



THE FIDUCIARY INSTITUTE OF SOUTHERN AFRICA



GAUTENG REGION

MINUTES OF MEETING 4/16

held on

Thursday 17 November 2016

Time: 09H00 – 12H15

JOHANNESBURG COUNTRY CLUB

CNR OFF LINCOLN RD & WOODLANDS DRIVE, WOODMEAD

PRESENT

66 Members / invitees attended, as per the attendance register.

Apologies

Apologies rendered were noted and accepted.

GUEST SPEAKERS

Cecile Botes

Oliver Phipps

Peter Wassenaar

SARS

(Partner) Lester Aldridge Solicitors UK

Kriek, Wassenaar & Venter INC (Pretoria)

	ITEM	ACTION
1	OPENING	
1.1	<p>Cheryl Howard (Regional Chairperson) opened the meeting by welcoming three new members and the guest speakers, and presented the agenda for the meeting.</p> <p>Topics for presentation & discussion in the new year will include changes in legislation relating to Trusts, Deceased Estates and the administration of Deceased Estates.</p> <p>Should members have any further suggestions relating to topics for discussion and presentation in the new year, please forward these to Cheryl.</p>	ALL
2	GENERAL Cheryl Howard (Regional Chairperson – Gauteng Region) Aaron Roup (FISA – National Secretary)	

2.1	<p>Minutes of Previous Meeting :</p> <ul style="list-style-type: none"> - Minutes of the previous meeting held on 18 August were circulated and approved, and will be placed on the FISA website for further reference, together with slide presentations by the guest speakers. 	GS
2.2	<p>General Feedback :</p> <p>Gauteng Bi-Annual Elections :</p> <ul style="list-style-type: none"> - The date for the Gauteng Region Bi-annual election meeting will be announced once agreed. <p>New members :</p> <ul style="list-style-type: none"> - New members requested to contact Aaron Roup for assistance in setting up their website membership profiles and CPD accounts. <p>Changes to personal details :</p> <ul style="list-style-type: none"> - Aaron requested that any changes to personal member details, be forwarded to him so that ALL systems can be updated. <p>CPD Points :</p> <ul style="list-style-type: none"> - Aaron reminded members that they need to update their 2016 CPD points by 31 December 2016. The 2016 calendar year is the first year in the 2016 / 2017 cycle. <p>2017 Annual Membership Fees :</p> <ul style="list-style-type: none"> - These are due in January and invoices will be sent out in January 2017. - The 2017 membership fee is R2 700. <p>2017 Website Fees :</p> <ul style="list-style-type: none"> - Advertisements / Job opportunities, R7 950 per advert. - Supporter Fees R 6 000 p.a. <p>Rani Miller (SARS) :</p> <ul style="list-style-type: none"> - Rani who represented SARS at Gauteng Regional FISA meetings in the past, has been transferred to SARS KZN, but is still available to assist with FISA matters on a national basis. <p>SARS Strategy meeting</p> <ul style="list-style-type: none"> - A list of national FISA issues was being compiled to be covered with SARS, at a meeting still to be decided. Any issues that members would like added to the list, must please be forwarded to Cheryl. - Cheryl will circulate the list of issues once compiled. <p>FISA AGM :</p> <ul style="list-style-type: none"> - To be held at Hackle Brooke conference Centre, Delta Park, Randburg on 15 March 2017. Details to be circulated in the new year. 	CH

	<p>2017 FISA Annual Conference :</p> <ul style="list-style-type: none"> - To be held 24 August 2017 at the Sandton Convention Centre. <p>Gauteng Region Split :</p> <ul style="list-style-type: none"> - FISA National committee considering a split of the current Gauteng Region between Gauteng North & Gauteng South. Gauteng memberships large enough for a split and will assist membership travelling etc. <p>Dedicated FISA e-mail address : for Cheryl Howard :</p> <ul style="list-style-type: none"> - gautengsouth@fisa.net.za 	
3	<p>INTRODUCTION OF SPEAKERS</p> <p>Cheryl Howard</p>	
3.1	<p>Cheryl introduced the visiting speakers :</p> <ul style="list-style-type: none"> • Cecile Botes from SARS. <ul style="list-style-type: none"> - Feedback on developments and important issues taking place at SARS. • Oliver Phipps of Lester Aldridge Solicitors in the UK : <ul style="list-style-type: none"> - The importance of an Off-shore Will • Peter Wassenaar of Kriek, Wassenaar & Venter Inc – Pretoria <ul style="list-style-type: none"> - Effective Business Ownership : Buy & Sell Agreements, Shareholder Agreements 	
4	<p>CECILE BOTES : SARS</p> <p>Feedback & Important Issues taking place at SARS</p>	
4.1	<p>Registration of Deceased Estates with SARS (the “New entity”) :</p> <p>This has been a manual process since introduced in March 2016, but electronic process will be launched on 12 December 2016.</p> <p>Thereafter the registration of the new “Deceased Estate Entity” can be done via E-filing.</p> <ul style="list-style-type: none"> - There will be NO Primary rebate. - Interest exemption will be same as for up to 65 years. - The CGT “Primary residence” rebate will be allowed the used after death, even if used in the estate. - No need to register a deceased estate if there is not tax liability. 	
4.2	<p>Section 7(C) to the Income tax Act: Trusts & Interest Free loans.</p> <ul style="list-style-type: none"> - It is Important to register Trusts with SARS, even if the trust does not generate income. - In terms of the NEW Section 7(C), “interest free loans” to a trust, will 	

<p>4.3</p> <p>4.4</p>	<p>attract income tax, on the basis of “deemed interest”, in the hands of the individual (i.e. the connected person).</p> <ul style="list-style-type: none"> - The “deemed interest” applicable to the “connected person” will be calculated at the “official rate” as per the 7th Schedule of the ITA. Any lesser difference between the “official rate” and the “actual rate” charged will be “deemed” to be additional interest income in the hands of the “connected person”. - The annual R100 000 “donations tax free” allowance in respect of individuals will be allowed for purposes of reducing loans owed by a trust to a connected person. <p>SARS Electronic Interface with Master’s Office</p> <ul style="list-style-type: none"> - SARS will be interfacing (electronically) with the Masters Office with regard to the registration of new trusts as well as a general audit of existing trusts not registered for tax purposes. - Outstanding trust returns will need to be submitted. SARS will be comparing annual income of the individual to income generated in trusts. SARS suspect that Trusts are being used to divert / hide income, and where fraudulent activity is uncovered, SARS will be taking serious steps against offenders. - Trusts will also need bank accounts, details of which must be registered with SARS. <p>Various Deceased Estate & tax admin matters raised :</p> <ul style="list-style-type: none"> - Final tax returns iro of Estates can be submitted prior to the opening of the filing Season. - The need for the executor to be present when verifying estate bank accounts. Cecile explained that fraud was costing SARS a lot each year, but she would look into the requirement in this regard as she understood the impracticability of the executor(s) presence for verification purposes. - The Executor is not considered as the Tax Practitioner, in which case the TP should be permitted to act under POA. - A member present, stated that there are instances where Estate bank accounts had (initially) been verified with SARS, however when a query was raised at a later date, the verification process was requested a second time. - Estate Clearance Certificates : L&D Accounts must be submitted to SARS before any clearance certificate can be processed. - Ensure that you clear all tax issues with SARS before closing an Estate bank Account. - NB : Estate Duty Assessments are processed by the Master’s Office, and not by SARS. - NB : Trustees require a Trust Resolution signed by all Trustees, to act obo the trust. - Incorrect ID numbers were a “stopper issue”. Refunds could not take place, for fear of refunding to the incorrect person. - Refunds must be refunded and cannot be written-off. 	
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5	<p>OLIVER PHIPPS : Lester Aldridge – UK (FISA & STEP Member)</p> <p>The Importance of an Off-shore Will</p>	
	<p>Oliver dealt with the following issues, details of which can be extracted from the presentation slides which will be up-loaded onto the FISA website:</p> <p>Summary of areas covered:</p> <ul style="list-style-type: none"> - Changes in European Succession “The Brussels IV Reg No. 650/2012)” - EU Harmonising the rules relating to EU succession. - Conflict of Participating member state Laws in the EU - The freedom of Movement in the EU. - The new Regulations - How does this effect South African residents? - How does this effect SA Practitioners? - Choice of Law & Will structuring - Wills : One or Two? <p>Email Address : oliver.phipps@LA-law.com</p>	
6	<p>PETER WASSENAAR</p> <p>Effective Business Ownership : Buy & Sell Agreements & Shareholder Agreements</p>	
	<p>Peter dealt with the following issues relating effective business ownership, details of which can be extracted from the presentation slides which will be uploaded onto the FISA website.</p> <p>Summary of areas covered :</p> <ul style="list-style-type: none"> - The hierarchy of documentation of an effective organisation. - What the Companies Act requires. - Memorandum of incorporation & the company rules. - Risks of limitation of rules & rights of shareholders. - Unalterable provisions. - Setting out goals when planning a business structure. - Ownership v’s Control. - Shareholder control & shareholder agreements. <p>Email address : peter@kriekprok.co.za</p>	
7	<p>CLOSURE</p>	
	<ul style="list-style-type: none"> - Noted that a representative from the Masters Office had not arrived and it was agreed to close the meeting. - The next regional meeting will be held on 9 February 2017. 	
	<p>Approved by: Jeremy Woods</p> <p>Seconded by: Arnold Shapiro</p>	