Accounting and Tax
for
Artist Agencies

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Keywords to know before we begin:

- **Annual Financial Statements (AFS):**

  These documents are also needed by shareholders / investors / the bank to see how your company is doing. You will need them for finance applications, if you decide to sell some of your shares or your business etc.

- **CIPC:**

  Companies and Intellectual Property Commission. (www.cipc.co.za)

- **Shareholder:**

  Owns shares in the company – entitled to dividends and voting rights.

- **Director:**

  Manages the business – has a JOB to do. Assigned duties by the Company Act to operate in best interest of the business. Serious position.

Financial Year:

The 12-month period that is you account for financially for income tax and accounting purposes. Usually from 01 March to end of Feb but can be specified differently when you register your company with CIPC. For instance, 01 September to 31 Aug, or 01 Jan to 31 Dec. We prefer 01 March to end of Feb as it co-insides with the majority of SARS's deadlines.

Tax Year:

The 12 months preceding the year mentioned. So 01/03/2020 to 28/02/2021 is the 2021 tax year, although 10 months of it relates to the 2020 calendar year.

Memorandum of Incorporation (MOI):

A set of rules issued for the proper governing of your company. How many directors are needed, can profits be distributed, are there any special shares and voting rights etc. Majority of companies being registered these days have a generic, very simplified MOI to make Small Business as uncomplicated as possible.

Public Interest Score (PI-Score):

A score calculated for each client by an Accountant to determine the need to be audited. One point is awarded for each R1m in sales, R1m in debt, per employee and third-party debt.

Independent Review:

If your company has a PI Score of more than 100, but less than 350, an Independent Review is needed. It's more work that just drafting AFS, but much less than a complete Audit. A company can also voluntary opt for this or have it as a requirement in their MOI.

Audit:

If your company has a PI Score of more than 350, it has to be audited. AFS has to be independently drafted and a full audit has to be conducted by a Registered Auditor.

VAT:

Value Added Tax (and it's different from Income tax)

Company registrations – what are the options?

- *Sole Proprietor* (trade in your own name) – exposed risk, high taxes - not recommended
- *Close Corporation (CC)* – no longer exist, but if you currently have a CC they are being governed the same as Pty's – and can still be used. At some stage you will have to formally convert it to a Pty Ltd.
- *Pty Ltd* – if PI-Score is below 350, no audit, if below 100 – no IR except if MOI says so.
    - CIPC fee of R100 per year, on anniversary of your registration, and R450 if your turnover is over R1m up to R10m.
    - Financial year ends – ensure you specify the correct period!
    - You can register it yourself but keep the MOI, make sure you have the correct year end etc. You will also receive the annual CIPC fee reminder so make sure your contact details stay up to date.
    - If your Annual Return is not submitted for 3 years, the company goes into an automatic de-registration process. Until de-registered, you still have a statutory duty to file tax returns.

Bank account(s)

- Has to be in the company name. Can't have trading income for the company go into your personal account.
- Split your personal and the company expenses!
- Capitec is cheapest, but don't offer business accounts
- FNB is a great / cheap bank. Offers all the business needs, and fees are reasonable.
- But can bank with ANY bank.
- Beware of loans / credit cards and overdrafts – you'll probably end up signing personal surety if they DO offer these facilities to you as a small / starting out business.
- An overdraft is a permanent problem for a temporary solution – it solves your problem once, and you pay for it every month. It is like a bottomless pit that you battle to get out of.
- Very easy to get a cheque account opened but have to be a director of the business, take your ID and your company documents (COR.15 and MOI) to the bank and they will open one for you.

Let’s talk about SARS…

- SARS is responsible for the collection of government revenue. As working residents of the country, the consensus is that we’ll all help to maintain the public facilities (i.e., hospitals, roads, schools, municipalities, etc) and that’s why we pay tax.
- Businesses are also seen as residents of a country and therefore has to contribute to SARS in the same way. Most people understand that part but get confused with the different *TYPES of taxes* that there is.

- A few that we’ll look at is:
  - Income tax (and the Provisional tax system)
  - Value Added Tax (VAT)
  - Pay As You Earn (PAYE), UIF AND SDL
  - COIDA
  - And remember the above is now being discussed as taxes that affect your *business*. You **personally** will also have tax liabilities.

Income tax and the Provisional Tax system

Personal Income tax:

- I would assume that most (if not all of you) were employed at some stage – so you understand that if you were employed for a gross salary of R10 000 p/m, you might have only taken home R9 000. +-R150 went for UIF and the other +-R850 as PAYE to SARS.
- When it comes to individuals, with a set income / salary each month – taxes are easy. We can estimate how much tax will be due for the year and recover the amount in 12 instalments during the year. When tax year end comes, you get an IRP5 to show that you've paid your taxes and SARS (and you) are happy as your tax debt for the year is settled.

… But what about your Business?

- Can you imagine how much simpler life would've been if we all knew how much money our business will make for the next 12 months?
- If the amount of money that our businesses make, or don't make, each month impacts us as business owners so much – can you imagine being the Minister of Finance and having to deal with cashflow for a whole country? If we don't even know how much money our business will make for the current month, how do we know how much tax we might pay? And when do we pay it, when does the government need it, how do they know what amount is coming in when?

Enter the PROVISIONAL TAX SYSTEM

- Provisional tax happens twice a year – 6 months <u>into</u> your financial year and <u>at</u> your financial year end. If you have a February year end, this will be end of Aug and end of Feb each year. Special circumstances make provision for a 3rd provisional top up as well, but that's again a technical tax issue that your accountant will use, if it is needed.
- By dividing a year in two, we can usually get a pretty good feel for what a business will do from a financial point of view. SARS gets an estimate 6 months into your financial year <u>and gets paid half of the expected taxes for the year</u>. And then we repeat the process for the last 6 months and again do a payment that is within 90% of our final calculated amount to SARS.
- Here again your industry is different as you usually have quite Dec/Jan periods. We usually see a booming 1rst period provisional tax submission for entities in your industry, as May / June / July is very busy, and then – because of the over estimation in the first period, you will have a lower or nil submission during the 2nd provisional submission – with a quite Nov/Dec/Jan period.

PROVISIONAL TAX SYSTEM – continue…

This way, by the end of the financial year, your company has also paid all, or at least the majority, of its taxes due to SARS, the same way an employee would've done. An important note, that you have to be within 90% of your final assessment with your provisional tax return amounts, but anything that's out by more than that, is hit with S89Quat penalties – and basically SARS is reimbursing themselves for not having received your full amount on the due date. And you lose out on this money. You have to pay it to SARS, but don't get to claim it like expenses from your profits. So technically you still pay tax on these penalty amounts too.

Corporate Income tax (assessed company taxes)
In real life we have to submit the provisional tax returns to SARS by the end of your financial year, and no accountant can submit the correct, final amount due to SARS in time, because you are still trading on the day that all these returns and payments have to be in. It's a "best estimate" – hence the 90% rule.

After your financial year is finished, you will have proper Annual Financial Statements (AFS) drawn up and those will calculate your exact amount of tax due to SARS. Let's say you owe SARS R25 000 for the year. But you also paid R15 000 for the 1rst Provisional tax period, and another R8 000 for the second provisional tax period. On your final assessment, you will now owe SARS R2k (R25 – R15 – R8 = R2k). If you paid more money that what is due on final assessment, you will be refunded by SARS.

Where does VAT come into play?

- VAT is a separate tax from Normal Corporate Income Tax. Not everyone is a VAT vendor, but all companies must be registered for Income Tax, and annually submit their Income Tax returns.
- Your company has to register for VAT with SARS when your TURNOVER reaches R1m in ANY 12 months.
- TURNOVER is YOUR money – so that 10% Comm on fees that you charge (not the artist salaries)
- Usually, you will register for a bi-monthly period. Can end on even or odd months. If your have a VAT period for Jan / Feb, then you have to report to SARS on the transactions from 01/01 to 28/02 no later than 30/03. Your VAT return and payment is due at SARS by the last working day of the month following your reporting.
- I would strongly advise that you make use of an Accountant when you get to this stage as there are various things to keep on top of with SARS when you get to this stage. You are now no longer a small business that can get by without proper controls and structures. VAT calculations can get pretty technical and there are all sorts of recons that have to be done where SARS could potentially hit you with penalties and additional assessments.
- Biggest piece of advice when it comes to VAT – IT'S NOT YOUR MONEY! So put 15% of each deposit into a separate savings account so that you have the necessary money when you need to pay SARS. Once you get behind on this it's crazy difficult to actually get in front of it again.
- We have a more detailed VAT breakdown explanation. Please send us an email at info@mglaccounting.co.za for a copy of it if you're interested.

PAY-AS-YOU-EARN (PAYE), UIF AND SDL

As an Agent, you will get to deal with **PAYE** on 2 levels – firstly for your artists and secondly for any employees you might have.

i. Artists – according to law, the Production houses should be deducting 25% as PAYE for an artist, from their fees, for each of the invoices

ii. We know in reality this does not always happen. And at the end of the day sometimes its better to get the full amount from a "fly by night" production than having to worry to get either an IRP5, or that 25% deducted from the artists' money, back from them if they never paid it to SARS.

iii. Your responsibility remains that any money that you've received on behalf of an actor, you MUST pay to an actor in FULL. It is NOT your responsibility to pay that 25% to SARS and has been made very clear by SARS in numerous communications.

iv. If you receive the full amount from a Production house, pay over that full amount and inform the actor that this money HAS NOT been taxed and that they are responsible for the tax implications.

v. The artists on your books are NOT your employees, so NO UIF or SDL comes into play for them. Also very important, you can NEVER confirm employment with YOUR company for your artist. You can provide information on which productions they work and contract periods etc, but not employment with the agency.

PAY-AS-YOU-EARN (PAYE), UIF AND SDL - continue

For any employees:

i. This is a different and extensive department all on its own. We are not covering everything you'll need to know now. If you are considering employing an employee, do yourself a favour and read up on the labour laws at www.labour.gov.za.

ii. Some basics that you need to get right to avoid the CCMA cleaning the floor with you, includes:

   1. employment contract – all employees need to have a contract, specifying duties, working hours, pay, leave etc. You can't contravene the Labour laws in a contract. It doesn't have to be 20 pages long, just the basics are fine, but you MUST have it signed by the employer and the employee.

   2. You MUST keep a copy of your employees ID, and if they are a foreigner, their Passport and work permit. Did you know it's illegal to appoint a foreigner as an employee without a work permit?

   3. Leave days – Minimum is 15 working days per year

   4. Payslips – Employees are entitled to receive payslips for each working cycle (i.e. week / bi-weekly / month) showing their earnings, deductions, leave etc.) They must get this without having to ask for it.

- Structuring of salaries
  - I was asked to discuss the options available and although there are structuring allowances, most of the “easy” ones have been rooted out by SARS so that only real specific and valid ones remain.
  - Unfortunately, there is not much of a “one size fits all” approach to this and sometimes even if no structuring is done, the tax fixes itself at year end in any case. For example – an employee earns just a basic salary but contributes privately to a retirement annuity (RA). Although tax is paid monthly on the salary, on assessment, the employee gets the RA money refunded to him. The alternative is to take into consideration the RA contribution on the payroll, and then each month the tax is less, but the employee receives no refund on assessment.

  - The following allowances are available, but will have to be looked at for each individual employee to see if there is a benefit:
    - Cell phone, airtime, line rental and data
    - Travel allowance – does the employee travel for business? Not from home to work and back.
    - Housing allowance – The company pays for the house, but the employee is taxed.
    - Usage of motor vehicle allowance – The company carry the cost of a motor vehicle, but employee is taxed.
    - Subsistence allowances – Applicable if an employee has to spent nights away from home for business
    - Retirement annuity contributions
    - Medical aid contributions

UIF (Unemployment Insurance Fund)

- Your company has to register with the Labour Department as an Employer – you get a U/xxxx number from the UIF Department.
- When you appoint an employee, you must also register that Employee against your Employer number. You will need their ID for this.
- If you don't pay any PAYE monthly for your employee(s), you must pay the UIF directly to the Labour department monthly, using that U/xxx number as a reference.
- Or, if you do pay PAYE, you can pay the UIF with your PAYE to SARS, and they then transfer the UIF portion to the Labour Department.
- Even if the UIF payment is made to SARS, a declaration of payment called a UI-19 form must still be submitted to the UIF department. This will allow them to update the records and allocate the payment made to each employee.
- UIF is NOT optional. ALL employees have to pay 1% of their salary to UIF, and the Employer contributes another 1% to the fund.
- Currently the capped amount is R17 712 per month. So, if an employee earns R20 000 per month, the employee and employer only contribute R177, 12 each per month. If the employee earns R7 000, it's R70 each.
- Employees may claim against the UIF for benefits like maternity leave, incapacity, reduced hours, retrenchment and retirement. Should an employee die while employed, their dependents can submit a claim for death benefits. UIF will NOT be paid for resigning. The government will not pay for you if you just decide not to work. If there is a valid reason for you loosing your job, you can apply for benefits.

SDL (Skills Development Levy)

- Only applicable if your payroll exceeds R500 000 in ANY 12 months.
- This is a company contribution. Employees don't contribute.
- Has to be paid to SARS each month. 1% of taxable payroll.
- Skills Development Levy is paid to a fund that funds the various SETA's for skill upliftment in South Africa.
- Your industry belongs to ***CATHSSETA.***
- You can claim from ***CATHSSETA*** for any training that you conduct for your field, but it's a very strict process. We don't deal with it because of its complexity, but it is available.

COIDA

- Easiest way to look at this is to see it as an insurance that you pay for your employees to claim from this "insurance fund" and is compulsory even if you only have one employee.
- Should you not be registered, the injured employee could make a case against your business and potentially put it to financial ruin.
- If an employee slips on a wet floor and breaks a leg, or is perhaps in a car accident – was the company responsible? COIDA makes provision that the guy with the broken leg can go to hospital and get it set at the cost of the fund, not the company's pocket. Same with the car accident. The employee can get medical treatment and your company won't have to pay, but rather submit the claim to the COIDA fund for payment of the Doctors, hospital etc.
- Your company has to register with COIDA and then pays once a year based on an assessment issued by them. It will include the following:
  - The last years salaries and number of employees and directors
  - The estimated coming years salaries and number of employees and directors
  - The danger rating of your industry – a Construction company will have a higher risk rating than an Accounting firm.

Personal income taxes

Let's be honest. The reason why you are considering running your own firm is the potential to write your own pay cheque. But, as with everything else, that pay cheque has to be taxed…. So how does THAT happen? Again, there are a couple of options:

- Declare a salary to yourself and pay the PAYE monthly – this remains the best and easiest way for you to stay on top of taxes, cashflow and everything in between. However, it can be challenging when you're first starting out and don't know how much money will be coming into the business to live off of.
- You should have a chat to your accountant about how much you NEED to survive – not want… and determine the % tax that you'll probably have to pay. Let's say it's 15%. If you then see there is R10 000 available for you to take as a salary, 15% of that should be paid over as PAYE, or saved for a provisional tax payment. Keep track of the money you've taken and declare the Provisional tax (same system as explained above for the company) payment to SARS at the necessary times.
- Dividends – are only available to Shareholders and is a financial incentive for providing capital for the business. Once or twice a year a dividend can be declared and paid to the Shareholders, along with the dividend taxes due to SARS. The dividend is derived from previous year's profits and as these profits have already been taxed, they will be taxed a second time when it is declared to the Shareholder. That makes this option an expensive one as it does not reduce your Income tax liability, and assumes the Shareholders earn at the maximum of 46% tax. So only to be used in special circumstances.

Other:

BB-EEE status

- Stands for “Broad Based Black Economic Empowerment”
- What is it? – Mostly for tenders or specific government projects to prove your BBEEE status
- Most cost-effective way to do it? – Can be done by your Accountant on a CIPC declaration for Exempted Micro Enterprises, for as long as your turnover remains below R10m.
- If your turnover is above R10m – have to get a Rating agency to issue you with a formal BBEEE certificate – complex process.

Accounts package options

- Many available – but the crux is that it has to be DONE correctly. Are you an Accountant? Do you understand debits and credits? Income Statement and Balance Sheets?
- We like Quick Books, but you can use SAGE or even Excel when you’re very small.
- There are also lots of free software packages out there.
- It depends on what type of person you are. I’ve had agents who can do their own billing and bank write ups and those who just don’t understand any of it. Sit with your accountant, determine your level of understanding / doing and take it from there.
- More importantly - You need to spend your time doing what you do best and what gives the business it’s best return for money. Usually this will mean that you pay an accountant and focus on brining in work for your Artists so you can have a billable commission.

OTHER – continue…

Managing Cashflow and Expenses

- In order for your business to grow and for you to have a salary – you have to make money.
- Take your (commission) billing amount, less all the money that you need to pay to make your business run (insurance, phone, computers, salaries) and then you end up with a net profit.
- Companies pay tax on net profits. While you don't want to pay too much tax, you WANT to be able to take a nice salary home. You can only do that if the commission part is bigger, or the expenses part is smaller. So don't use the company as your personal piggy bank. You also want to grow the company to make it stronger and more attractive to eventually sell it.
- A good book to read if you are really interested in getting this right is called **Profit First, by Mike Michalowicz**. We implemented it in our firm and it's been a game changer. It works for any industry.
- Remember… if you're paying tax, you're making money! If you don't make money… how are you surviving?

Insurance required:

- Insure your Assets – your computer, cell phone, servers etc.
- Make copies and backups of your work (contracts, invoices, bank statements etc) – Dropbox, G Drive, iTunes
- Indemnity insurance – what is it and do I need it? Consider risk and costs involved.

Accounting service requirements

- Speak to someone to get you started on the right track and who you can ask when you're not sure.
- There's a lot you can do yourself when you're just starting out and not that busy.
- Meet with your accountant at least once a year, twice if you can, to go over your books and see what's happening there.
- Stay on top of your Debtors!
- Don't get behind on your paperwork.
- File and pay your taxes. It creeps up on you like nobody's business…
- When you need legal – rather pay for the right advice. It will be cheaper than the alternative.

QUESTIONS?

Please feel free to email us if you have any more queries or would like to set up a meeting:
christel@mglaccounting.co.za