

ITA Newsletter

Igqwetha Training Academy (Pty) Ltd No 2004/010167/07

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ITA obtains training accreditation from SASSETA

Igqwetha Training Academy applied for SETA accreditation from the training authority, SASSETA, in 2005, and we are pleased to announce that with effect from 9 December 2006 ITA is a training provider approved by SASSETA.

Igqwetha Training Academy was founded in July 2004 to provide conveyancing training to persons seeking employment as conveyancing secretaries/paralegals in South African law firms.

We currently offer one course, *Conveyancing for Paralegals (Level 1)*, and hope to add level 2 courses to our range of products this year.

We have worked hard to earn a reputation of providing excellent legal training. As ITA's *Conveyancing for Paralegals (Level 1)* is regularly oversubscribed, we believe we have achieved this

aim. Currently ITA is Cape Town based but in due course we hope to expand our operations to other centres.

SETA approval status assures employers and students that ITA's training programme meets the stringent quality standards imposed by SETA. (SETA is the acronym for 'Sector and Education Training Authority, and SASSETA has jurisdiction over legal training). Successful students can be proud of their ITA certificates.

ITA students learn knowledge and skills that can help them to find fulfilling employment. Our aim is to prepare learners to function effectively in the workplace, namely to administrate conveyancing files in a legal office.

There are currently no unit standards registered on the National Qualifications Frame-

work (NQF) for a paralegal qualification in conveyancing. ITA may become involved in the drafting of unit standards for the NQF as soon as a Standards Generating Body (SGB) is established. ITA would like to work together with tertiary institutions in creating the unit standards and thereby also to increase the general standard of paralegal skills in the industry.

Once these unit standards have been developed, ITA will convert its programme to a credit bearing course.

In the meantime, we like to believe that ITA sets the benchmark against which paralegal conveyancing education and training in South Africa can be measured.

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Welcome to ITA's first official Newsletter

We have decided to publish an e-mail newsletter to update our students and other interested persons with legal developments generally and happenings at ITA.

Depending on demand this newsletter will appear about three times a year. Please let us have feedback on content and your information needs. Our

students/readers are mostly non-lawyers with an interest in conveyancing.

We aim to reach conveyancing paralegals, conveyancing secretaries and others in the property sector who have an interest in conveyancing, such as estate agents and persons in mortgage loan departments.

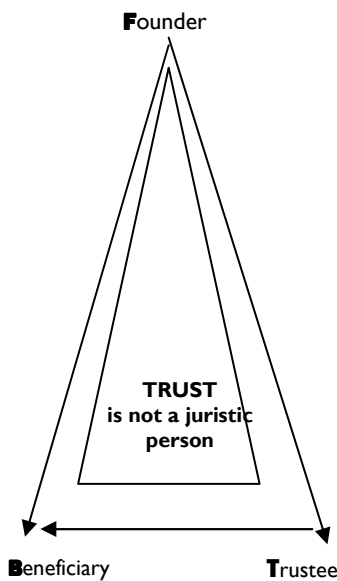
This publication is free of charge and may be passed on. Contact Marynab@strb.com to be added to or removed from our mailing list.

For more information about ITA and the courses we offer, visit our website www.ita.co.za

Regards, Lizelle Kilbourn, CEO

About ITA

- ITA is a subsidiary of attorneys strb Smith Tabata Buchanan Boyes and was formed as part of its social initiatives programme.
- Our students range from school leavers to employees of law firms who wish to improve their conveyancing skills.
- Bursaries are available to deserving candidates .
- Find out more about ITA, its people and products, on our website www.ita.co.za.



Legally speaking, a trust can best be described as a mixture between a relationship and a contract.

Trust transactions can be tricky—beware the many pitfalls

The law does not view trusts in the same way as it does companies and close corporations.

Companies and close corporations are entities with separate legal personality (they are called 'juristic persons'), but a trust is not regarded as a juristic person and does not have separate legal personality.

Although the law recognizes trusts as separate entities for clearly defined, special legal purposes (such as payment of tax) there is no general recognition of a trust as being a person separate from the trustees who administer it. Legally speaking, a trust can best be described as a mixture between a relationship and a contract.

Not many people are aware of the distinct legal differences between trusts and juristic persons such as companies.

There is a general perception

that a trust is just another type of a legal entity and that the legal rules applicable to those entities apply equally to trusts.

This ignorance continues to cost participants in property transfers and mortgage bonds dearly. The fact can be seen from the many reported court cases in which transactions concluded by trustees of trusts are questioned and sometimes declared invalid.

Skilled conveyancing paralegals and conveyancers know to check the facts very carefully when they receive instructions to transfer property to or from trusts, or to register a mortgage bond over trust property.

Here is a list of some important aspects to be on the lookout for in conveyancing transactions involving trusts:

- If the trust is the seller of property or the borrower where a mortgage bond is to be registered, the agreement of sale/agreement of loan must be signed by all the

trustees, or the trustee that signs must be in possession of a prior dated power of attorney or resolution signed by the other trustees authorizing him to conclude the deal. Otherwise the transaction is invalid.

- A trust can only mortgage property if the trust deed authorized the trustees to do so. Likewise, if the trust deed does not expressly authorise the sale or purchase of immovable property, it may not be validly done. Check the trust deed.
- A trustee cannot validly conclude an agreement on behalf of the trust before the Master of the High Court has officially issued a document entitled 'Letters of Authority' to that trustee.
- If a trust deed specifies that there must always be a minimum of, for example, three trustees, then any transaction concluded while the trust had only two trustees, risks being declared invalid.

Meet the ITA team

ITA, situated on the 3rd Floor, Southern Life Centre on Thibault Square in Cape Town, employs three staff members.



Lizelle Kilbourn is the chief executive officer and is responsible for strategic management, course development and the overall well-being of the company. She is an attorney, conveyancer and notary with a special interest in education and training. Lizelle has an M Com (Business Management) degree from RAU (now the University of Johannesburg).

Maryna Botha, also an attorney, conveyancer and notary, is ITA's chief operating officer responsible for day to day management and is in charge of the training. Maryna holds an LLM (Masters degree in family law) from the Unisa.

Rozanne Singh, who was one of the first students to graduate from ITA in 2004, is the company's course administrator and student liaison officer. She is also a part time LLB student at Unisa, currently in her second year.

ITA makes use of the services of

a number of freelance trainers who are practicing conveyancers and senior conveyancing paralegals. Maryna and Lizelle also assists with lecturing.

There are no rigid job descriptions at ITA – the three person team work together to get the daily job done. Whether it be washing coffee cups after a lecture, helping students prepare for an exam or sending legal updates to attorneys, Rozanne, Maryna and Lizelle like to function as a unit.

Many SA taxes impact on property transfers

Every transfer of immovable property attracts tax, either in the form of transfer duty (the tax is 'triggered' by an *acquisition* of property) or Value Added Tax.

But did you know that there are five types of South African tax that can potentially impact on property transfers?

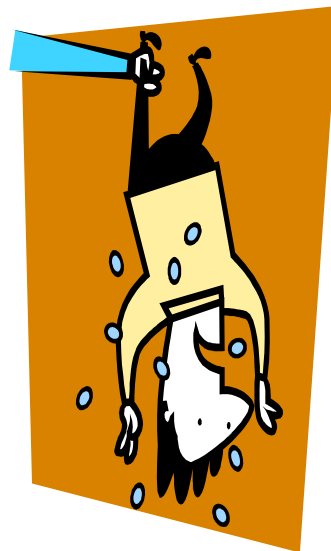
Not even counting estate duty (which is calculated at time of the death of a person, on the net value of all assets, including property), these taxes are:

- Transfer duty;
 - VAT (instead of transfer duty, if property is sold by a VAT vendor in course of business);
 - Income tax on profit of the sale (if the owner sold the property so as to make profit) OR
 - Capital Gains tax (tax on the growth of the property's value (sale proceeds minus the cost of acquisition))
 - Donations tax (if the owner gives property away).
- Some of these taxes can over-

lap, for example, a property developer will pay VAT on the purchase price *and* income tax on the profits of the sale.

And a person who donates her property may find that there is CGT, donations tax and transfer duty payable as a result of the transaction.

Note however that transfer duty and VAT will not overlap (one, never both, will be due in a transaction). Likewise, CGT and income tax do not overlap.



What is an 'endorsement transfer'?

Conveyancing law (as set out in the Deeds Registries Act) states the general rule for the transfer of ownership in immovable property : transfers may only take place by means of a deed of transfer that is registered in the deeds office.

Usually when transfer of ownership in property takes place, the old title deed is 'killed off' and a new title deed (the new deed of transfer) takes its place.

However, the law provides that in certain clearly defined in-

stances where a property is to be transferred, a 'shortcut' route may be followed; in these instances the procedure is to apply to the deeds office for the endorsement of the existing deed of transfer. No new deed of transfer is then required.

The registrar of deeds will, in response to the application, endorse (a rubber stamp imprint, supplemented by writing) the existing title deed with the particulars of the transfer.

An example of when an

'endorsement transfer' will be allowed is where persons were married in community of property, one of them died and in terms of the will the surviving spouse inherits the deceased's share in the property (and also retains his/her own share, of course).

Another example is a divorce transfer, where the parties were married in community of property and one spouse is awarded the other spouse's half share in the property in the consent paper.

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ITA offers new Estate Transfers course

ITA is pleased to announce that its new Level 2 course will be introduced on 28 March of this year. The course is entitled Conveyancing for Paralegals: Estate Transfers (Level 2).

Students will learn how to administer transfers resulting from the death of persons. The topics covered include:

- inheritance transfers
- sale by the executor in the deceased estate
- transfers by the executor to testamentary and inter vivos trusts
- Sale by a person (who subsequently died)

during his/her lifetime.

We will also discuss the process of administration of estates, the law relating to wills, intestate succession, trusts , redistribution agreements, powers of executors and trustees and also the requirements of the Master of the High Court.

Students will learn how to draft the transfer documents and supplementary documents, correctly and will know what to ask for and what to lodge.

The course consists of 8 lectures which will take place once every two weeks on a Wednesday afternoon from 14h00 to

16h00. The first lecture will be the 28th of March.

In order to be accepted on the course students must either be in possession of an ITA certificate (for the Level 1 course) or must have suitable experience in the administration of transfer files (i.e. employed in a conveyancing position and attending to transfers for no less than 6 months). If neither of the foregoing applies, a student may approach ITA for special admission, on proof of relevant experience and good cause shown. Contact Maryna Botha at 021 419 7844 for further details.

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Legal training to advance your career

While we have been careful in compiling this newsletter, neither ITA nor its employees or agents accept responsibility for any loss whatsoever resulting from reliance on its contents. This document does not constitute legal advice – please consult an attorney if necessary.



At ITA we are passionate about practical legal training, particularly in the field of conveyancing, which is our speciality.

Our aim is not in the first place to make money (although we need to do that too in order to remain in business). We want to make a difference in people's lives, by teaching knowledge and skills about law that has value in the market place and which will help them to find jobs that they enjoy.

A career in conveyancing (or in other legal fields) is demanding but also stimulating, and there are many opportunities for growth and advancement. We want our students to enjoy their studies, and to master the theory and practice of conveyancing.

strb Smith Tabata Buchanan Boyes' role in ITA

ITA was the brain child of Philip Steyn and Andy McPherson of strb Smith Tabata Buchanan Boyes ('strb'). Philip and Andy saw a need for quality legal training at secretarial and para-legal level, that would give previously disadvantaged persons with entry level abilities access to conveyancing careers.

Today ITA empowers persons (mostly secretarial and para-legal students) by preparing them for conveyancing careers, and it also fulfils a general need for effective training in the conveyancing industry.

Experienced conveyancer and trainer Lizelle Kilbourn heads up ITA and the company is operationally independent from strb.

Our aim is to be a leader in the field of practical legal training in South Africa. We want to be known as a training provider tried and trusted by South African law firms, other stakeholders in the legal industry, and by individual students.

In order to reach this goal ITA needs to-

- nurture its relationship with its parent company strb;
- act in the best interest of employers who send their staff to us for training,
- Train, guide and support our students to help them pursue a career in conveyancing.

ITA increasingly earns fee income from paying employers and students but still depends on strb for funding. The firm funds operations and grants generous bursaries to unemployed students from previously disadvantaged backgrounds.

What does strb gain from funding ITA? ITA assists the firm in its social empowerment initiatives, provides training to staff members, supports strb's internal staff training programme and fulfils research functions.

ITA has a placement programme whereby we try to help unemployed students who have attained their ITA certificates, secure employment. A number of law firms, including strb, employ ITA graduates.

Students already employed with law firms in conveyancing positions and students whose employers fund their studies may not participate in ITA's placement programme.

ITA enforces this policy strictly in order to safeguard the interests of employers and students.

Without strb, there would have been no ITA. On behalf of ITA and our past and present students, we thank the directors of Smith Tabata Buchanan Boyes for their faith in us, their generous funding and their commitment to ensuring high standards of practical legal training.