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Free Property Transfers Trigger CGT!

Most people believe that transferring properties from their individual names to companies comes with a lot of tax and operational benefits. Some say that such transfers allow them to claim expenses which they wouldn't be eligible for if they trade as individuals. The other argument is that when a company has immovable property, it will be able to access finance easily. Well, we need to look at this issue wholesomely including the tax consequences thereof.

The Income Tax Act levies a tax on disposal gains realised from immovable property sales and it is commonly referred to as Capital Gains Tax (CGT). Whilst the tax is charged on actual sales of property, it is also triggered by mere transfers from individuals to their companies or vice versa. That is the most burdensome part of the tax as you will have to pay it even when you do not have the resources with which to honour the tax.

To make things a bit clearer, if one Tiro transfers a plot from his name to his company, such a transaction does not result in him getting cash from a third party but the Income Tax Act deems that he would have disposed of the property at its market value at the time of transfer. A capital appreciation of P 500 000 will get Tiro to part with CGT of around P100 000 from the mere transfer of the property. So, where does he get the money with which to pay the said tax?

Based on the above, mere transfers of immovable properties may have heavy CGT burdens and need proper tax advice before one embarks on them. Further, an individual can still deduct expenses which can be claimed by a company even when they run their business through their individual name. So, why effect the transfer in the first place when CGT may bite?

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