TAX CONCESSION – PROPERTY TRANSFERS TO INDIVIDUALS

What is the Concession?: Legislation tabled envisages a concession for Capital Gains Tax (CGT), Secondary Tax on Companies (STC) and Transfer Duty which would ordinarily be payable on the transfer of property from a Company, Close Corporation or Trust to an individual.

Requirements to claim the Concession: The property must be transferred from the Company to a Shareholder or CC to member or from the Trust to the beneficiary of a Trust and must relate to a property which is used as a place of residence by a natural person.

For how long will the Concession apply?: From February 11th, 2009 to December 31st, 2011.

Advantages of making use of the Concession: The Concession, if the overall estate planning justifies it, is a generous one in terms of the removal of the residence from the company without incurring capital gains tax further, ordinarily an award by a Company give rise to a dividend for STC purposes or Transfer Duty (currently Transfer Duty is payable at the rate of 5% of the value of the immovable property over R500 000,00 and 8% on the value of immovable property in excess of R1 million).

Disadvantages: The transfer may undermine an estate planning rationale for the creation of a trust which owns the property. A transfer of the property into the individual own hands will increase their personal estate for estate duty purposes.

Timing of the use of the Concession: Distribution of any property owned by a Company, Close Corporation or Trust by the Shareholders or Trustees into their own hands should take place after February 11, 2009 but before December 31, 2011, to take advantage of the concession.

If you are interested in pursuing or considering making use of this concession contact:

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