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But surely POPI is not applicable to my small business?

It most certainly is – no business, no matter the size, is exempt from POPI!

What?
The Protection of Personal Information Act ("POPI") is legislation with the purpose of protecting personal information processed by public and private bodies. Therefore, POPI applies to all bodies in the private and public sectors.

Personal information is defined very broadly to include any unique and/or identifiable characteristic of a person. This includes but is not limited to information regarding race, gender, marital status, health, finance, educational or medical history, views or opinions, correspondence of a confidential nature, contact details, and biometric information.

Who?
A private body is defined to include natural persons that trade in their own name, partnerships, and legal persons. A public body includes any department of state or administration in the national and provincial spheres of government, any municipality in the local sphere of government, and any other functionary or institution exercising a public power or function in terms of any legislation.

How?
POPI lists eight conditions for lawful processing of personal information: Accountability, processing limitation, purpose specification, further processing limitation, information quality, openness, security safeguards, and data subject participation.

Processing is any operation or activity, whether by automated means or not, concerning personal information. This includes the acts of collecting, recording, organising, storing, updating, distributing, and deleting, personal information.

The Act also refers to information that is recorded, and includes writing on any material, book, map, or drawing, and information produced or recoded on digital equipment.

Impact?
Practically, considering the eight principles addressed by the Act, when a body acquires your information with your consent, it must be used for the purpose and extent for which it was acquired. Then the information must be safeguarded against theft or from being compromised to ensure the integrity and accuracy of the information.

The Act also changes the manner of consent that involves direct marketing to avoid unsolicited commercial communication with the "opt-in" mechanism, opposed to the "opt-out" mechanism. This means that you must choose whether to receive commercial communication, as opposed to receiving it first and then having the option to opt-out. The Act also provides a prescribed manner and form for the consent to be obtained regarding marketing material.

Only certain sections of the Act are presently in force, but the whole of the Act will be in effect once the president proclaims the date. It is speculated that this will probably be towards the end of 2018 with a one-year grace-period, meaning that the Act's deadline will probably be towards the end of 2019 or 2020.

Non-Compliance?

Don't delay compliance with the Act, as non-compliance has serious consequences. The Act lists offences which, when found guilty, could result in fines of up to R10 million or 10 years' imprisonment.

Contact BVSA Legal Services today to assist with compliance in this new era of information protection!

BVSA Legal Services

Information and communication – keys to good financial management.

Lately, effective financial management is unnegotiable for an agricultural producer expecting to sustain long-term financial growth at a given profitability. Two especially important components of any successful financial management process is a) correct, relevant, and accurate information, and b) continuous communication of information between all relevant parties. The most important parties involved in this process are the producer, their accountant, banker, broker, and suppliers.

It is necessary that the producer has a meeting with their accountant at the beginning of their financial year to set up a cash flow budget for said financial year. At this stage relevant information and good communication are essential, during which the producer should provide the accountant with their revenue estimates for the year, as well as their estimated expenses and improvements. It will help a great deal if the producer is able obtain quotes from their suppliers beforehand, so as to budget as accurately as possible. At this stage it will be good to verify all payments for hire purchases and term-loans, as well as overdraft facility limits, with your banker.

After having done the cash flow budget, the accountant and producer should be able to detect any cash shortage for which funding should be acquired, or any possible tax liability, which should be communicated with the banker in a timely fashion so that the producer can decide on possible expansions, which in turn will be communicated with suppliers by requesting quotations and placing orders for these additional expansions in a timely fashion.

During the year, the accountant should regularly send the cash flow budget, updated with the actual figures, to the producer who will keep track of any deviations and who, in turn, can communicate any material events which should be included in the budget, such as crop damage or other expenses for which there had not been budgeted. The accountant should also keep the producer informed of any tax legislation changes which may have a bearing on the producer.

Approximately two months before the producer's financial year end, the accountant and producer should meet again to do a provisional tax calculation. Ten months' actual figures will have been available by such time, with which a very accurate estimate of tax liability can be made.

The third important meeting of the year entails discussing the financial statements. This is a good time for the accountant to provide the producer with a financial overview of their five most recent financial years, and also to compare business figures. It is essential that the financial statements be made available to the banker so that they can conduct an annual facility review.

Furthermore, communication between the producer and their broker is essential in the event of occurrences which could influence their coverage, so that the necessary adjustments can be made to their insurance policies. In the event of claims, it is especially important that the producer contacts their broker as soon as possible, and continuously provides any information requested.

Good communication and reliable information are also of great interest between the producer and their suppliers. Suppliers should quote as accurately as possible and inform the producer of any price increases or special offers which could influence the producer's financial position, in a timely manner. In turn the producer should place all their orders in a timely fashion, and communicate with the supplier in the event that they should cancel an order or require an extension on payments.

Arnand Stofberg –

B Agric Admin (US); B Compt (UNISA)

What is unit trusts?

Understanding the risk of your investment.

In a previous article we discussed how a diversified unit trust portfolio with exposure to growth assets can yield returns that outperform inflation over longer periods of time.

What are unit trusts?
A unit trust (also called a collective investment) is an investment portfolio that consists of different underlying assets, or asset classes, which include equities, bonds, cash and property. Investing in a unit trust portfolio therefore allows you to spread your money across various diversified underlying asset classes.

10 Reasons to invest in a unit trust portfolio:

Easy and affordable:
Unit trust provides easy and affordable access to financial markets. You may invest monthly or choose to start with a single lump sum. To invest monthly you will need a minimum of just R500 which you can change, pause or cancel as your needs change. If you do not want to invest monthly, you can start with a single lump sum of R20 000 or more.

Liquidity:
A unit trust portfolio is a flexible investment. You have access to your money at any time. It takes three to five days for the money to reflect in your bank account. You can also schedule regular withdrawals that ensure monthly, quarterly, half-yearly or annual income.

Diversity and Risk:
You can diversify your Unit Trust Portfolio by spreading your investment risks across various markets, sectors and asset classes. Investors typically choose a percentage they want to invest in each asset class based on their risk tolerance, their time horizon to achieve a specific financial goal (such as years to retirement), and other factors. You may readjust the asset allocation in your portfolio at any time to keep your risk in line with your investment objectives and risk profile.

Holding a diverse range of assets in line with your goals and risk tolerance will help minimise the impact of a single asset class on your portfolio and will help take advantage of opportunities across the market

Offshore exposure:
Unit trusts offer direct offshore and currency investments. They allow an alternative way to invest offshore without using your offshore allowance.

Professional management:
By investing in a unit trust portfolio, you can create wealth by tapping into the expertise of South Africa's top investment managers irrespective of how much you have to invest. Active and professional management aims to maximise your returns, whilst minimising risk.

Inflation-linked performance:
In general, growth assets are expected to yield returns in the form of capital growth and significantly outperform inflation over longer periods of time. The benefit of this investment lies in the time you are willing to leave your money in the investment to grow and unit trusts should be regarded as a medium to long-term investment.

Read our latest article on page 54 of the May edition of the Agri Culture magazine

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It is simple to track how your investments are performing:
Legislation requires that certain facts be made available to the public. Your fund manager provides a regular update through fact sheets that discloses, among other things, the fund's exposure to asset classes, performance figures and the market view of the fund manager.

Transparency and competitive cost structures:
The initial fees and management fee fees must be fully disclosed, and investors can thus eliminate fund managers who charge excessive fees.

Tax efficiency:
Income (interest and dividend) and capital gains on unit trusts are taxed in the hands of the investor. Unit trust companies provide annual statements to investors reflecting all transactions for tax purposes and reduce the burden on individuals to do these calculations themselves.

Investor protection:
Unit trusts are governed by a well-regulated industry. Unit Trusts are strictly regulated by the Financial Sector Conduct Authority (FSCA), the Association of Collective Investments, and each collective investment scheme manager's trustee or custodian. Financial advisors who handle investments in unit trusts must be registered with the Financial Sector Conduct Authority (FSCA),

BVSA Financial Services

For more information contact BVSA Legal Services at legal@bvsa.ltd