A tax primer for the uninitiated  
(errors and omissions excepted)

D Meyerowitz SC  
Cape Bar

The editor of Advocate asked me to produce a short article on tax relating to the obligations of members of the Bar in respect of their liability for the various taxes that plague us, with particular reference to the returns to be made by them to the South African Revenue Services (SARS). His request reminded me of a series of short brochures issued many years ago by an accountant entitled “What every ... should know”. Each brochure referred to a different profession, business or trade such as a farmer, accountant, lawyer, etc. Ninety per cent or more of each brochure repeated the contents of every other one because except for factual variations resulting from the nature of the activity there is no difference between the taxation of taxpayers.

It seemed to me therefore that I should focus on those of our members who have recently joined the ranks of the Bar and are faced for the first time with the subject of taxes imposed by the taxing Acts upon them. In other words I start from the beginning (assuming that the reader has not encountered tax in his studies before coming to the Bar).

Income Tax

Income tax is assessed by SARS on the basis of a return of income and expenditure rendered annually.

Newcomers to the Bar who may not be on SARS’s register and therefore will not receive returns automatically, have an obligation to apply for a return if for the year of assessment their gross income (ie before exemptions and allowable deductions) exceed the tax threshold. For the tax year ended in February 2001 the figure is R19526. For the year of assessment commencing 1 March 2001, all income accruing to a South African resident wherever the source may be is subject to South African tax, subject to rebates wherever the source may be within or deemed to be within the Republic. For example, an advocate appearing in the courts of countries other than the Republic could argue that their fees fell outside section 9(1)(d) which deems payment for services to be from a South African source when performed anywhere by a person in the course of carrying on his trade in South Africa. In respect of the tax year commencing 1 March 2001, all income accruing to a South African resident wherever the source may be subject to South African tax, subject to rebates to avoid double tax on the same income in South Africa and in the country in which the services are rendered. Much of this double tax will be regulated by double taxation agreements, while there are also exemptions where the income is derived in a designated country. This aspect is far too complicated to be dealt with in a digest such as this.

Expenditure

The rule is that expenditure, not of a capital nature, incurred in the production of income, is deductible, with prohibitions and deferred deductions not germane to advocates, except that which prohibits domestic or private expenses. It is possible, however, for a member to claim the costs of maintaining a study at home which is exclusively devoted to the purposes of his practice.

Equipment of chambers

If a member hires equipment for his chambers such as computers, typewriters, etc, he can deduct the rent. If he purchases the equipment he is entitled to write the cost off on the basis of a straight line percentage over a period of years. SARS has a schedule of acceptable periods.

Gowns, books and periodicals

A gown is the acquisition of a capital asset and its cost is not deductible except by way of wear and tear. However, I understand (but am not sure) that SARS will accept a write-off in the year of purchase.

SARS permits the cost of periodicals (such as the Law Journal, Tydskrif, etc) to be deducted in the year in which it is incurred. The cost of law reports may be written off entirely in the year of purchase and the cost of binding them in the year in which it is incurred.

Motor cars

It is long established that the cost of travelling from home to chambers and vice versa is private expenditure, but it is accepted practice to equate the position of a person trading in his own right with that of an employer and an employee, namely to allow the costs relating to the acquisition and running of the car as a deduction (such as wear and tear, interest, repairs, depreciation, insurance etc, as also rent payable in terms of a lease of a car) less 1,8% per month on the determined value of the car (annually 21,6%). If however the distance travelled during the year is less than 10000 kilometres, the percentage is reduced in the ratio the distance travelled bears to 10000 kilometres.

Entertainment expenses

There are two types of deductions of expenditure on entertainment. The one falls under section 11(a), namely expenditure incurred in the production of a taxpayer’s income, ie for the purpose of producing income. In the case of an advocate, entertainment would include providing refreshment and meals for clients, witnesses etc, during the course of consulting or during a
could be or could come close to being entertaining business associates or with the taxpayer's trade, such as clients without the immediate object of tion and raises an ethical issue for adv without requiring the expenditure to be producing income, or belonging to a section supported by proof (see section ll(u). It is enough that it is connect ed with the taxpayer's trade and not falling with the taxpayer's trade and not falling production of income; in the case of sections) incurred directly in connection with entailed the government, or the like. (There is the VAT payable by them on rent, telephone, equipment or the like. (There is no output tax on salaries paid to staff.) Where counsel operate in association for the purpose of expenditure (other than salaries) such as rent, equipment etc (usually payable from floor dues), the input tax payable will be shared between them, ie each must claim his share in rendering his VAT return. **Regional Services Levies**

There is a regional service levy (payable monthly or at longer intervals by arrangement with the relevant authority). There are two levies: one on gross turnover, the other on salaries paid, including drawings by the taxpayer. There could be a theoretical difference between the net amount left over after paying all expenses and the draw ings of counsel. Because of the small amount of levy involved, I suggest that the net amount be treated as drawings whether or not it is fully withdrawn from the practice bank account. It will save a lot of calculation.

**Skills Levy**

This is a very recently imposed levy. It is imposed on every person who has an employee or employees. The rate is 0,5% on the total remuneration paid to staff, increasing to 1% from 1 April 2001. The Act is the Skills Development Levy Act 9 of 1999. **General**

Finally, a word of advice. Do not regard what you have just read as completing your tax education. Go to one or other of the reliable textbooks which you can borrow from colleagues who possess them and learn therefrom what your country expects from you by way of tax.