

Business Law
& Tax Review
Special Report

SA's BEST LAWYERS

A jury of one's peers

■ introduction

IN THIS edition of Business Day Tax & Law Review we feature a special report on Best Lawyers SA 2010.

Inclusion in Best Lawyers is based entirely on peer review.

For over 25 years in the US and three years in SA, the top lawyers in the US and SA respectively have helped make the publication the leading legal referral guide by candidly evaluating the work of other top lawyers in the same areas of expertise.

After more than a quarter of a century in publication, Best Lawyers this year has designated "Lawyers of the Year" in high-profile legal practice areas, such as tax and competition law.

Unfortunately, Tax & Law Review has not the space to profile all the lawyers who received accolades. A list of all the lawyers honoured by inclusion can be found on page 12.

This year was an extremely eventful one and we decided to ask some of SA's Best Lawyers to tell us what stood out for them in their areas of practice and the challenges they foresee in the near future.

More than 88 000 top general counsel see Best Lawyers lists in incisive publications such as Corporate Counsel and The American Lawyer, while more than 16-million readers see the lists in dozens of city and regional publications in the US including The Washington Post, The Los Angeles Times, and New York Magazine as well as in major business and general publications around the world, from Business Day in SA to Expansion in Spain.

The editors of Best Lawyers and Business Day Tax & Law Review would like to congratulate all the professionals who have been selected as Best Lawyers SA for 2010.

SANCHIA TEMKIN

Passionate about the rights of the taxpayer

■ tax

TAXPAYERS and some advisors are usually ignorant when it comes to taxpayers' rights," says Beric Croome, an executive in tax at ENS.

Croome has received the honour of "Lawyer of the Year" for 2010 in the tax category, due to the particularly high ratings he received from his peers.

For three years in a row, since Best Lawyers was first published in SA, he has been designated as a "Best Lawyer" for tax.

Croome says that there is no doubt that the constitution has changed the face of taxation in SA.

"Taxpayers need to be aware of the rights that they have in their dealings with the South African Revenue Service (SARS) so that they may be treated fairly and properly."

He says that taxpayers are also unfortunately unaware of the fact that rights contained in the constitution may be limited by laws of general application where it is reasonable and

Taxpayers need to be aware of the rights that they have in their dealings with SARS so that they may be treated fairly and properly

SARS has abused its powers.

Croome's chosen career path was not initially that of a lawyer.

He wanted to become a chartered accountant and, after finishing school, he commenced his undergraduate studies at the University of Pretoria for a BCom degree, which he completed at the University of Cape Town in 1980. He received his Certificate in the Theory of Accountancy in 1981. After

taxpayers in their dealings with the Commissioner of SARS."

During 1994 he started to write articles about the constitution, which came into effect on April 27 1994 and the effect it had on the manner in which the revenue authority deals with taxpayers. Subsequently, he started researching the protection of taxpayers' rights in various countries, particularly Australia, Canada, the UK and the US, collecting articles and materials relating thereto. This came in handy during 2001 when Professor Richard Jooste of the University of Cape Town requested that he author an article dealing with taxpayers' rights in SA for publication in the UCT law journal "Acta Juridica" which was published in 2002. "My passion for the subject led to an article twice as long as was required by the university. I didn't want to lose the additional material, so when Professor Jooste suggested that I consider applying for admission to the PhD (Doctor of Philosophy) degree at the University of Cape Town, with taxpayers' rights in SA as my topic, I was drawn to the challenge," says Croome.

He commenced studies under the supervision of professors Richard Jooste and Hugh Corder, then dean at the faculty of law at the University of Cape Town, in 2003. His topic focused on taxpayers' rights in SA, concentrating on the rights to property, privacy, access to information, administrative justice and access to courts. He received his PhD degree in June 2008.

The University of Cape Town put his thesis forward for the 2009 Denys Reitz National Tax Thesis Competition. Croome was subsequently advised that his thesis had been given the award in the doctoral category.

The thesis was published by Juta's as the book "Taxpayers' Rights in South Africa" in May this year.

Croome is currently working with two leading overseas tax specialists in the field of taxpayers' rights, co-authoring a book dealing with international taxpayer protection. Publication of this book is aimed at 2011 or 2012.

For many years, he has taken a great interest in the powers of SARS and how it treats taxpayers in light of the rights conferred on taxpayers under the provisions of the bill of rights.

Hopefully, when the process of converting the technical text of "Taxpayers' Rights in South Africa" into a more accessible guide for taxpaying citizens has been completed, this version of the book will give the man-in-the-street the knowledge he requires to understand his rights as a taxpayer.

"I hope that, in the not too distant future, there will be significant developments in the area of taxpayers' rights in SA, enhancing the protection of taxpayers' rights in the country," he says.

SANCHIA TEMKIN



It's been said 'If there's one thing that can't be taken away from you, it's a good education.' We believe the skill and competence gained from over a 100 years of successful law practice is another.

Born somewhere between the invention of the book and the invention of the personal computer, we've seen the most rapid development of ideas in history, and been part of protecting their value.

Little wonder then that we've gone from two founding partners to 57 partners, 16 associates, 22 professional assistants, a full-time consultant, 40 candidate attorneys and 38 paralegals.

With a reputation as the pre-eminent intellectual property firm in the country, and a formidable competence in commercial, property and litigation legal services call us on +27 (0) 12 481 1500 or visit www.adamsadams.com to find out how we can put our skills at your disposal.

Adams & Adams

Beric Croome... Lack of a cost-effective remedy to seek redress against abuse needs to be addressed.

necessary to do so in a democracy. "I am often consulted by clients who believe that their rights have been violated by SARS but upon further investigation, it is established that the limitation of rights contained in section 36 of the constitution allows for that limitation to take place."

Taxpayers in SA currently also do not have a cost-effective remedy in seeking redress when SARS abuses its powers unduly and this is a matter that should be addressed.

Croome is a non-executive director of the Taxpayers Movement of SA which, among other things, intends to increase taxpayers' awareness of the rights that they have with SARS and is also calling for the creation of the tax ombudsman as a separate independent office to deal with taxpayers' complaints where



successfully completing the final qualifying examination in 1982, he began articles as a trainee accountant. In lieu of national service, he worked at the Johannesburg Receiver of Revenue (as it was then known) for a period of four years. "I so enjoyed working in the tax arena that I completed my Higher Diploma in Tax Law at the University of Witwatersrand during this period, passing cum laude and garnering the Edward Nathan Friedland prize for the top student."

It was during these studies that Croome decided that tax was a legal subject and decided to expand on his knowledge of law, and tax law in particular. As he was already working full time, he became a part-time student at the University of South Africa and completed the BProc and LLB degrees. "Studying constitutional law, in particular the bill of rights, whetted my appetite for taxpayers' rights in SA and how the bill of rights affects South African