

ENSafrica tax renewals

Below, please find issue 23 of ENSafrica's tax renewals, a snapshot of the latest tax developments in South Africa.

case law

- **Supreme Court of Appeal | *Benhaus Mining (Pty) Ltd v C:SARS***
 - appeal against the decision of the Tax Court, Johannesburg that held that the Appellant (a contract miner) did not derive income from mining operations, such that it was not entitled to claim deductions of capital expenditure in terms of sections 15 and 36(7C) of the Income Tax Act, 1968 (the "Act").
 - whether a contract miner involved only in the first stage of open cast mining, which involved the extraction of the ore from the ground, constitutes mining under the Act, considered.
 - the distinction between the process of extraction, amounting on its own to a mining operation, and the processing of ore, as a different operation, considered.
 - that the SARS Commissioner cannot raise new grounds of assessment without pleading same in express terms, considered.
 - relying on *CIR v Lever Bros*, the originating cause of the Appellant's fees being received as income, and not that the contract miner immediately begins to earn income from mining and does not have to wait for the mine to produce over many years, determinative.
 - find a copy of this judgment [here](#).

advance tax rulings

- **binding private ruling 319: tax implications of group restructuring transactions**
 - sections 1(1) – definition of "dividend"; 7B(2)(b); 10(1)(k)(i); 11(a); 22(8)(b)(ii); 23(g); 42; 45(6)(e); 47; 64F(1)(a); 64FA(1)(b); and 64G(2)(b) of the Act.
 - section 8(1)(a)(i) of the Securities Transfer Tax Act, 2007.
 - section 8(25) of the Value-Added Tax Act, 1991.
 - this ruling determines the tax consequences of a group restructuring.
 - find a copy of this ruling [here](#).
- **binding general ruling 50: no-value provision in respect of the rendering of transport services by any employer**
 - paragraph 10(2)(b) of the Seventh Schedule to the Income Tax Act, 1962 (the "Act").

- this binding general ruling provides clarity on the no-value provision in respect of the rendering of transport services by an employer to employees in general, and must be read with binding general ruling 42 “No-value Provision in respect of Transport Services”, dated 22 March 2017.
- find a copy of this ruling [here](#).
- updated register of all binding general rulings
 - find a copy of the updated register [here](#).

SARS publications

- **interpretation note 111 | no-value provision in respect of the rendering of transport services by any employer**
 - paragraph 10(2)(b) of the Seventh Schedule to the Income Tax Act, 1962 (the “Act”)
 - this note provides clarity on the no-value provision in respect of the rendering of transport services by an employer to employees in general, and must be read with binding general ruling 42 “No-value Provision in respect of Transport Services”
 - find a copy of the interpretation note [here](#).
- **draft interpretation note | apportionment of surplus and minimum benefit requirements – Pension Funds Second Amendment Act**
 - section 1(1) – definitions of pension and provident funds; and paragraph 2C of the Second Schedule to the Act.
 - this note provides clarity on the tax treatment of the actuarial surplus allocations or distributions made to members, former members, existing pensioners and employers by funds under the provisions of sections 15B, 15C, 15D or 15E of the Pension Funds Act, 1956.
 - due date for comments: 31 May 2019.
 - find a copy of the interpretation note [here](#).
- **updated register of all interpretation notes**
 - find a copy of the updated register [here](#).

customs and excise

- **tariff amendment notice R448, published in *Government Gazette 42324***
 - imposition of provisional payment in relation to the alleged dumping of clear float glass, classifiable in tariff subheadings 7005.29.17; 7005.29.23; 7005.29.25 and 7005.29.35, originating in or imported from Saudi Arabia and the United Arab Emirates – ITAC Report 599.
 - find a copy of the notice [here](#).
- **notice 178, published in *Government Gazette 42337***

- International Trade Administration Commission of South Africa (“ITAC”): customs tariff applications, list 02/2019.
- **notice 179, published in *Government Gazette 42337***
 - ITAC: guidelines, rules and conditions pertaining to caustic soda imported in terms of rebate items 306.15/2815.12/01.06 and 306.15/2815.12/02.06 for the extraction of copper and nickel classifiable under tariff subheadings 2603.00 and 2604.00, respectively.
- **tariff amendment notice R500, published in *Government Gazette 42338***
 - amendment to Part 1 of Schedule No. 1, by the insertion of new-8-digit tariff subheadings under tariff heading 84.71 and 95.04 to provide for computers with a screen size exceeding 45cm as well as gaming consoles with images produced on any external screen.
 - find a copy of the notice [here](#).
- **tariff amendment notice R501, published in *Government Gazette 42338***
 - amendment to Part 1 of Schedule No. 1, to provide for separate tariff subheadings for sanitary pads, bread flour and cake flour to facilitate the zero-rating/VAT exemption as tabled by the Minister of Finance on 20 February 2019.
 - find a copy of the notice [here](#).
- **tariff amendment notice R502, published in *Government Gazette 42338***
 - amendment to Part 5A of Schedule No. 1, by an increase of 15c/li in the rate of the general fuel levy from 337c/li to 352c/li and 322c/li to 337c/li on petrol and diesel respectively to give effect to the Budget proposals announced by the Minister of Finance on 20 February 2019.
 - find a copy of the notice [here](#).
- **tariff amendment notice R503, published in *Government Gazette 42338***
 - amendment to Part 5B of Schedule No. 1, by an increase of 5c/li in the RAF levy from 193c/li to 198c/li on both petrol and diesel to give effect to the Budget proposals announced by the Minister of Finance on 20 February 2019.
 - find a copy of the notice [here](#).
- **tariff amendment notice R504, published in *Government Gazette 42338***
 - amendment to Part 2B of Schedule No. 1, to give effect to the Budget proposals announced by the Minister of Finance on 20 February 2019 to apply ad valorem excise duty on:
 - computers with a screen size exceeding 45cm; and
 - gaming consoles with images produced on any external screen or surface.
 - find a copy of the notice [here](#).
- **tariff amendment notice R505, published in *Government Gazette 4233***
 - amendment to Part 3 of Schedule No. 6, as a consequence to the increase in the fuel and RAF levy as announced by the Minister of Finance in his budget speech of 20 February 2019; the diesel refund provisions are adjusted accordingly.
 - find a copy of the notice [here](#).
- **tariff amendment notice R506, published in *Government Gazette 42338***
 - amendment to Part 7A of Schedule No. 1, by an increase of 10c/g in the rate of the health promotion levy from 2.1c/g per 100ml to 2.21c/g per 100ml to

give effect to the Budget proposals announced by the Minister of Finance on 20 February 2019.

- find a copy of the notice [here](#).
- **tariff amendment notice R515, published in *Government Gazette* 42352**
 - amendment to Part 1 of Schedule No. 1, to provide for separate tariff subheadings for pantyliners to facilitate the zero-rating/VAT exemption as tabled by the Minister of Finance on 20 February 2019.
 - find a copy of the notice [here](#).
- **notice R516, published in *Government Gazette* 42356**
 - this notice amends notice R1420, published in *Government Gazette* 42128 dated 21 December 2018, by substituting the effective date for the amendments to the rules under sections 77H and 120 of the Customs and Excise Act, 1964 with 1 September 2019.
 - find a copy of the notice [here](#).

international

- **Global Forum on tax transparency reveals compliance ratings for further seven jurisdictions**
 - the Global Forum on Transparency and Exchange of Information for Tax Purposes (the “**Global Forum**”) published seven peer review reports assessing compliance with the international standard on transparency and exchange of information on request.
 - find a link to the article [here](#).
- **Global Forum on VAT**
 - the fifth meeting of the OECD took place in Melbourne, Australia in March 2019 and included representatives from over 100 countries across the globe, together with officials from international organisations.
 - find a link to the advisory [here](#).
- **new beneficial ownership toolkit, prepared by the Secretariat of the OECD and the Inter-American Development Bank.**
 - the toolkit is intended to help governments implement the Global Forum’s standards on ensuring that law enforcement officials have access to reliable information on who the ultimate beneficial owners are behind a company or other legal entity.
 - find the media release [here](#) and the toolkit [here](#).
- **the OECD, as part of its taxation working papers from the Centre for Tax Policy and Administration, publishes *Taxation and the future of work: How tax systems influence choice of employment form***
 - find a copy of the working paper [here](#).
- **leading global tax administrations agree collective actions on tax certainty, cooperation and digital transformation**
 - the Forum on Tax Administration, the 53 leading global tax administrations, met in Chile on 26-28 March and agreed on an ambitious agenda focused on tax certainty, enhanced tax cooperation and the collective challenges of digital transformation.

- find a link to the article [here](#).

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