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Foreign Bank Accounts or Investments

In a recent newsletter of the Sovereign Group (a well respected international financial and trust advisory group), the Chairman, Howard Bilton, states as follows:

“The tax scandals in Liechtenstein and Switzerland have led both countries finally to commit to OECD standards of exchange bank information. As this Report goes to press, Andorra, Austria, Belgium, Luxembourg and Monaco have followed suit in advance of the next G20 summit in London - as have Hong Kong and Singapore. Taken together, this means that banking secrecy is effectively dead.”

The Organisation for Economic Co-operation and Development (OECD) has a membership of 30 countries and shares expertise and exchanges views with more than 100 other countries including South Africa.

In the double tax treaties entered into by South Africa with more than 70 countries around the globe (with 20 more in the pipeline), there is

an article headed “ Exchange of Information”. This entitles and obligates the tax authorities of the two countries to exchange tax information with each other to promote tax compliance in their countries.

Tax residents of South Africa are taxable in South Africa on worldwide income and capital gains. Failure to disclose income and capital gains subject to tax in South Africa is a criminal offence which can lead to a fine or imprisonment (in addition to the tax, penalties and interest thereon).

We strongly advise those who have assets (undisclosed to SARS) outside of South Africa (whether legally held or not from an Exchange Control point of view), to disclose to SARS the income and capital gains thereon. At your request, we are able to assist you to bring your tax affairs up to date by making disclosure to SARS of that which needs to be disclosed.

Please contact us should you require assistance in this regard.

FRINGE BENEFITS

Fringe benefits and STC - interest rate

- If inadequate interest is charged to an employee (including working directors) on loans (other than for the purpose of furthering his own studies) in excess of R3 000 from his employer (or associated institution), tax on the fringe benefit may be payable.

Unless interest is charged at the “official” rate or greater, the employee is deemed to have received a taxable fringe benefit calculated as being the difference between the interest actually charged and interest calculated at the “official” rate.

For employees’ tax purposes, the tax deduction must be made whenever interest is payable. If not regularly, then on a monthly basis for monthly paid employees, weekly for weekly paid employees, etc.

- In general, only distributions of income from a company / close corporation are subject to STC. To the extent that there are profits/reserves available for distribution, loans or advances to or for the benefit of a shareholder / member will be deemed to be dividends subject to STC unless interest

at the “official” rate (or market related rate in the case of foreign currency loans) is payable on the loan or fringe benefits tax is payable on an interest free (or subsidised interest) loan to an employee.

- The “official” rate of interest was reduced for both the above purposes from 13% per annum to 11,5% per annum with effect from 1 March 2009.
- The “official” rate of interest over the past 5 years is as follows -

With effect from 1 March 2004	9.0% p.a.
With effect from 1 September 2004	8.5% p.a.
With effect from 1 September 2005	8.0% p.a.
With effect from 1 September 2006	9.0% p.a.
With effect from 1 March 2007	10.0% p.a.
With effect from 1 September 2007	11.0% p.a.
With effect from 1 March 2008	12.0% p.a.
With effect from 1 September 2008	13.0% p.a.
With effect from 1 March 2009	11.5% p.a.