

Impact of Civil Unrest on our Work

Presenters: **Caryn Maitland CA(SA)**

6 SEPTEMBER 2021

Accounting, Legislation, Assurance and Tax

Presenter

Caryn Maitland CA(SA)

Caryn is a qualified CA(SA and RA, who has lectured extensively at UKZN (and other institutes) where she lectured Advanced Financial Accounting up until 2011 as well as co-ordinating the module on the Pietermaritzburg campus and was appointed Section Head of Financial Accounting and Deputy Head of the School of Accounting (managing the Pietermaritzburg campus) prior to leaving UKZN.

She has conducted independent workshops and seminars for professional accountants since 2006 on various topics and has consulted on a number of technical issues. Since January 2011, she has focused on her own business as technical freelance consultant and trainer to those working within the accounting profession. Caryn is a technical advisor to the SAICA Eastern Region Midlands District, Northern District and Southern District Associations, as well as the Small Practice Interest Group in Durban – specialising in financial reporting (IFRS, IFRS for SME's and general accounting), assurance, legislation and ethics. Caryn has a passion for Corporate Governance, which together with her Companies Act specialism and Financial Management for Non Financial Management lecturing background, has served her well in consulting and advising various Boards of Directors in recent years.

Caryn is also a platform presenter for various institutes as well as many small to medium accounting practices across the country and into Southern Africa. Maitland was appointed as a visiting Associate Professor to the University of Limpopo tasked with mentoring their Financial Accounting staff (Aug 2011 to Dec 2013).

Maitland's passion is IFRS and IFRS for SME's and was delighted at the opportunity granted in 2013 to serve on the APC subcommittee constituted to investigate the need for Micro GAAP and the role of IFRS for SME's for small and medium sized practitioners. Caryn, also serves on the Joint Accountants, Auditors and Attorneys Committee of SAICA, and is part of the School Governing Body project initiated by SAICA in KwaZulu-Natal, and has been appointed as an alternative member to the APC in June 2020

Caryn was elected as the first woman Chairperson for the Midlands District Association for SAICA in 2018 and also serves on the Eastern Region SMP Committee as well as the Local Subvention Committee for SAICA. In 2019 Caryn was appointed to the SAICA Eastern Region Council. As someone who is committed to environmental affairs, Caryn serves as a non-executive director for the Institute of Natural Resources, a Non Profit Company focusing on research. Since 2018 Caryn has worked extensively with commerce and industry, assisting analysts, directors and other users of financials to interpret, prepare, analyse and forecast based on the results of financial statements.



COURSE OUTLINE

Understanding what happened

Civil unrest – motivated by???

Attitude of management (Ethics)

Loss of documentation

Interruption of service delivery from Municipality

Loss of trade

Loss of foreign investor confidence

Damage to KZN business confidence

Going concern – will businesses rebuild?

Understanding what happened

Challenges to access to finance as a province

Access to supply chain (food shortages e.g.)

- During and after

Insurance claims – was the business covered?

Staff issues

Looting and loss of inventory

Damage to infrastructure

Increased security costs

Cash flow risk (tax obligations etc)

Impact of Management's Attitude

Control environment

Access to data

- Loss of documentation
- Scope limitation??

Impact on National Companies

- Targets etc

Loss of confidence

- Investors, finance providers

Most urgent issue

Subsequent event disclosure and impact

Is the business a going concern

- Reporting concept in AFS
- Management and Auditor assessment
- Access to supply
- Uninsured risk

Loss of trade and negative confidence

- Impact on estimates and forecasts

Is there such a thing as...

An extraordinary item?

An abnormal item?

Nature, size and incidence

Separate disclosure

Gross Tax Net

Discontinued Operations and Loss on Discontinuance

	Not e	Continuing	Discontinui ng	Total
Revenue		XXXX	XXXX	XXXX
Expenses		(XX)	(XX)	(XX)
Loss on Discont.	6		(X)	(X)
Tax		(XX)	(XX)	(XX)
Profit		XXX	XXX	XXX

Impairment

Infrastructure – Property, plant and equipment

- Impair, claim from insurance, rebuild....
- Step 1 Impair asset on 12-15 July 2021
- Step 2 Receipt Insurance Proceeds
- Step 3 Reconstruct asset
- CANNOT Net these transactions off
- Timing is critical

Loss in Value

Fair values

- Investment properties

Abnormal inventory losses

- Price gouging
- Access to supply

Impact on Financials

Recoverability of debtors

- ECL

Finance providers increased risk assessment

- Fair values
- Effective interest

Provisions

Staff costs

- retrenchments

Narrations – Tell the story

Directors Report

Notes to AFS

Get ahead of the problem....

Going concern

Narrations – Tell the story

Directors Report

Notes to AFS

Get ahead of the problem....

Going concern

Tax and Insurance

General principle (Burma Steamships)

- The tax treatment will follow the “hole” that is being filled by the insurance payout.

Overview

Type of payout	Income Tax	CGT	VAT
Loss of profit/business protection	Gross income	Nil value	Deemed output s8(8)
Buildings	Recoupment	Capital gain/para 65	Deemed output s8(8)
Moveable assets	Recoupment	Capital gain/para 65/para 66	Deemed output s8(8)
Trading stock	Recoupment	Generally nil value	Deemed output s8(8)

Loss of Docs and SARS

Contact SARS immediately. SAICA has requested a central contact point, but no response has yet been received in this regard, so taxpayers would need to use the normal SARS contact channels available on the website or by contacting the Contact Centre - if calling locally, phone 0800 00 7277; if calling from abroad, use +27 11 602 2093 (only between 8am and 4pm South African time).

- Explain the situation to SARS and have documents (e.g. photos, police case number, insurance payout etc.) ready to be able to prove that you have, for instance, lost certain documents.

Explain why you have no back-ups or copies

- You would need to be able to explain why you have no off-site/Cloud backup/external payroll companies' data available.

Some specific considerations

- Section 23(c)
 - Any loss or expense, the deduction of which would otherwise be allowable, to the extent which it is recoverable under a contract of guarantee, security or indemnity

Reminder – s8(4)

- General criteria to include in income any amount recovered for which a deduction had been granted

S11(o)

- If an asset is sold/lost/scrapped before all the allowances have been claimed, can claim remainder under s 11(o)
 - Asset may not have a useful life of more than 10 years
 - Had to have qualified for a capital allowance
- Deduction = Cost – (allowances + amount received)
- If (allowances + amount received) are greater than cost, then no deduction.
- s20B Limits allowance until all amounts have been received

CGT?

- Timing timing and timing!!
- Para 13(1)(c)
 - The scrapping, loss or destruction of an asset is the date:
 - On which full compensation is received; or
 - If no compensation, the earlier of the three events above

Rollover relief

- Involuntary disposal (para 65)
 - Applies at the election of the taxpayer (except to financial instruments) if:
 - Asset lost due to theft, destruction or law
 - Proceeds must at least = Base Cost
 - Full proceeds must be reinvested in a replacement asset
 - Replacement asset must be included in a SA source and may NOT be a personal use asset
 - The contract for replacement must be within 12 months of loss
 - The asset must be brought into use within 3 years of loss
 - Capital gain disregarded in these circumstances. However if more than one asset replacement, deferred gain must be apportioned.
 - If depreciable asset, capital gain amortised annually

Roll over relief

- Involuntary disposal example:
 - Office building (cost R350 000) burnt down
 - Compensation from insurers = R 570 000
 - New building construction cost R 700 000
 - 2 years later, sold for R 1 100 000
- Solution:
 - Y1 and Y2 = no tax impact (gain of R220 000 disregarded)
 - Y3: $R\ 1\ 100\ 000 - R\ 700\ 000 + R\ 220\ 000 = R\ 620\ 000$ (65(5) together with normal rules)

Roll over relief

- Reinvestment in replacement assets (para 66)
 - Applies to an asset eligible for s 11(e), 11D, 12B, 12C, 12 DA, 12E, 14 14bis or 37B
 - Treatment the same as for para 65
 - Please remember impact of S8(4)(e) – s8(4)(eE) (deferral of recoupment when para 65 or 66 apply)

1 March 2019 M Co bought a new machine on a cash basis for R 100 000. this machine was immediately brought into use in it's process of manufacture. On 31 August 2020 M Co "traded in" this machine for a better machine. A "trade in" price of R130 000 was obtained for the traded in machine. The new machine cost R150 000 and was immediately brought into use. M Co will elect any option available to it that may defer it's tax liability in the 2021 YOA. Assume no other CGT events. M Co has a taxable profit of R200 000 before these transactions. Show the tax consequences of the above transactions in 2021.

Traded in machine:

Cost	100,000	
2020 allowance	40,000	D
	60,000	
2021 allowance	20,000	E
Tax value	40,000	
Selling price (ltd to cost)	100,000	
Recoupment	60,000	C
Deferred recoupment: 60 000/150 000*60 000	24,000	A/B*C

Replacement machine:

Cost	150,000	B
2021 allowance	60,000	A
Tax value	90,000	

Capital Gains Tax on sale of asset

Proceeds:

Amount received	130,000	
Less amounts in GI	(60,000)	C
	70,000	

Base Cost:

Amount paid	100,000	
Less allowances	(60,000)	(D+E)
	40,000	

Capital gain

30,000	F
12,000	A/B*F

Capital Gains Tax for 2021

Sum of all capital gains and losses	12,000	
Annual exlcusion	-	
	12,000	
Inclusion rate	80%	
Taxable capital gain	9,600	

	Taxable Income
Taxable Income given	200,000
Recoupment	24,000
Allowances:	
Traded in machine	(20,000)
New machine	(60,000)
CGT	9,600
Taxable Income	<u>153,600</u>

Differences for trading stock?

- A little more ambiguous. Two interpretations:
 - Closing stock reduces to amount actually held. Gross income for insurance proceeds when received. Deduct replacement stock purchase when made.
 - Closing stock reduced to amount actually held, insurance proceeds “recoup” the cost of the replacement stock therefore no deduction.

Final thoughts?

- Capital/revenue expenditure under s11(a)
- There will be deferred tax!
- VAT

Deemed Supplies – VAT

- ▶ Indemnity awards (section 8(8))
 - ▶ Short term insurance premiums - input credit permitted.
- ▶ Deemed supply arises when :
 - ▶ Payment is received by the vendor or
 - ▶ Vendor is indemnified by the payment of money to another person.

Deemed Supplies – VAT

- Exceptions :
- Indemnity payment is not subject to VAT, or total reinstatement of goods stolen or damaged beyond economic repair, and vendor was denied an input tax credit.
- Value of supply :
 - Apply tax fraction to payment
- Time of the supply :
 - Tax period when payment is received

Deemed Supplies – VAT

Example 1: Indemnity payments

- Vendor's furniture store burnt down.
- Vendor receives: R161 000 – furniture destroyed
- R100 000 – its life insurance contract in respect of employee who died in fire.

Example 2: Indemnity payments

- Vendor receives R32 200 from insurer for trading stock stolen.

Example 3: Indemnity payments

- As per example 2 above but insurer replaces stock instead of making a payment.

Example 4: Indemnity payments

- Vendor's motor car written off in accident and receives R115 000

Example 5: Indemnity payments

- Vendor involved in car accident. Insurer pays:
 - - Vendor R32 200 for damages
 - - Other party R115 000 for motor car written off.

Deemed Supplies – VAT

Example 1 solution:

- $R161\ 000 \times \frac{15}{115} = R21\ 000$
- $R100\ 000 \rightarrow$ no deemed supply 1st proviso

Example 2 solution:

- $R32\ 200 \times \frac{15}{115} = R4\ 200$ output tax

Example 3 solution:

- No deemed supply because not paid.

Example 4:

- No deemed supply proviso 2 (total reinstatement and denied input tax credit).

Example 5:

- $R32\ 200 \times \frac{15}{115} = R4\ 200$
- $R115\ 000 \times \frac{15}{115} = R15\ 000$

Proviso 2 won't apply in either case

Directors and the Companies Act

Solvency and Liquidity tests

Business rescue

Directors Fiduciary duty

Impact on S45 Financial Assistance

Impact on Auditors

Loss of documentation/Scope limitation

Reassessment of risks

Reassessment of materiality

Physical asset verification

Valuation of Inventory

Overreliance on controls (automated systems)

Evidence supporting the recoverability of insurance claims

NOCLAR

Breach of Companies Act requirements, specifically:

- Failure to retain any documents, accounts, books, writing, records or other information that a company is required to keep in terms of Section 24 or any other public regulation for a period of seven years, or any longer period of time specified in any other applicable public regulation;
- Failure to prepare annual financial statements within six months after the end of its financial year in terms of section 30;

Fraudulent actions (in terms of ISA 240, The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements) to inflate results, for example, overly aggressive assumptions, misleading disclosures, and inappropriate support of the going concern basis of accounting.

NOCLAR

Misappropriation of support funds made available by The Department of Trade, Industry and Competition and its Development Finance Institutions, the Industrial Development Corporation and the National Empowerment Fund.

Non-compliance with the entity's tax obligations, including inter alia:

- Failure to submit tax returns on time;
- Failure to make payment of tax liabilities on time; and
- Claiming tax relief provided in respect of the unrest (such as the extended ETI subsidy and the PAYE and excise duty payment deferrals) when they do not qualify for this relief.

QUESTIONS

**Thank you
for your participation**