

TAX AMNESTY DEADLINE ENDS DECEMBER 2012

The "tax amnesty" previously introduced by SARS that allows an "amnesty" to homeowners to transfer properties in which they "ordinarily resided" from a CC, Company or Trust, free of transfer duty, capital gains tax and secondary tax on companies, has been written about extensively. This "amnesty" period expires at the end of December 2012.

CONDITIONS OF THE AMNESTY

In order to qualify for the benefits of this amnesty, you must be able to show that:

1. you "ordinarily resided" in the property; and
2. you used the property for "mainly domestic" purposes, which means that you must not have used more than 50% of the property for business purposes.

The requirement that you must have "ordinarily resided" was interpreted by SARS to mean that the property must then have been your "primary residence". As a result of objections, SARS recognised that such an interpretation might be unduly restrictive since this "amnesty" was introduced to assist all taxpayers to restructure their affairs.

GOOD NEWS FOR HOLIDAY HOME OWNERS!

As a consequence, a Taxation laws Amendment Bill has been introduced which will have the effect of removing

the "ordinarily resided" provision, making it possible that second dwellings used by family members and holiday homes will also be able to be transferred in terms of the "amnesty". It is likely that the Bill will be passed during December 2011. The amendment will also make the legislation applicable to foreigners, who hold shares / interests in local property owning Corporations but due to the short term nature of their residence in the property could not fulfill the "ordinarily residing" requirement. Once the legislation is passed, taxpayers that hold holiday homes in trusts, cc's or companies may make use of these amnesty provisions to transfer the properties to their individual capacities, tax free.

So contact our Allan White at allanw@stbb.co.za if you require our assistance in this regard.

more than just

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