



Advantage

Vat Registration Threshold



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If the total value of your taxable supplies exceeded R300 000 p.a. (excluding VAT), VAT registration was compulsory.

This limit has been increased to R1 million with effect from 1 March 2009.

Many VAT vendors will therefore consider deregistering for VAT purposes. Besides the relief from the administrative burdens of registration, there can also be solid financial reasons to do so.

Remember however that when you deregister, you are deemed to have supplied all the goods which still form part of the enterprise. The value of such supply is the lesser of the cost of acquisition and the open market value.

There are provisions to allow for payment of such VAT over a period

but, to enjoy the benefits of the deferred payment concession, you must apply for deregistration on or before 30 June 2009. If deregistration is for the purpose of registering as a Micro Business, then VAT is only payable on the excess of the value of supplies on deregistration as exceeds R100 000 and payment over 6 months is then also allowed.

We suggest that you discuss with us the desirability of deregistering. In some cases it may not be a good idea at all. If a decision is made to go ahead, we will need to consider and discuss the planning processes which should be followed **before** advising SARS of your desire to deregister your enterprise for VAT purposes.

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Hoteliers Expect a Tough Year Ahead For 2009



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According to the Horwath HTL Global Hotel Market Sentiment Survey, which was conducted across 46 countries in 18 languages and received a total of 2 705 responses, hoteliers throughout the world are unanimously expecting declines in business performance for 2009.

In the face of the global economic downturn, it is not surprising that the results of the survey indicate a tough year ahead. In fact, globally, hoteliers ranked the global economic situation as the number one factor negatively influencing the market in 2009, followed by global stock market trends, and local economic trends.

Globally, the general market sentiment was rather pessimistic with an average score of -34,2. The only region which achieved a positive average sentiment score is South America (+9,7). On the other hand, hoteliers in North America, which include markets hugely affected by the global economic downturn such as the USA and Canada, expected a relatively bleak outlook in 2009 as the region registered a sentiment score of -41,0.

The top five countries (with a sufficient response rate) with the highest sentiment

scores were Indonesia (-4,3), South Korea (-7,2), South Africa (-11,9), Norway (-20,3) and Mexico (-24,5). Japan (-74,1), Slovakia (-68,4), Singapore (-64,3), Russia (-58,9) and the USA (-54,8) rounded up the bottom five.

With an overall country average score of -11,9; South African hoteliers concurred with their global colleagues. Participants indicated that local/ global stock market performance, global economic growth trends and global oil prices are likely to have the most harmful impact on hotel performance in South Africa this year.

Hoteliers in the Northern Cape held the least pessimistic outlook for the year ahead followed by hoteliers in the Eastern Cape industry and Gauteng. Hoteliers in KwaZulu Natal, the Western Cape and North West Province held the most pessimistic outlook for the year ahead.

Participants of the South African country survey are of the opinion that the Corporate segment will be the least affected this year. The Leisure FIT (Fully Independent Traveller) and Leisure Group segments, which are typically the most price-sensitive of the four segments surveyed, are expected to be the

poorest performing segments in 2009.

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CAATs not for the Dogs



Anton du Toit
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Computer-assisted audit techniques (CAATs) are very important tools in the external auditor's toolbox. CAATs are thus very important and not for the dogs!

CAATs form one of the core areas of expertise offered by Horwath IT Services. That is in addition to software training of staff and clients' staff, maintenance of audit software, and other related services. CAATs mean the use of audit software like ACL and even MS Excel, to analyse electronic data of clients.

Although CAATs were offered to audit teams and partners in the past, it really took off about six months ago, when the new Horwath IT Services SA (Pty) Ltd was formed and more directors and experts were appointed. A large component of the audit of medium-sized and large clients can now be audited and the data extracted electronically, by:

- Identifying risk areas and high value or volume of electronic groups of transactions or balances.
- In consultation with the client and co-operation between the auditors and the client staff, the downloading of the relevant data (e.g. a sales file or a debtors file) to the auditors' computers.

- Co-operating with the client's staff to determine if the downloaded file is reconciling to the general ledger and trial balance.
- Analysing the data received with the relevant software, for example selecting sample items for the audit team to test, stratifying populations, sorting, finding missing serial numbers (gaps) or duplicate transactions or balances, and many other functions.
- The CAATs process is completed by summarising the results and coming to conclusions that the audit team can use.

Over and above this, the internal controls in the IT environment are assessed, both for general controls and for application controls. Any weaknesses are reported to the audit partner for attention in the routine audit risk approach as well as to the client in the normal audit management letter.

The use of CAATs thus ensures a more effective audit, reduces audit risk, but more importantly, gives the audit partner a higher level of comfort and assurance in areas he would not normally be looking at.

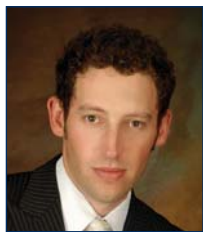
Clients should also be aware that Horwath IT Services can provide high level computer auditing services, such as the following:

- Performing computer audits and security audits for clients. This could include an analysis and audit of the whole IT function and/or the whole computer security system, as well as certain sections of these. Often the results and conclusions are used for resolving disputes or are used in court cases.
- Providing advice on business continuity management, as well as on sustainable IT.
- Providing advice on improving IT processes and on the development of new systems and architectures, as well as being part of new systems development.
- Providing advice in protecting clients' IT systems against viruses, cyber crackers and other attacks and security threats.

Horwath IT Services SA (Pty) Ltd is a new, vibrant member of the Horwath family.

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Your duty to report corruption



Ryan Sacks
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Not many people are aware of their legal reporting requirements in terms of 'The Prevention and Combating of Corrupt Activities Act' of 2004, commonly referred to as 'PACCA'.

An 'Act' is a law that has been passed by Parliament. As its name suggests, PACCA aims to prevent and fight corruption in government and in the private sector. The general offence of corruption is defined in section 3 of the Act which broadly states that a person or body is guilty of the offence of corruption where the giving and/or accepting of a gratification amounts to any "unauthorised or improper inducement to do or not to do anything".

Section 34 of the Act requires people in positions of authority in the public and private sectors to report to the police such knowledge or suspicion of corruption involving R100 000 or more. If they don't, **they will be guilty of an offence.** The Act specifies that the police must issue a written receipt to the reporter. The Act provides examples of 'people in positions of authority'. The spectrum is wide and includes, but is not limited to, the following:

- Managers, the Secretary or Directors of a company or close corporation;

- A partner in a partnership;
- The CEO of any structure, institution or body set up by law;
- A person employed by the business who is responsible for the overall management and control of the business.

If the 'people in positions of authority' fail to report in terms of PACCA, they could be guilty of an offence and can be fined or be sent to jail for up to 10 years.

Many people do not report corruption out of fear of the consequences; for example, being disciplined or dismissed. However, the Protected Disclosures Act of 2000 was passed to protect "whistle blowers" from being victimised, as long as they follow the conditions as described in the Act.

PACCA is extremely comprehensive, and it is recommended to take heed of its reporting requirements, especially in the current economic climate.

If you would like further advice in relation to PACCA, please contact Horwath Forensics on 011 217 8000.

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VAT Refunds

Unfortunately, VAT fraud is still prevalent in South Africa.

Recently, SARS has tried to limit fraud by introducing very stringent requirements before an enterprise can register for VAT. In our view more time and emphasis should be concentrated by SARS when large refunds are claimed by recently registered enterprises. To make it difficult for an enterprise to register when by law it is obliged to register and SARS is obliged to accept the registration, appears to us to be very strange. Obviously, reasonable legal requirements must be met by the applicant, but to insist on personal delivery of documents and similar requirements appears to be inappropriate.

A recent amendment to the law is however very relevant for many of our clients. In the past, once an enterprise has complied with the necessary requirements, VAT refunds could be paid into the bank account of a nominated third party e.g. refunds due by a subsidiary company could be paid into the bank account of its holding company.

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15 Important Questions - to ask when selecting an umbrella fund for staff retirement fund needs



Nigel Willmott
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Over the past few years there has been some dramatic growth in employer based umbrella funds in South Africa. These funds are one of the most cost effective pension savings tools on offer, and employers and employees are increasingly aware that these funds can efficiently meet their retirement funding needs. Investing in a retirement savings vehicle is still one of the most tax efficient methods of contributing towards retirement and is one of the most disciplined methods of regular investment and savings.

The selection of an umbrella fund should be a carefully thought out process. There are many umbrella funds on offer in the market and for the uninitiated it can be problematic and difficult to work out which umbrella fund is suitably structured to meet the needs of both the employer and the employees.

Employers and employees often wont know the correct questions to ask when it comes to choosing the most appropriate umbrella fund. The following questions should form the basis of any fact finding process of establishing the most appropriate umbrella fund for both new participating employers looking to set up a fund for the first time and for existing

employer based funds that are reviewing their current arrangements.

The following questions will focus broadly on fee structures, investment processes, administration proficiency, communication and compliance. The questions are not exhaustive and there may well be other questions that one could drill down to but these questions will form the basis of a solid due diligence -

1. How competent are the umbrella fund trustees?
2. How good is the fund governance?
3. How democratic is the fund?
4. Who stands behind the fund?
5. Does the sponsor add any value?
6. What is the relationship between sponsor and umbrella trustee?
7. How comprehensive are the communication services?
8. How up to date and relevant is the fund and member information?
9. What is the basis of any investment decisions?
10. At participating employer level, what processes are in place to determine an investment strategy?

11. How are the risk benefits managed?
12. Are all the charges and costs known?
13. Are the investment manager costs clearly disclosed?
14. Who advises at participating employer level and at what cost?
15. What assistance is granted to members?

With the proposed changes in legislation, compliance requirements of stand-alone fund trustees and the potential impact of the proposed National Savings Scheme, we will probably see more of a shift into umbrella funds as some of these issues begin to take root.

Initially these questions should form the basis of any thorough investigation into which umbrella fund is appropriate for the employer and employee needs. Employers must ensure that they employ the services of professional and credible suppliers to assist in the formation and review of their proposed and current employee benefit arrangements.

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We acknowledge with thanks - Sanlam : source and content.

New Legislations For Landlords and Property Owners



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At a recent Legal Update Seminar attended by delegates of Durban Property Managers (Pty) Ltd, the specialist property management division of Horwath Mahomed Omar Paruk, new legislation and amendments pertaining to property related issues, were discussed.

Stamp Duty

No Stamp Duty is payable on leases that are executed on or after 1 April 2009.

Amendment: Rental Housing Act

With effect from 13 May 2008, costs relating to the preparation of a lease agreement for which a tenant is ultimately liable may only be paid by the tenant to the landlord upon proof of actual payment by the landlord to the agent to prepare such an Agreement.

Prevention Of Illegal Eviction (PIE) From and Unlawful Occupation Of Land

The amendment relates specifically to the unlawful occupation of land.

The PIE Act will not protect persons:

1. who occupied land and who continue to occupy land after their tenancy has been validly terminated
2. who occupied land and who continue to occupy land after the person no longer owns the land.

Amendments: Sectional Title Management Rules

The following new regulations came into effect on 28 November 2008:

1. In the event of an insurance claim, the owner of a section may be liable for any "excess" payment relating to his claim which may be payable in terms of an insurance contract entered into by the Body Corporate. However, in terms of a special resolution, the owners may determine that the Body Corporate is liable for such "excess" payments regarding specified damage or loss.
2. After the expiry of a financial year, owners are liable for payment of the same levy contributions payable by them during the previous financial year **until such time** that they become liable for contributions in respect of the ensuing financial year.

Trustees may, however, by means of a written notice to the owners, increase the levies by a maximum of 10% to account for the anticipated increased liabilities of the body corporate.

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With effect from 1 April 2009, SARS will no longer pay refunds to the bank accounts of third parties. This means that all VAT vendors must operate their own bank accounts.

Required Action by VAT Vendors -

1. Open a bank account (if not already open). This does not take a few minutes as the requirements of banks are onerous and time consuming.
2. Advise SARS of the updated banking details.
3. In the rare cases where a vendor is still permitted to use a third party bank account, a special indemnity form must be completed and lodged with SARS (form VAT119i).

Until SARS has recorded the above details, no interest will be paid by SARS on refunds made more than 21 days after the refund was due.

Urgent action is required.

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Corporate Governance in a new jacket – King III



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Companies have barely digested all the “requirements” of the King II report and its Code of Corporate Practices and Conduct, issued by the IoD (Institute of Directors) in 2002, and a new report is in the final stages of being issued – the King III draft Code of Governance Principles as contained in the draft Report on Governance for South Africa. Written comments are awaited until 25 April 2009, and the final report should be issued by 1 September 2009. This report will be effective from 1 March 2010 and until then, King II will apply.

This new Code is to be changed in various ways. The King III Code is based on an “apply or explain” basis, compared to the previous one that had “comply or explain” as a basis. The King III Code will once again be part of the JSE listing requirements.

Some of the more important changes are:

- The board should no longer consider sustainability as a challenge, but as a business opportunity.

- The head of internal audit should become part of the executive committee. Internal audit should become risk-centered and should move from the backroom to the boardroom.
- Internal audit should provide a written assessment of the effectiveness of the entity’s system of internal control, performance and risk management to the board.
- A board should now have a majority of non-executive directors, whereas King II stated that it is preferable. A majority of the non-executive directors should be independent. At least one-third of non-executive directors should retire by rotation at the company’s AGM or other general meetings. If eligible, they may be re-elected.
- Non-executive directors should not be awarded any share options. Their remuneration should also not be performance based. In addition, there are extensive principles on director bonuses, share options and other

- incentives.
- There should be continuous training and development of directors.
- The board should commence business rescue proceedings as soon as the company is financially distressed.
- Entities should establish a formal process to resolve internal and external disputes.

Practice Notes will be issued by the IoD to give guidance and examples – these will not be part of the Code.

The full report can be downloaded from www.saica.co.za

Horwath Risk Consulting provides an advisory service, as well as training for directors and management, on internal audit, corporate governance and King III and how best practices could be implemented in a particular entity.

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Abolition of the external audit for private companies



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In my opinion - despite the vital role that statutory auditing has played in enhancing trust and credibility over the financial statements of business entities, the South African government has decided to exempt private companies from an audit in order to reduce administrative burden and cost for these companies. This far-reaching regulatory change is brought about in South Africa by the enactment of the Companies Bill, 61 of 2008.

The shareholders of a private company with limited liability run operations for which they, in their individual capacities, only take limited responsibility. For this privilege, the private company must ‘pay’ by making information available to its stakeholders in an unbiased

manner. Gone are the days that a company is only accountable to its shareholders. No company is an island. It is a corporate citizen, and is accountable to the community, employees and others.

A predominant characteristic in the corporate governance structure of the private company in South Africa is that the directors are also the ultimate beneficial owners of the company. As ownership and management are typically vested in the same persons, it is tempting to believe that corporate governance would not apply to small private companies. Running a small business and transforming it into a sustainable and globally competitive company is a complex undertaking in the current business environment. South African

small business entrepreneurs need to adopt best practices in corporate governance in order to survive and be sustainable.

Audit firms have traditionally provided to their clients a range of services that are consistent with their skills and expertise. Clients value the benefits they derive from having audit firms which have a good understanding of the business, and bring their knowledge and skill to bear in other areas.

This Companies Bill will deregulate the only one aspect of corporate governance that has traditionally served the public interest and audit clients for ages. Small companies are the forgotten stakeholders in the fair and efficient management of South African corporate governance. Government assumes that the rules, norms and best practice will somehow filter down to small companies but provides neither resources nor practical guidance for directors and managers of small companies.

The public interest is not best served by the abolition of the external audit for private companies. It is time to end the illusion that an audit has no value.

It is quite obvious that my opinion is not generally accepted by the global business community as the audit for small companies has and will be abolished in many European countries.

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Services provided by the Horwath Network:

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The Horwath Advantage

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