



Institute of Commercial  
Forensic Practitioners

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A black and white photograph of several business professionals sitting on white chairs. They are wearing formal attire, including suits and dresses. The image is partially obscured by a blue semi-transparent overlay on the left side, which contains the text for the development session.

# ICFP Development session: Lifestyle Analysis

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# Discussion

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1. LSA – the basics
2. Defining LSA
3. Theory of LSA
4. Purpose of LSA
5. Sources
6. Methods
7. Trusts
8. Legal acceptance
9. Case study

# Lifestyle Audit?

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- Audit
  - Objective evaluation
  - Express and opinion on the fairness
  - Usually audit uses sampling methods
  - Governed by legislation (e.g. Public Audit Act)
  - Comply with standards

# Introduction to lifestyle analysis



“Perpetrators spend what they steal. Because of this, looking at spending patterns is a primary investigation technique”

# “Lifestyle Analysis” (LSA) Basics

- First tested in the US during the 1930-1931 trial with Chicago's notorious gangster, **Al Capone**.
- Crimes such as fraud and corruption are becoming more and **more complex** to investigate, hence new techniques and methods need to be applied.
- The combined application of “common sense” with accountancy/auditing when performing lifestyle audits is an interesting and exciting example of such a new technique.

# Defining LSA

- Lifestyle:
  - A **way of living** of individuals, families (households) and societies,
  - which they manifest in coping with their physical, psychological, social, and **economic** environments on a day-to-day basis.
  - Lifestyle is expressed in both work and leisure behavior patterns and in activities, attitudes, interests, opinions, values, and **allocation of income**.
  - It also reflects people's self-image or self-concept; the way they see themselves and believe they are seen by the others.
  - Lifestyle is a composite of motivations, needs and wants and is influenced by factors such as culture, family, reference groups and **social class**.

# Defining LSA

- Analysis:
  - The process whereby the income and expenses of that lifestyle are **quantified** allowing for a determination of the standard of living of the parties.

# Theory on LSA

- Although the idea behind this type of analysis is simple, the execution thereof is usually not.
- A lifestyle analysis attempts to **quantify** the **living expenses** of an individual and **compare** such expenses with the individual's **known sources of income** and other funds over a period.
- Any (substantial) differences ***might*** be attributed to concealed or illicit sources of income.

# Theory on LSA

The idea behind lifestyle analysis is also applied in the criminal justice system in the fight against organised crime and corruption.

- **§ 23 of PRECCA** provides for the application for issuing of an investigation in respect of cases where an individual possesses property disproportionate to his/her present or past known sources of income or assets.
- where a defendant is convicted of an offence, the court may enquire into any benefit the defendant has derived from that offence, and in terms of section **§ 23 of POCA**

# Purpose of LSA

A lifestyle analysis establishes what a person's **standard of living** is and is a formula to reconstruct:

- a person's day-to-day living expenses;
- a person's spending habits;
- a person's assets and liabilities; and
- other important financial information.

# Purpose of LSA

A lifestyle analysis usually consists of an **analysis** of:

- all financial statements (bank accounts such as current, bond, savings or credit card accounts);
- personal and business income tax returns;
- recurring and ordinary expenses within each category of expense (clothing, food, housing, entertainment, travel, etc.);
- unusual, non-recurring and/or seasonal expenses (e.g., vehicle purchases);
- any discrepancies; and
- credit reports.

# Financial discovery

- Sources
- Reliability and validity of records
- Legality

# Sources

- Statement of Assets and Liabilities (begin and end);
- Tax returns:
  - Marital status, occupation of spouse, income and allowances;
  - Medical and dental expenses, retirement annuity contributions;
  - PAYE, travelling expenses, donations made and received;
  - Details of assets bought and sold;
  - Shares bought and sold;

# Sources

- Local banks *per subpoena* for bank statements;
- Johannesburg Stock Exchange (JSE) and ZAR X for sales and purchase of shares;
- Master of the High Court for the Register for Trust Deeds;
- Deeds Office: title deeds and bond statements for property transactions;
- Companies and Intellectual Property Commission (CIPC);
- Transferring attorneys for related costs;
- Motor vehicle licensing and registration department (eNatis);
- Municipal documents and Eskom for property and service costs;

# Sources

- Investment portfolio statements;
- Short-term insurance policies;
- Life insurance policies;
- Wills;
- External data from informal channels, e.g., newspapers, rich list, suspicious activity reports, social media, etc.
- Audited financial statements or company files for private loan account balances;
- Original documents and vouchers for expenditure and for other assets accumulated;
- Passports for travel details and foreign currency purchased;
- Reserve Bank for off-shore investments made

# Methods for Individuals

1. Cash-T Method
2. Source and Application of Funds Method
3. Net Worth Method

# Cash-T method

- Lists all known types of income/inflows and all known expenditures/outflows as “**cash transactions**” flowing in and out of the cash account.
- Inflows items will appear on the one side, and outflows on the other. If the outflows of cash exceed the inflows, either the income is understated or the expenses is overstated.
- This method is useful when cash **income is being skimmed** from the business **AND** the investigator can accurately determine personal living expenses.
- The Cash-T method is closely akin to the S&A Method; where Cash-T considers cash flows, the S&A uses changes in assets and liabilities, along with expenditures and income.

# S&A

- This method is based on the theory that any excess **expense** items (applications) over **income** items (sources) represent an understatement of income. Only the net increase or decrease in assets and liabilities is considered along with other expenditures and receipts.
- This method is an analysis of a individual's **cash flows** and a comparison of all known expenditures with all known income for the period.
- Net increases and decreases in assets and liabilities are taken into account along with expenditures and income.
- This method is based on the theory:  
*excess applications > sources = understatement of income.*

# Example: S&A

Source (inflows)	Application (outflows)
Any type of income	Any type of expenses
Inheritance	Maintenance paid
Winnings	Assets purchased - cash
Changes in bank accounts - inflows	Changes in bank accounts - outflows

# Net Worth Method

- A change in an individual's net worth during a year, adjusted for certain expenditures and income received from a legitimate source, must result in income received from "other" sources
- The Net Worth Method is a long-established indirect method that is regularly used in establishing income.
- This is a useful method of proof in **reconstructing income** when it is not possible to establish income through direct evidence.
- The method is based on the concept that:  
*wealth at the end of a given year > at the beginning of that year = income for that year\*\**

# Net Worth Analysis

Assets (current period)	Rxxx
<i>Less:</i> Liabilities (current period)	<u>(Rxx)</u>
<i>Equals:</i> Net worth (current period)	Rxxx
<i>Less:</i> Net worth (previous period)	<u>(Rxx)</u>
[Assets (previous period) – Liabilities (previous period)]	
<i>Equals:</i> Increase / (Decrease) in net worth	Rxxx
<i>Add:</i> Personal and domestic expenditure	<u>Rxx</u>
<i>Equals:</i> Total increase in net worth	Rxxx
<i>Less:</i> Income from known sources	<u>(Rxx)</u>
<b><i>Equals:</i> Unexplained increase / Income from unknown sources / Income possibly not declared</b>	<b>Rxxx</b>

# Married persons

- In community of property
  - Include all income if all expenses are included
- By virtue of an antenuptial contract - stipulate the terms and conditions for the exclusion of community of property between them
- Accrual system
  - Growth is divided when marriage ends
  - Income earned is deemed income of *that* spouse

# Trusts

- Susceptible to misuse
- “Alter-ego” Principle
  - All of the assets and liabilities of the trust should be included.
  - The single most important question to be addressed:
    - Does a natural person (founder/ beneficiary) factually have control/ownership of the trust assets to such an extent that the assets are those of the natural person?

# Trusts

In three separate, relatively recent cases:

- Nedbank Ltd v Thorpe;
- Rees and Others v Harris and Others; and
- Van Zyl v Van Zyl and Others

the court accepted, on the evidence adduced, that the respondent in each of the cases **conducted his affairs through a trust(s)**, and that it appeared that he used the trust(s) to obscure his/her affairs.

# Legal Acceptance of LSA

## SA Cases with reference:

- **National Union of Mineworkers v Mogale Gold, A Division of Mintails (SA) (Pty) Ltd [2015] 10 BLLR 1016 (LAC)**

“The court a quo relied on evidence of a ‘lifestyle audit’ that the second appellant and his spouse could not have financed the family’s lifestyle.”

- **CEPPWAWU obo Hlebela / Lonmin Precious Metals Refinery [2011] 8 BALR 814 (CCMA)**

The employee was found guilty on this charge after a lifestyle audit showed that he enjoyed a standard of living considerably higher than anyone earning his salary could achieve.

# Legal acceptance of LSA

- **Goddard v Goddard 2016 JDR 1689 (GJ)**

In this divorce case the husband displayed a failure to pay maintenance by challenging attachments and withdrawing funds from known accounts. He also claimed to be unemployed despite being in control of several companies and enjoying a high standard of living. A lifestyle audit revealed that he is, as Carstensen AJ put it in his judgment, “*wilfully and mala fide engineering a decrease in salary, or a reduction in salary, or a termination of his employment to the extent that he is ‘for all intents and purposes unemployed’ simply for the purpose of deliberately frustrating the court order*”.

- **Heese obo Peters v Road Accident Fund 2012 (6) SA 496 (WCC)**

“Mr De Kroon also carried out a lifestyle audit based on the information that he obtained from Ms Holzmann. It is quite obvious, he said, that Mr Peters would not have been able to finance his lifestyle expenditure from the income reported in the annual financial statements of his business.”

# Pros and Cons

- Good method to detect unexplained income or even proceeds or crime
- Provides good illustrations in court
- Provides a good lead (red flags)
- Time consuming
- Costly
- Access to important data
- Need a large amount of data

# Summary

- Is it truly necessary?
- Will it assist in the matter?
- Who will benefit from its preparation?
- Does the potential benefit obtained outweigh the cost of preparation?
- Who pays for it?

# Case study

# Disclaimer

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- This is a hypothetical case. It has no reference to any individual.
- The case study is the property of the ICFP. It may not be copied or distributed in any way. It may only be used as reference to those attending the development session.

# Results to the case study

# Method

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## Source and application of funds

- Take into account **inflows** and **outflows** for period, therefore all movement of funds

## Net Worth Analysis

- Determine net worth for both years and adjust with income from known sources and personal and domestic expenditure

# Net Worth Analysis method

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- Calculate the total Assets and Liabilities for both years
  - Must include Assets and Liabilities from the trust, as she is the only beneficiary
- Determine the difference / growth from 2013 to 2014
- Adjust for personal and domestic expenditure (excluding increase in assets / decrease in liabilities)
  - Unfortunately we cannot quantify as it is paid by the trust
- Adjust for income received from known sources (i.e. salary, dividends etc.)

# Assets and Liabilities

2013		2014	
<b>Assets</b>	<b>R 3,825,655.00</b>	<b>Assets</b>	<b>R 4,587,000.00</b>
House: Jaffa Street	R 1,500,000.00	House: Jaffa Street	R 1,500,000.00
BMW Z3	R 300,000.00	BMW 320d	R 350,000.00
Cheque account	R 12,100.00	BMW 120d	R 300,000.00
Cheque account	R 1,555.00	BMW Z3	R 300,000.00
Savings account	R 12,000.00	Cheque account	R 46,000.00
House	R 2,000,000.00	Savings account	R 15,000.00
		Ring	R 76,000.00
		House	R 2,000,000.00
<b>Liabilities</b>	<b>R 2,117,000.00</b>	<b>Liabilities</b>	<b>R 2,006,950.00</b>
Credit card	R 17,000.00	Cheque account	R 28,450.00
Bond	R 1,850,000.00	Credit card	R 3,500.00
BMW Z3	R 250,000.00	House	R 1,645,000.00
		BMW Z3	R 180,000.00
		120d	R 150,000.00
<b>Net assets</b>	<b>R 1,708,655.00</b>	<b>Net assets</b>	<b>R 2,580,050.00</b>

# Net Worth Analysis - 2014

Total Assets	R	4,587,000
Less: total liabilities	R	-2,006,950
<b>Net assets</b>	<b>R</b>	<b>2,580,050</b>
Less Previous years assets	R	-1,708,655
<b>Annual increase in net assets</b>	<b>R</b>	<b>871,395</b>
Add: Expenditure for the period (a)	R	275,900
<b>Total income</b>	<b>R</b>	<b>1,147,295</b>
Less: Income (b)	R	-1,064,175
<b>Income from unknown source</b>	<b>R</b>	<b>83,120</b>
<i>a) 120000+48000+44000+28000+15000+10450+10450</i>		
<i>b) 304175 + 760000</i>		

# Source and Application of funds method

INFLOWS	2013	2014	OUTFLOWS	2013	2014
Profit from business		304,175.00	Maintenance payments	120,000.00	120,000.00
Deposits		760,000.00	Golf membership fees	48,000.00	48,000.00
Cheque account 5000413 (46000-1555)		44,445.00	Municipality: Kloof	35,000.00	44,000.00
Savings account 124512 (15000-12000)		3,000.00	Municipality: Tygerberg	21,000.00	28,000.00
			Life policy	12,000.00	15,000.00
			Telephone: Talktime	8,250.00	10,450.00
			Cell phone: Mobile.com	11,240.00	10,450.00
			BMW 320d		350,000.00
			Ring		76,000.00
			BMW 120d (300'-150')		150,000.00
			BMW Z3 (250'-180')		70,000.00
			Cheque account 5001112 (12100+28450)		40,550.00
			Credit card 241569 (17000-3500)		13,500.00
			Bond (1850'-1645')		205,000.00
	-	1,111,620.00		255,490.00	1,180,950.00
			<b>Unallocated income</b>		<b>324,820.00</b>

THANK  
YOU



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