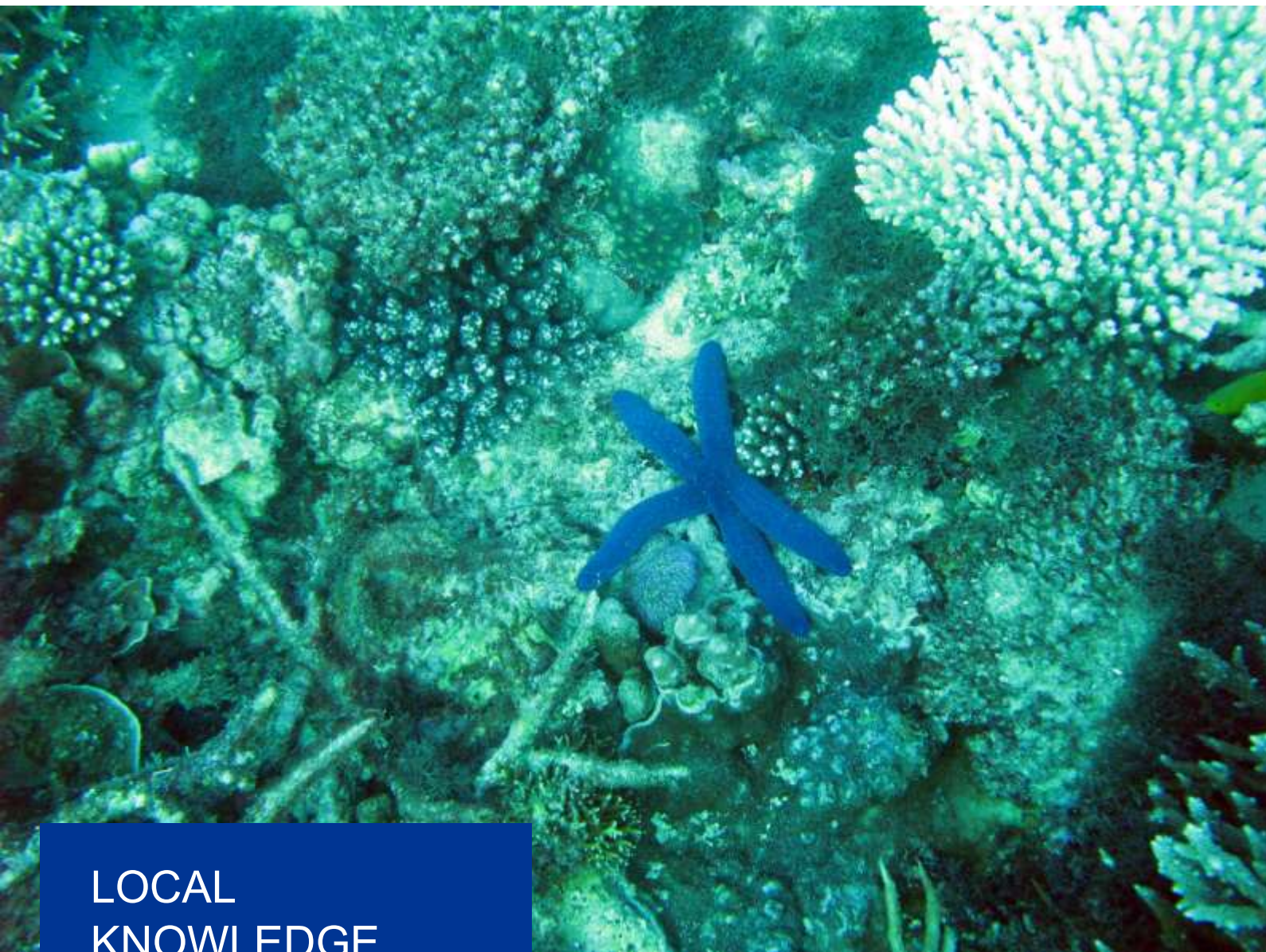


Newsflash

May 2022



LOCAL
KNOWLEDGE,
GLOBAL
EXPERTISE

BIPA – annual returns and duties

BIPA (Business and Intellectual Property Authority) is issuing statements of account for Close Corporations and Companies as part of their public awareness campaign. This campaign commenced in 2021 in an effort to recover outstanding annual duties for the period from 2012 to the current financial year. Should you receive such a statement, please contact your Company secretary at PKF FCS for any enquiries. Unfortunately, these statements are not always correct, as BIPA's system is not up to date. As secretaries for your Close Corporation or Company we will automatically attend to these returns at the end of your financial year and check any outstanding matters. We will issue reminders of your due dates and notify you of any outstanding returns and penalties.

Close Corporations – Annual duties

Close Corporations must pay the prescribed annual duty, not later than one (1) month after the financial year, and lodge a return with proof of payment not later than forty-two (42) days after the end of every financial year. The return is lodged on the prescribed CC7 form. BIPA recommends lodgement of the return within two (2) days after payment, as an official receipt will only be issued after lodgement of the return.

If a Close Corporation changes its financial year the amount of annual duty payable for the additional period shall be half of the annual duty for a full financial year.

PENALTIES FOR LATE PAYMENT

Penalties for late payment (more than 30 days after yearend) are as prescribed in the Act.

Close Corporations - Annual duty penalties for late payment				
<i>Period</i>	<i>Additional fee or penalty</i>	<i>Annual duty</i>	<i>Penalty</i>	<i>Total payable</i>
1 month	Half the prescribed annual duty	120.00	60.00	180.00
2 months	The prescribed annual duty	120.00	120.00	240.00
3 months	Twice the prescribed annual duty	120.00	240.00	360.00
4 months	Three times the prescribed annual duty	120.00	360.00	480.00
Exceeding 4 months	Five times the prescribed annual duty	120.00	600.00	720.00

Companies – Annual returns and Annual duties

COMPANIES – S181: ANNUAL RETURN

- Every company having a share capital must lodge a return, not later than one month after the end of its financial year, on the prescribed form CM 23.
- The return must be signed by one of the directors and the secretary.
- A copy of the return must be kept in the registered office of the company.
- Every company limited by Guarantee must lodge the CM 23 return, not later than one month after the end of its financial year.
- Every return under this section must be accompanied by proof of payment of the annual duty as prescribed in section 182.

COMPANIES – S182: ANNUAL DUTY

- every company, must-
 - (a) before a certificate to commence business is issued to it; or
 - (b) in the case of a company limited by guarantee, on its incorporation; and
- thereafter not later than one month after the end of every financial year, pay an annual duty.
- If a company commences business within its financial year, and there is an intervening period of six months or less between the date of commencement of business and the end of the financial year, the amount of the annual duty is half the amount of the annual duty payable for a full financial year.
- if a company is deregistered under section 74(3) it ceases to be liable for payment of any annual duty provided for in subsection (1) which was owing by it on the date of its deregistration, but if any deregistered company is restored to the register of companies, the company concerned must within 30 days thereafter pay the annual duty provided for in subsection (1) or a part of the duty as the Court may direct.
- If a company changes its financial year under section 293(2) (b), the amount of the annual duty payable for the additional period is half of the annual duty payable for a **full financial year**.
- Every external company must pay an annual duty as prescribed under section 182(2), but, where an external company has established and maintains a place of business in Namibia solely for the purpose of maintaining a share registration office or a share transfer office, the annual duty payable by that company is the minimum annual duty payable under section 182(2).
- A non-profit company incorporated under section 21 is not required to pay an annual duty but must pay the filing fee on the prescribed CM 23 form.

COMPANIES – S185 EXTENSION OF TIME

An application for extension of time can be made to BIPA, before or after the expiry of the due date;

- On the prescribed form (CM 17) and payment of the prescribed fee;
- And BIPA may extend that period as they seem fit subject to the Act;
- **S186** - Late lodgement and payment will not exempt the company from additional fees and penalties as prescribed in the Act, when extension is granted.

NON-COMPLIANCE

Failure to lodge the annual returns and pay the annual duties can result in the deregistration of the company.



COMPANIES - ANNUAL DUTY CALCULATION

Regulation 40(2) & 60, and Item 8 & 17 of Annexure 1

The rate of the annual duty is:

- for a company having a nominal share capital: N\$6.50 per each ten thousand (10,000) Namibian dollars or part thereof of its issued share capital plus the amount of its share premium account and the amount of any undistributable reserve fund of the company, to the extent that it consists of an amount transferred from its share premium account;
- for a company having shares of no par value: N\$6.50 per each ten thousand (10,000) Namibian dollars or part thereof of the amount of its stated capital account;
- in the case of a company having both shares of par value and no par value, the aggregate of the amounts calculated on the basis as in paragraph (i) and (ii);
- on the commencement of business of a new company: N\$6.50 per each ten thousand Namibian dollars or part thereof of the amount of the issued share capital or stated capital, in the case of shares of no par value, of the company as at the date of the issue of the certificate to commence business;
- the minimum amount of the annual duty payable is: N\$130.00 (excluding the fee required for the lodgement of Form CM 23, as set out in Item 17 of Annexure I)
- Additional Fees for failure to pay annual duty: (Section 186; Regulation 60, Annexure I, Item 8, as amended); Such additional fees in respect of any financial year may not exceed N\$10,000.00.

COMPANIES – ANNUAL DUTY PENALTIES FOR LATE LODGEMENT AND PAYMENT

PLEASE NOTE: Annual duty is calculated on the issued share capital, and only the minimum annual duty payment due for a share capital up to N\$200,000, is reflected in the table below.

Period of late payment	Late payment penalty	Annual duty fee <i>plus filing fee</i>	Late payment penalty	Late return penalty	Total payment due
1 month	Half the prescribed annual duty	290.00	65.00	300.00	655.00
2 months	The prescribed annual duty unpaid	290.00	130.00	300.00	720.00
3 months	Twice the prescribed annual duty unpaid	290.00	260.00	300.00	850.00
4 months	Three times the prescribed annual duty unpaid	290.00	390.00	300.00	980.00
Exceeding 4 months	Five times the prescribed annual duty unpaid	290.00	650.00	300.00	1,240.00

Notice of new director appointments

BIPA – Requirements to lodge form CM 29

BIPA issued a public notice on 21 April 2022 stating the requirements for new director appointments on the lodgement of the CM 29 form. This will be effective from 1 May 2022.

NEW DIRECTOR APPOINTMENT

The following documents must be attached to the CM 29 form when submitted at BIPA:

- Certified or notarized ID/Passport copies will **ONLY** be required for newly appointed directors.
- CM 27 form – Consent to Act as director, signed by the director.
- A copy of the shareholders' resolution approving the new director appointment. This must be duly signed and dated by all meeting attendees.

DIRECTOR RESIGNATION

Where a director has resigned a resignation letter or notice, signed and dated by the resigning director, should be attached.

DID YOU KNOW?

Competition Commission

The transfer of members' interest in a Close Corporation or transfer of shares in a Company will be subject to approval by the Competition Commission for mergers where the combined annual turnover in, into or from Namibia of the acquiring or transferred undertaking is above N\$30 million.

In certain circumstances, the Competition Commission may demand notification of a merger which falls below the compulsory notification threshold of N\$30 million, if the Commission considers it necessary to deal with the merger in terms of the Act.

At PKF FCS we've got your back! Please contact your PKF FCS partner when considering mergers exceeding this threshold. We have our checks in place to ensure compliance with the Competition Act before attending to such transfers of ownership.

Mining license

In terms of Section 47(2)(a) of the Minerals (Prospecting and Mining) Act 1992, (Act no. 33 of 1992), 15% interest in mineral licenses must be retained by Namibians on the transfer of mineral licences, or the cession or assignment of interest in a mineral licence. This is effective from 1 April 2021.

New partner appointments

We are happy to announce the appointment of Patterson K. Tjipueja and Nicolai Käser as partners at PKF Financial Consulting Services (Pty) Ltd, with effect from 1 March 2022. Let us introduce you to Patterson and Nicolai.

PATTERSON K. TJIPUEJA **Hons. B. Compt., CTA, CA (Nam)**



Patterson joined PKF FCS in 2019 in Windhoek. He has 24 years of professional experience in the field of Statutory audits, Internal Audits, Corporate Governance and Risk Management. He also spent seven years in Commerce and Industry as Financial Manager. He was also Audit Partner at Ernst & Young for 10 years, and a Financial Manager at Barloworld for five years.

Patterson serviced clients in the following markets: Financial Services, Public Sector, Agriculture and Farming, Property and Real Estate, Legal Practitioners, Manufacturing, Transport, Freight, Shipping and Logistics, Health and Medical, Retail, Tourism and Leisure, Property Development and Construction.

Patterson is also the partner in charge of Business Risk Services (Internal Audit, Risk Management and Corporate Governance).

Professional affiliation: Patterson is registered with ICAN (Institute of Chartered Accountants Namibia) and PAAB (Public Accountants and Auditors Board).

NICOLAI KÄSER **B Comm; NIPA**



Nicolai started his career as a trainee accountant at FCS Swakopmund on 1 March 2013. He obtained his B Comm Accounting degree from the University of Cape Town. On 1 January 2017 Nicolai transferred to PKF FCS Walvis Bay after completing his NIPA articles.

On 1 January 2018 Nicolai was promoted to Accounting Manager. He was put in charge of the Corporate Finance Division from November 2018, and during his four years as manager he acquired extensive knowledge and experience in the corporate finance field.

Nicolai serviced clients in the following markets: Agriculture and Farming, Property and Real Estate, Manufacturing, Freight, Shipping and Logistics, Fishing and Marine, Retail, Pharmaceutical, Tourism and Leisure, Property Development and Construction.

Professional affiliation: Nicolai is registered with NIPA (Namibia Institute of Professional Accountants)

Contact us

Windhoek Office

Tel: +264 61 387 800 | Fax: +264 61 387 801 | 3 Kerby Street |
PO Box 9779 | Windhoek, Namibia
Email: fcswhk@fcsnam.com; auditorswhk@pkf-fcs.com

Walvis Bay Office

Tel: +264 64 215 100 | Fax: +264 64 215 101 | 128 6th Street |
PO Box 4440 | Walvis Bay, Namibia
Email: fcswvb@fcsnam.com; auditorswvb@pkf-fcs.com

Swakopmund Office

Tel: +264 64 415 100 | Fax: +264 64 415 101 | 3 Heuschneider Street |
PO Box 130 | Swakopmund, Namibia
Email: fcsswk@fcsnam.com

right people
right size
right solutions

PKF Financial Consulting Services (Proprietary) Limited

3 Heuschneider Street, P.O. Box 130, Swakopmund, Namibia

Telephone: +264 64 415 100 Fax: +264 64 415 101 Email: info@fcsnam.com

www.pkf.com
www.fcsnam.com

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