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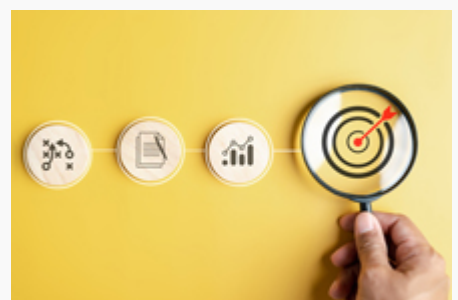
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### Ten Often-Overlooked Ways Your Accountant Can Help Your Business

*"If you talk to a top accountant about his field of expertise, it's mind-boggling."  
(Vincent Kompany, professional football manager and former player)*



Accountants are the tax and compliance champions of any industry, but the best ones do so much more for their clients, as

strategic advisors and trouble-shooters who can also assist with automating a variety of tasks and pave the way for the running of a smooth and profitable business. Here is a list of not-so-obvious services an accountant can assist with that will help your business thrive.

### **1. Setting up a new business**

Setting up a new business comes with a number of potential pitfalls that may not be discovered until it's too late. For instance, the type of business you choose to set up, be it a company, sole trader, trading trust or partnership will come with different tax requirements, paperwork and personal liabilities. Changing the kind of business vehicle at a later stage can be a costly process, so having an accountant assist you in ensuring you are starting off with the best entity for your business could make a huge difference.

### **2. Buying or selling a business**

If you are thinking of either selling your business or buying a new one, your accountant should be your first stop. Accountants can assist with business valuations, form exit strategies, and get the right financial reports and documents together to ensure you only make good decisions. Your accountant will also help keep costs down and make sure you don't find yourself on the wrong end of a bad deal.

### **3. Cash flow adjustments**

One study performed by Jessie Hagen of *U.S. Bank* revealed that 82% of businesses fail because of *poor* cash flow management. There is, therefore, no doubt that not being able to meet financial obligations when you need to is certainly an indicator that things are not going well. The good news is that your accountant can help.

By conducting a thorough business analysis, your accountant may be able to rebalance your budget and debts, optimise your cash flow and build cash flow projections. By simply showing you what needs to be paid when, organising cash reserves, and adjusting the way money is used in the business, you can avoid upsetting suppliers and staff and ensure your business operates as smoothly as possible.

### **4. Business operations**

There are many decisions in a business that look like they may be simple, but the fact that they involve an element of finance makes them a critical task to take to your accountant. Accountants can help with analysing whether your equipment should be bought, or leased, whether offices should be rented and where, and whether the terms and conditions offered by one supplier are truly better than those of another.

Your accountant is also best suited to assist in pricing your products to make sure you are getting the most profit from each sale and maximising your potential client base. They will also be able to point to areas of under-performance in the business and suggest possible areas for expansion.

### **5. Cloud software**

Your accountant is also able to help you automate much of your business's monthly bookkeeping and set up an invoicing system that will tell you at a glance who has paid and who has not. This smart software can even send emails to clients to chase up unpaid invoices, all of which saves you time and keeps you on top of your finances.

### **6. Networking**

Good accountants work with other good businesses. If you are looking for suppliers or even investors it can never hurt to chat to your accountant about what you need – you never know, perhaps they know the right person?

### **7. Securing financing**

At some stage in every successful business's life, there will probably come a time when additional finance is necessary. Whether it's securing a loan that helps bridge tough times, or attracting investors for necessary expansion, getting this money will need well-structured and legible financials.

Your accountant is therefore the first person you should speak to. They can help you structure your investment pitches and loan applications in a way that investors prefer, showcasing your business and making your investment-seeking efforts more likely to succeed.

#### 8. Stock management

It isn't always easy to tell on a day-to-day basis if your stocks are being managed correctly. Fortunately, your books will reveal a lot to your accountant about what's happening in your stock room. Are you ordering too much, and therefore spending too much on storage, or writing off a high percentage of obsolete or expired goods? Or is the opposite true and you are missing out on sales by not having the correct parts or products in store? Your accountant can look at the trends over time and reveal what changes need to be made to ensure you are operating at peak efficiency.

#### 9. Long-term planning

An accountant can put long-term plans in place, which will ensure loans are paid off as efficiently as possible, staff are taken care of as well as possible within the business's means, and that its systems and resources are set up to ensure the inevitable difficult times are as painless as possible.

#### 10. Advice

Your accountant will no doubt be working with a number of other businesses in numerous different sectors. They may therefore be able to see the bigger picture. This together with their wealth of experience in business operations and in seeing where things have gone right and wrong in the past, makes them the ideal people to ask for advice or even get onto your board. Accountants will be able to help you make the right decisions to grow your business, pay off debt or point you in the best direction when you are struggling with a tough decision.

Ultimately, your accountant is so much more than simply your "tax guy". By assisting you in every facet of your business your accountant can help you avoid a variety of frustrations and troubles and help you build a successful, well-oiled and streamlined business.

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### Directors: Prepare and Submit Your Company's Beneficial Ownership Register

***"The lack of adequate, accurate and up-to-date beneficial ownership information facilitates money laundering and terrorist financing by allowing criminals to hide their true identities, and the true purpose and/or source or use of funds." (Financial Intelligence Centre - FIC)***



South Africa's grey listing by the Financial Action Task Force (FATF) earlier this year and the subsequent passing of the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act 22 of 2022, resulted in amendments to the Companies Act, among others.

The changes to the Companies Act mean that company directors are now obliged to implement a detailed beneficial ownership register for their companies and submit the register to the Companies and Intellectual Property Commission (CIPC), along with a list of supporting documents. Such a register must also be kept up-to-date and verified annually.

***Who must file a beneficial ownership register?***

The vast majority of private companies must file a beneficial ownership register, but there are some complicated issues at play here and you would be well-advised to check with your accountant as to exactly what your company's obligations are in terms of these new rules.

### ***What are the penalties?***

Failure to comply with the provisions relating to the beneficial ownership register requirements is an offence in terms of the Companies Act. A compliance notice may be issued in cases of non-compliance and an administrative penalty may be imposed.

### ***What are the deadlines?***

Entities incorporated before 24 May 2023 will be required to file the records of their Beneficial Interest Register as part of their Annual Returns filing process from 24 May 2023, the date of publication of the final Amended Companies Regulations.

Entities incorporated after 24 May will be required to file the records of their beneficial ownership within 10 days after incorporation.

### ***What is required?***

The beneficial owners of a company must be identified, their information collated and a register containing this information must be filed with CIPC.

A "beneficial owner" in respect of a company, means an individual/natural person who directly or indirectly, ultimately owns 5% or more of that company, or exercises effective control of that particular company, including through:

- The holding of beneficial interests in securities of that company.
- The exercise of, or control of the exercise of the voting rights associated with the securities of the company.
- The exercise of, or control of the exercise of the right to appoint or remove members of the board of directors of that company.
- The holding of beneficial interest in the securities, or the ability to exercise control, including through a chain of ownership or control of a holding company of that company.
- The ability to exercise control, including through a chain of ownership or control of a juristic person other than a holding company of the company, a body of persons corporate or unincorporated, a person acting on behalf of a partnership, a person acting in pursuance of the provisions of a trust agreement; or
- The ability to otherwise materially influence the management of that company.

For each beneficial owner identified, the following information is required:

- Full names, ID number or passport number with date of birth, or registration number
- Business or residential and postal address
- Email address
- Confirmation as to the participation and extent of the beneficial interest.

All this information must be collated in a register that provides indexed access to all relevant entries for any one person. In addition, the information must be treated as confidential and adequate precautions must be made against theft, loss, damage, destruction and falsification.

This register must then be kept up to date, with changes updated with CIPC as soon as practical, but no later than 10 business days after notification.

This register must be lodged with CIPC through an online process detailed in a 16-page Guide, along with a list of supporting documents that must be uploaded. An updated register must also be submitted with the Annual Returns each year.

### ***Great advice for trouble-free filing***

While it remains the responsibility of the directors of companies and members of close corporations, as part of their due diligence and governance duties, to ensure beneficial ownership filing is facilitated as and when applicable, the assistance of an accountant is highly recommended, given the complexities, the tedious processes and ongoing maintenance requirements, as well as the risk of non-compliance, which constitutes an offence and may incur administrative penalties.

## **How to Prepare for a Possible Electricity Blackout**

***"Eskom plays a critical role in the life of South Africa, and life of South Africans. Due to its important role in the economy, its inability to provide electricity on demand and on time is a crisis." (President Cyril Ramaphosa)***



The South African Reserve Bank's Financial Sector Contingency Forum (FSCF) has recently encouraged South African businesses to develop plans for operation at stage 8 load-shedding levels and a total countrywide blackout. While it has tempered this warning by saying that total blackout is an improbable scenario (with a chance of 0.1% to 1% of happening), it's not an impossible one. The FSCF does however, think that businesses would be prudent to prepare nonetheless, particularly given the very real possibility of load-shedding levels that could see power being shut off for 12 hours a day or more. Here is how businesses can make that happen.

### ***Analysis***

The first step is for your business to analyse exactly how a critical power failure or extended loss of power would impact you. Would it be a shutdown of production or a loss of e-commerce sales? Would information loss be important, or do you still need to communicate with clients? Understanding this will inform the rest of the process.

### ***Plan financially***

Talk to your bank, investors and insurance companies to fully understand what can be done at the moment of shutdown to ensure continued operations and put risk financing in place to make sure you can cover costs in the event of grid collapse. If you have insurance, you need to know if they cover blackouts and what you need to do when that occurs to ensure they provide assistance. Make sure you have a hard copy of the policy accessible even when the power goes out. We are no longer at the stage where blackouts can be considered "unforeseen", which means your insurer will have requirements for your preparation in such an event if you expect them to pay out.

### ***Backups***

Set your computers to autosave and back up all necessary information to the cloud regularly.

### **Alternate Power Sources**

While it may not be feasible to run the whole business on alternate power indefinitely, you should at least provide UPS units at key positions such as Wi-Fi to ensure that when the power goes out you can still save the necessary work, run billing, or ring up customer sales. Also turn off and unplug all sensitive equipment so that the surge of returning power does not damage equipment.

### **Security**

In the event of a total collapse, businesses may be wiser to shut down entirely. With both fires and crime expected to dramatically increase at that time it's important to prepare an evacuation plan for your building or factory and shut off all electricity points at the mains. Ensure your property is safe, even when electric fences and CCTV are off.

## **Is Your Information Safe With SARS?**

***"Confidentiality of taxpayer information has always been a fundamental cornerstone of tax systems... taxpayers need to have confidence that the often-sensitive financial information is not disclosed inappropriately, whether intentionally or by accident." (Organisation for Economic Co-operation and Development - OECD)***



The confidentiality of taxpayers' information has recently come under the spotlight in South Africa. This was first sparked by a public statement from SARS earlier this year on the tax compliance status of President Cyril Ramaphosa and two related entities.

"In taking this exceptional step to disclose the tax status of the President, with his written consent, SARS would also encourage other high profile political office bearers and leaders in society to consider taking this proactive step as part of their commitment to transparency," SARS Commissioner, Edward Kieswetter, said at the time.

This was followed by a recent Constitutional Court ruling concerning tax confidentiality and the right of access to information, relating to a request under the Promotion of Access to Information Act (PAIA) to access certain tax records of former President Jacob Zuma (*Arena Holdings and others v SARS and another*).

The court found that certain provisions of PAIA, as well as the Tax Administration Act (TAA), are constitutionally invalid, and ordered SARS to reconsider the request to disclose taxpayer information, taking into account certain issues.

While this re-evaluates the previous absolute confidentiality of tax records – and affects every taxpayer in South Africa - SARS says that the judgment does not set aside the tax confidentiality provisions for the information it collects.

### **What information can SARS collect?**

SARS has access to a wide array of sensitive information about both businesses and individuals, and it has long been accepted that the confidentiality of this information is paramount.

Taxpayer information is defined in the TAA as any information provided by a taxpayer or obtained by SARS in respect of the taxpayer, including biometric information. SARS draws on available data from statutory declarations by taxpayers, data from third party providers as well as other sources.

In addition, not providing sensitive financial - and even extremely personal - information to SARS is not an option.

According to the TAA, it is a criminal offence for a person to wilfully and without just cause refuse or neglect to:

- furnish, produce or make available any information, document or thing, excluding information requested under section 46(8)
- reply to or answer truthfully and fully any questions put to the person by a SARS official
- take an oath or make a solemn declaration
- or attend and give evidence

as and when required in terms of the Act.

Furthermore, taxpayers are legally obliged to disclose the information required to discharge the burden of proof, and to ensure access for SARS to certain records at all times.

By not complying with these provisions, a taxpayer is guilty of an offence and, upon conviction, is subject to a fine or to imprisonment for a period not exceeding two years.

### ***What about POPIA and PAIA?***

The Protection of Personal Information Act (POPIA) gives effect to the constitutional right to privacy and protects citizens from harm by protecting their personal information. However, POPIA does not apply to an obligation imposed by law or where legislation is enforced concerning the collection of revenue. A taxpayer is thus legally obliged to disclose relevant information requested by SARS.

So, for example, SARS may request medical history information or details about retirement funding contributions to allow a rebate claimed by a taxpayer. Similarly, SARS may have to exchange taxpayers' information with other tax authorities where double taxation treaties apply.

PAIA creates a framework for the mandatory protection of records that generally contain information "deserving of protection". Section 35 of PAIA protects all taxpayer information and provides mandatory protection for certain SARS records from third party requests.

However, this will change following the Constitutional Court ruling that sections of PAIA providing absolute taxpayer confidentiality are constitutionally invalid. Until this is remedied, mandatory disclosure in the public interest must be considered by SARS where: the disclosure will reveal evidence of a substantial contravention of or failure to comply with the law; or reveal evidence of an imminent and serious risk to public safety or the environment; and if the public interest in making the disclosure clearly outweighs the harm.

### ***What protection is available for taxpayers' information?***

To protect taxpayer information, every SARS official takes an oath or makes a solemn declaration to comply with the statutory confidentiality provisions and is legally required to treat taxpayer information with the utmost confidentiality and not to disclose it. A breach of these confidentiality provisions is a criminal offence in terms of the TAA.

In addition, the TAA prohibits SARS from releasing taxpayer information unless the disclosure falls within an exception to the general rule that safeguards taxpayer information, expressly provided for in the TAA, which includes divulging taxpayer information:

- to certain persons and entities identified in the TAA like the South African Police Service or the National Prosecuting Authority
- to administer a Tax Act
- to comply with a court order
- where a taxpayer gives written consent [as in the case with President Ramaphosa]
- or if another act expressly overrides the TAA confidentiality provisions, such as the Financial Intelligence Centre Act and the Prevention of Organised Crime

Act.

In addition, while the Constitutional Court decision declared sections of the TAA and PAIA unconstitutional, it does not set aside the tax confidentiality provisions. It does, however, limit absolute confidentiality.

A high threshold must still be met when access is requested to the tax records of a taxpayer and there are “formidable substantive and procedural hurdles” to overcome before a taxpayer’s information may be disclosed. Even where permitted by law, before divulging taxpayer information, SARS must consider the purpose for which the information is being requested, how it will be used and how it will be protected.

Subsection 70(5) of the TAA further provides that such disclosure may be made only to the extent that it is necessary, relevant and proportionate to exercise a legislative function or duty.

A taxpayer distressed by a decision that grants access to tax records has recourse available, such as an internal appeal, a complaint to the Information Regulator, or an application to the High Court.

### ***Ensure compliance, while only providing relevant information***

The information that can be requested by SARS is not limited to what is requested during a formal investigation or audit – it could be a request for information for any purpose related to the administration of a tax act.

However, SARS may only request *relevant* information related to and within the ambit of the administration of tax acts. So, for example, information requested about income tax must be related to the Income Tax Act. Existing case law further indicates that relevancy is tested by whether the information directly proves or disproves the issue at hand.

Disputing a request from SARS for relevant information will be costly and futile, however, taxpayers can contest an unreasonable request for information.

This means that the advice and assistance of your accountant is indispensable when dealing with requests for information from SARS, and in ensuring that only necessary, relevant and proportionate information is provided, as well as to ensure your information is protected as dictated by law.

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## **Your Tax Deadlines for July 2023**

- 7 July - Monthly Pay-As-You-Earn (PAYE) submissions and payments
- 28 July - Excise Duty payments
- 31 July - Value-Added Tax (VAT) electronic submissions and payments & CIT Provisional payments where applicable.



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