

**BARRY GARVEN**

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**Overview**

Barry Garven is a partner and the head of Tax in our Johannesburg office Tax Practice.

He specialises in corporate and international tax structuring, especially in the mergers and acquisitions area. Barry has also advised on some of the largest debt and group reorganisations in South Africa. Barry's expertise extends to acquisition funding and other types of debt and equity funding.

Barry also advises corporate and financial institutions on complex tax litigation issues and has been involved in litigating and settling large tax disputes, particularly in the financial products area.

Barry's clients include Alexander Forbes, Virgin Active, Northam Platinum, SAB Miller, Rand Merchant Bank as well as other local and international banks. Barry was recently recommended in The Legal500 EMEA 2015 editorial.

He has B.Com, LLB and LLM (cum laude) degrees and a Higher Diploma in Company Law from the University of the Witwatersrand and a Higher Diploma in International Tax from the University of Johannesburg.

**Experience**

Barry Garven has over 15 years of tax experience in the corporate and international tax fields. In addition to his M&A and reorganisation work, Barry has advised in a number of reported and unreported tax disputes both in the Tax and High Courts. Some of these tax issues include the following-

- Tax allowances claimed by taxpayers for the acquisition of trademarks.
  - The tax treatment of "provisions" in the context of a sale of a business.
  - The capital/revenue nature of certain types of expenditure including advertising and royalties.
  - Various financial products including so-called convertible loans, bare dominium and "debt push-down" structures and the like.
  - The application of the GAAR and "substance over form doctrine" to various types of financial products, structures and transactions.
  - The meaning of the words "permanent nature" in the context of the section 11(e) wear and tear allowance.
  - The meaning of the phrase "actually incurred" and "not of a capital nature" in the context of claiming deductions for expenditure.
  - The tax consequences of a cession of dividends as the quid pro quo for a loan.
  - Various matters involving the entitlement of a taxpayer a tax deduction for interest and related expenditure.
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- *Chambers and Partners 2018* ranked Barry in Band 2 for Tax.
  - *Chambers and Partners 2016 and 2017* ranked Barry in Band 3 for Tax.
  - Barry was recently listed as a recommended lawyer in Legal 500 EMEA 2017 for Tax.

Barry Garven attracts praise from interviewees for his “highly regarded” reputation in this sector, with noteworthy proficiency in significant M&A transactions and cross-border concerns. – **Chambers and Partners 2017**

“Barry Garven has expertise in structuring M&A transactions and debt reorganisation and is often called upon as counsel on a number of high-profile cases.” – **Chambers and Partners 2016**

## **Publications & Insights**

- Debt Waivers – New Developments
- New Companies Act explains when a share ceases to be an equity share
- New proposals for hybrid equity instruments and third party-backed shares
- South African National Budget Speech 2017
- South African National Budget Speech 2017: Important proposed changes for businesses
- South African National Budget Speech 2018
- When and how loss on a share sale is tax deductible