

ENSafrica tax renewals

Below, please find issue 13 of ENSafrica's tax renewals, a snapshot of the latest tax developments in South Africa.

case law

- **High Court of South Africa, Western Cape division | *Kangra Group (Pty) Ltd v CSAR***
 - whether the payment of contractual damages incurred by the taxpayer in settling arbitration proceedings constitutes expenditure actually incurred in the production of income, in terms of section 11(a) of the Income Tax Act, 1962 (the "ITA"), considered.
 - whether the payment of the same contractual damages can be said to have been laid out or expended for the purposes of trade, in terms of section 23(g) of the ITA, to qualify as a deduction, considered.
 - privity of contract where the taxpayer had established a new company to administer the taxpayer's coal business, considered.
 - reasonableness of SARS levying interest on the taxpayer's assessment where the taxpayer had relied on legal advice on claiming the deduction, considered.
 - find a copy of this judgment [here](#).
- **High Court of South Africa, Kwazulu-Natal division | *Rampersadh & Another v CSARS & 2 Others***
 - whether the taxpayer had exhausted all internal remedies under the Tax Administration Act, 2011 (the "TAA"), in terms of section 7(2) of the Promotion of Administrative Justice Act, 2000 (the "PAJA"), before applying for review of SARS' refusal to reduce an assessment, considered.
 - whether a refusal of a request to reduce an assessment under section 93(1)(d) of the TAA amounts to a decision that may be objected to or appealed against under a tax Act, considered.
 - whether the taxpayers had satisfied the court that the grounds for review in section 6(2) of PAJA were not disputed on reasonable grounds, considered.
 - find a copy of this judgment [here](#).

SARS publications

- SARS publishes updated table A and table B of average exchange rates.
 - find the updated table A, dealing with average exchange rates for a year of assessment, [here](#).

- find the updated table B, dealing with average monthly exchange rates, [here](#).

exchange control

- **exchange control circular no. 14/2018**
 - the Financial Surveillance Department of the South African Reserve Bank gives notice that Canara Bank is removed as an Authorised Dealer in foreign exchange for the purposes of the Exchange Control Regulations, 1961.
 - find a copy of this circular and government notice [here](#).
 - find the updated *Currency and Exchanges Manual for Authorised Dealers* [here](#).
 - find the updated *Currency and Exchanges Manual for Authorised Dealers in foreign exchange with limited authority* [here](#).

international

- the Organisation for Economic Cooperation and Development (“**OECD**”) publishes its *Tax Policy Reforms 2018*, describing the latest tax reforms across 35 OECD members, Argentina, Indonesia and South Africa, by identifying major tax policy trends and highlighting that economic stimulus by fiscal policy, including through tax policy, has become more significant.
 - find the press release [here](#).
 - read the report online [here](#).
- the OECD publishes updated transfer pricing country profiles, focusing on countries’ domestic legislation regarding key transfer pricing principles and the extent to which countries follow the OECD’s *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, 2017*.
 - find links to all the available transfer pricing country profiles [here](#).
 - find the South African transfer pricing country profile [here](#).

customs and excise

- **Government Gazette 41870, Notice 901**
 - the International Trade Administration Commission (“**ITAC**”) invites importers to submit rebate permit applications in respect of certain rebate provisions.
 - certain structural steel.
 - screws, bolts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of stainless steel.
 - new pneumatic tyres, of a kind used on motor cars for organised motor sport.

- hollow profiles of aluminium for the manufacture of condensers and evaporators for the motor vehicle air conditioning equipment.
- flat-rolled products of iron, non-alloy steel, and other alloy steel.
- automotive components for use in the manufacture of original components.
- motor vehicles principally designed for the transport of physically disabled persons.
- stranded wire, ropes and cables of iron or steel, not electrically insulated.
- plaited bands, slings and the like, of iron or steel, not electrically insulated.
- **Government Gazette 41871, Notices R. 913 to R. 916**
 - amendment to Part 3 of Schedule No. 2 of the Customs and Excise Act, 1964 (the “CEA”) by the substitution of safeguard items to exclude rebate items in order to exclude certain hot-rolled carbon steel plates from being subject to safeguard duty.
 - amendment to Part 2 of Schedule No. 4 of the CEA by the insertion of rebate items in order to create a temporary rebate facility on digital smart cards (excluding proximity cards and tags), and in order to create a rebate facility on certain hot-rolled carbon steel plates.
 - find the notices here: [R. 913](#), [R. 914](#), [R. 915](#), and [R. 916](#).
- SARS publishes draft amendment notices for public comment to provide for the rebate provision on unfortified wine used in the manufacture of other foodstuffs, and the new form DA 133 for purposes of recording the manufacturing, other operation or process.
 - find the draft notices [here](#).
- SARS publishes draft amendments of the Schedules to the CEA for public comment
 - find the draft amendment notices and explanatory memorandum [here](#).
- SARS publishes draft rules for public comment relating to internal appeals under section 77H of the CEA, replacing the current rules in their entirety.
 - find the draft rules [here](#).

other important developments

- the Financial Markets Review Committee (established by National Treasury, the South African Reserve Bank, and the Financial Sector Conduct Authority) publishes the draft *2018 Financial Markets Review* for public comment, containing a review of conduct standards in wholesale financial markets.
 - find a copy of the report [here](#).
- public hearings were conducted by Parliament’s Standing Committee on Finance concerning the draft Taxation Laws Amendment Bill, 2018 (“**TLAB 2018**”) and the draft Tax Administration Laws Amendment Bill, 2018 (“**TALAB 2018**”) on 21 August 2018. Following National Treasury’s preliminary feedback sessions on the TLAB 2018 and the TALAB 2018, National Treasury has advised that it would provide a formal response document to the submissions from the public shortly.

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