 30th of the subsequent month that contributions are due. Employers will be held liable for the payment and submission of the monthly returns.

In the event that the employer's business will cease to operate, the Commission should be informed accordingly; as the employer will be held liable for any outstanding contributions and interest levied until the date on which the Commission was so duly informed.

For Employees' Compensation the assessed amount payable is due 30 days after the date of assessment, unless other arrangements have been agreed to between the employer and the Commission. Interest shall be charged where late payment is made. The interest may be waived, if the employer can prove that an administrative error on the part of the Commission resulted in a wrong assessment being raised.

In addition to monthly compliance and payments due, the employer is also required to retain all employee contribution records for a period of 5 years. The documents should be available for the inspection on demand by an authorized person or by the respective employee.

As mentioned in previous Newsletter editions, please note that the thresholds have increased :

- Social Security: As per 1 March 2013, the contribution ceiling increased from **N\$6,000** to **N\$9,000**; therefore employer/employee contributions have increased from **N\$54** to **N\$81** each.
- With effect 1 March 2012, the wage ceiling for persons covered under the Employees' Compensation Act, receiving **N\$76,000** p.a. or more will be included in the mandatory coverage of work related injuries/accidents.

Complying with the due dates for submission and payment of Social Security and Employees' compensation could save you the unwanted surprise of interest on your Social Security account.

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Common pitfalls - Capital allowances on assets

When calculating company taxes a number of capital allowances are available to taxpayers. All the criteria for these allowances need to be met to qualify for a deduction. In this monthly article we discuss one of the allowances taxpayers often apply incorrectly:

Apportionment of wear & tear

Section 17(1)(e) provides for a capital allowance on items to be claimed over a period of 3 years. Namibian Income Tax law does not allow for apportionment of wear and tear for assets purchased during a tax year.

Allowances are claimed in full on assets that a taxpayer owns at year end. Amounts not claimed during the 3 years following the year of acquisition may be forfeited.

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Government Gazettes

Government Gazettes issued during May 2013 are included in this edition.
This is not an non-exhaustive list of Acts/Notices/Proclamations published during this period.

Government Notices		Short summary
No 128 - 2013	Promulgation of Income Tax Amendment Act	New tax rates
No 129 - 2013	Promulgation of Appropriation Act	Promulgation of Act
No 130 - 2013	Promulgation of Transfer Duty Amendment Act, 2013	New Transfer duty table
No 131 - 2013	Promulgation of Stamp Duties Amendment Act	New Stamp Duty Table
No 140 - 2013	Amendment of Tender Board Regulations: Tender Board of Namibia Act, amendment of "bona fide Namibian dealer or merchant" and other amendments.	Changes to requirements for tenders, including shareholding by Namibians and previously disadvantaged Namibian natural persons.

Tax Calendar - June 2013

Monday	Tuesday	Wednesday	Thursday	Friday
10	11	12	13 2013 Annual Tax Symposium, Windhoek: RSVP with edith.sinclair@na.pwc.com	14 2013 Annual Tax Symposium, Windhoek: RSVP with edith.sinclair@na.pwc.com
17	18	19	20 • PAYE Returns • Import VAT return • Withholding Tax on Services return	21
24	25 • VAT return (Category A)	26	27	28
1 July 2013 • Social Security payment • Tax return - companies with 30 November 2012 year-end • 1st Provisional returns - companies with 31 December 2013 year-end • 2nd provisional returns - companies with 30 June year-end • Salaried individuals and non-business trusts annual income tax returns				

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