

# Denoon Sampson Ndlovu Inc.

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Lodgment Numbers: PTA 373 / JHB 179

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## To Whom It May Concern

(By Hand)

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Date: 8 October 2009

Dear Sir,

## Re : Transfer Duty, STC and Capital Gains Tax exemptions effective from 30 September 2009

I am pleased to confirm that the “amnesty” granted to individuals who wish to transfer their domestic properties from their Companies, Close Corporations and Trusts into their personal names, was promulgated under Government Gazette N118 No 32610 on 30 September 2009.

For the sake of brevity, our discussion hereunder will refer to “Companies” which will also collectively refer to Companies, Close Corporations and Trusts.

The South African Revenue Services (SARS) has made the practice of owing one's domestic residential property in a company very costly from a tax point of view. Most people do not realise how large the bundle of taxes is; especially when the shareholder of a home owning company dies. The total mix of Estate Duty, Double Capital Gains Tax, and Secondary Tax on companies together with the annual fee, which is payable to CIPRO, is extreme! By taking advantage of this amnesty, you will save the full Capital Gains Tax payable by the company, the Secondary Tax on companies, as well as the cost of the annual return to CIPRO. You will still pay Capital Gains Tax on death (now once instead of twice) as well as Estate Duty on death. Free professional advice is available to avoid or to minimise these taxes.

We, therefore strongly recommend that owners of companies that own a property that is used mainly for domestic purposes as an ordinary residence take advantage of this tax amnesty to transfer ownership of the property into their personal names. The requirements are as follows:

- 1 You, alone or together with your spouse, must have directly held all the Share Capital or Member's Interest from 11 February 2009 to the date of Transfer;
- 2 You, alone or together with your spouse, must have “personally and ordinarily resided in that residence and used it mainly for domestic purposes from 11 February 2009”;
- 3 The property transfer must be registered by no later than 31 December 2011;
- 4 There will be no transfer duty, secondly tax on companies or capital gains tax arising out of the transfer into the private name.
- 5 On resale of the property from the individual, the base cost will be the base cost as it was to the company, plus any additional allowable expenditure. A primary rebate (currently R2 million but subject to conditions), will apply to primary residences;
- 6 The company must be de-registered following the transfer of the property.
- 7 Existing mortgage bonds will have to be cancelled, substituted or re-registered in the name of the private person taking transfer. Conveyancing fees for the transfer, advance rates and taxes, registration and cancellation of bonds will be payable together with the cost of de-registering the company or close corporation.

## DENOON SAMPSON NDLOVU INC.

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