**SARS REQUIREMENTS FOR TRANSFER DUTY**

On the 14th of April 2005 SARS issued a statement entitled SARS LAUNCHES A NEW ELECTRONIC TRANSFER DUTY SYSTEM. According to SARS this new transfer duty system will improve client service and will ensure that all parties comply with South African tax law. New transfer duty forms will be used for all transactions concluded after the 1st of May 2005.

In essence now, SARS can use all property transactions in South Africa to monitor everyone’s tax status, not only in relation to the property purchased or sold but in relation to their tax status in general.

As such, the following additional information will now have to be obtained from all parties concerned:-

* VAT registration numbers of both Purchaser or Seller (if applicable)
* Details of directors, shareholders, members etc (if either party is a legal entity)
* Details of the original purchase price paid by the Seller and the actual date of acquisition of the property
* Method of payment of the purchase price by the Purchaser i.e. details of bond grant and institution granting bond
* Income Tax numbers of both Seller and Purchaser
* VAT registration number of estate agency (if applicable)

We suggest you add the following clause in your agreement:-

“As a result of the South African Revenue Services (SARS) doing risk analysis on both the transferor and the transferee on all property transactions both the Seller and the Purchaser warrant to each other and the agent that all tax issues (whether personal or otherwise) including but not limited to tax returns and tax payments are current and up to date. The defaulting party will be liable for all costs incurred and damages suffered by the aggrieved party as a result of a breach of this warranty. The aggrieved party shall also be entitled to place the defaulting party on terms and thereafter cancel the agreement if this warranty is breached. These remedies are in addition to all rights which the parties have in terms of this agreement or in Law.”

Agents need not concern themselves with completing TD1 – TD7 forms as it is our responsibility to complete the same and obtain the necessary information.

*The above should be seen as a brief comment and our interpretation thereof and should not be seen as an extensive guideline. Please obtain a full legal opinion if you wish to act on any aspect hereof as the guideline is not fully comprehensive.*