

ENSafrica tax in brief

Below, please find issue 29 of ENSafrica's tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- **High Court of South Africa, Western Cape Division | *Lifman & 35 Others v C:SARS & 2 Others***
 - application to stay execution process commenced pursuant to taxes raised following the late filing of value-added tax and income tax returns, and an inquiry in terms of Part C of Chapter 5 of the Tax Administration Act, 2011 (the "TAA"), considered.
 - whether *ultra vires* review by the South African Revenue Service ("SARS") of assessments issued to taxpayers, where the taxpayers had not availed themselves of any of the procedures provided for in the TAA to dispute the assessments, was only finalised when the taxpayers were informed of SARS' decision to revise the assessments or not, considered.
 - whether exceptional circumstances were present to justify the stay of the execution process, considered.
 - in respect of costs, whether the applicants could rely on their impression that a lawful review was in progress, considered.
 - find a copy of this judgment [here](#).

legislation and draft legislation

- **draft 2019 Taxation Laws Amendment Bill**
 - National Treasury issued the draft Bill and explanatory memorandum for public comment.
 - due date for comments: **25 June 2019**.
 - find a copy of the draft Bill [here](#), a copy of the explanatory memorandum [here](#), and the media statement [here](#).

SARS publications

- **interpretation note 112 | section 18A: audit certificate**
 - section 18A (2B) and (2C) of the Income Tax Act, 1962.

- this note provides guidance on the interpretation and application of section 18A(2B) and (2C) in relation to the audit certificate that must be obtained and retained in specified circumstances for section 18A receipts issued by an approved organisation or department.
- find a copy of the interpretation note [here](#).

exchange control

- **exchange control circular no. 11/2019**
 - amendments to the section of the *Currency and Exchanges Manuals* dealing with personal transfers by foreign nationals temporarily in South Africa.
 - find the circular [here](#).
- **exchange control circular no. 12/2019**
 - Kenya issued a new series of banknotes, with certain older banknotes ceasing to be legal tender on 1 October 2019.
 - find the circular [here](#).

customs and excise

- **tariff amendment Notice R.924 | Government Gazette 42529**
 - amendment to Part 1 of Schedule No. 1 by the substitution of tariff subheadings 1001.91 and 1001.99 as well as 1101.00.10, 1101.00.20, 1101.00.30 and 1101.00.90 to increase the rate of customs duty on wheat and wheaten flour from 67.51c/kg and 101.26c/kg to 95.80c/kg and 143.69c/kg respectively, in terms of the existing variable tariff formula – Minute 03/2019.
 - find the notice [here](#).
- **rule amendment Notice R.925 | Government Gazette 42530**
 - amendment to the rules in terms of the Customs and Excise Act, 1964, relating to compulsory tariff determinations for wine.
 - find the notice [here](#).
- **draft rule amendment notice and related forms**
 - rules under sections 8, 59A and 60 of the Customs and Excise Act, 1964.
 - the main purpose of the proposed amendments is to make provision for the electronic submission of applications for registration and licensing in respect of certain activities.
 - find the cover note for the proposed amendments to the rules [here](#), the proposed amendments to the rules [here](#), and the proposed amendments consequential to the proposed rule amendments [here](#).
 - **related forms**
 - [DA 8](#) – application for registration to submit reporting documents.
 - [DA 8A](#) – application for registration to submit reporting documents.
 - [DA 8B](#) – application for registration to submit reporting documents.
 - [DA 8C](#) – application for registration to submit reporting documents.

- [DA 185](#) – application form: registration/licensing of customs and excise clients.
- [DA 185.4A1](#) – registration client type 4A1 – importer (located or not located in the Republic).
- [DA 185.4A2](#) – registration client type 4A2 – exporter (located or not located in the Republic) rules 49A, 49B, 49D and 49E, rules 46A1.02, rules 49A.18 (19), (20) and 49D.18(19)(20) and the relevant rules for section 46A.
- [DA 185.4A3](#) – registration client type 4a3 – rebate user (schedule no's 3, 4 and 6, section 75 and the rules thereto).
- [DA 185.4A4](#) – registration client type 4A4 – manufacturer (section 46).
- [DA 185.4A5](#) – registration client type 4A5 – special manufacturing warehouse: automotive production and development programme (APDP) (item 317.03 of part 1 of schedule no.3).
- [DA 185.4A6](#) – registration client type 4A6 – electronic user (section 101A and the rules thereto).
- [DA 185.4A7](#) – registration client type 4A7 – producer (rule 49A, 49B, 49D, 49E and 46A2.18).
- [DA 185.4A8](#) – registration client type 4A8 – commercial manufacturer of biofuel (section 37B and Rule 37B.02(b)).
- [DA 185.4A9](#) – registration client type 4A9 – non-commercial manufacturer of biofuel (section 37B and rule 37B.02(a)).
- [DA 185.4A10](#) – registration client type 4A10 – manufacturer of drawback items 501.00 to 521.00 (note 2(a) to part 1 of schedule no. 5).
- [DA 185.4A11](#) – registration client type 4A11 – special economic zone operator (SEZ) and/or designation of a customs controlled area (CCA) (section 21A and rule 21A.04).
- [DA 185.4A12](#) – registration client type 4A12 – electricity producer (rule 54FA.04).
- [DA 185.4A13](#) – registration client type 4A13 – registered agent (rule 59A.01A).
- [DA 185.4A14](#) – registration client type 4A14 – registered still (rule 63.04).
- [DA 185.4A15](#) – registration client type 4A15 – manufacture of excisable goods solely for own use by the manufacturer (section 116 and rule 116.01).
- [DA 185.5A16](#) – registration client type 4A16 – non-commercial manufacturer of sugary beverages (section 54J and rule 54I.03).
- [DA 185.5A17](#) – registration client type 4A17 – to be in possession or control of and to use goods consisting of a mixture which includes marked goods (section 37A(9) and rule 37A.12).
- [DA 185.4A18](#) – registration client type 4A18 – supply of aviation kerosene and/or aviation spirit (items 460.05 / 496.00 or 623.11 / 671.01).
- [DA 185.4A19](#) – registration client type 4A19 – producer of goods not capable of use in any engine (section 37A(4) and rule 37A.11).

- [DA 185.4B1](#) – licensing client type 4B1 – special manufacturing warehouse (section 21 and the rules thereto).
 - [DA 185.4B2](#) – licensing client type 4B2 – manufacturing warehouse (section 19A, 27, 54E, 54J and the rules thereto).
 - [DA 185.4B3](#) – licensing client type 4B3 – storage warehouse (section 19 and the rules thereto).
 - [DA 185.4B4](#) – licensing client type 4B4 – special storage warehouse (sections 19A and 21 and the rules thereto).
 - [DA 185.4B5](#) – licensing client type 4B5 - clearing agent (section 64b and the rules thereto).
 - [DA 185.4B6](#) – licensing client type 4B6 - remover of goods in bond (located or not located in the Republic) (section 64D and the rules thereto).
 - [DA 185.4B7](#) – licensing client type 4B7 – distributor of fuel (section 64F and the rules thereto).
 - [DA 185.4B8](#) – licensing client type 4B8 – special ad valorem manufacturing warehouse (section 36A and the rules thereto).
 - [DA 185.4B9](#) – licensing client type 4B9: storage warehouse (customs controlled area enterprise) – (sections 19A, 21, 21A, and rule 21A.10).
 - [DA 185.4B10](#) – licensing client type 4B10 – manufacturing warehouse (customs controlled area enterprise) – (sections 19, 21A, 27 and rule 21A.10).
 - [DA 185.4B11](#) – licensing client type 4B11 – distillation of spirits by an agricultural distiller (section 62 and rule 63.07).
 - [DA 185.4B12](#) – licensing client type 4B12 – to own, possess or keep stills (section 63 and rule 116.01).
 - [DA 185.4B13](#) – licensing client type 4B13 – to manufacture or import stills for sale or to repair stills for reward (rule 63.01).
 - [DA 185.4B14](#) – licensing client type 4B14 – degrouping depot (section 64G and the rules thereto).
 - [DA 185.4B15](#) – licensing client type 4B15 – searching wreck or searching for wreck (section 64C and rule 64C.01).
 - [DA 185.4B16](#) – licensing client type 4B16 – container depot (section 64A and rule 64A.01).
 - [DA 185.C](#) – security and bond particulars.
 - [DA 185.D](#) – nomination of registered agent (rule 59A.01A(b)(iii) and section 64D.01).
 - due date for comments: **19 July 2019**.
 - find a copy of the notice [here](#).
- **International Trade Administration Commission**
 - customs tariff applications list 04/2019.
 - a copy of the applications is available on request.

- OECD | new handbook, *Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors* (2019) (the “**Handbook**”), to strengthen tax administrations’ capacity to support the fight against money laundering and terrorist financing
 - among other things, the Handbook:
 - describes the nature of money laundering and terrorist financing activities so that tax examiners and auditors can better assist criminal investigators in countering these activities;
 - provides guidance in identifying money laundering and terrorist financing during the conduct of normal tax audits; and
 - describes the resources and tools that are available for effective detection and deterrence.
 - find a copy of the Handbook [here](#).
- OECD | expands transfer pricing country profiles to cover 55 countries
 - the OECD has released new transfer pricing country profiles for Chile, Finland and Italy, bringing the total number of countries covered to 55.
 - in addition, the OECD has updated the information contained in the country profiles for Colombia and Israel.
 - find a copy of the profiles [here](#).
- Russia | deposits its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the “**MLI**”)
 - find a copy of the list of signatories and parties to the MLI [here](#).
- OECD | expands functionality of MLI Matching Database (beta)
 - the database now includes information on entry into effect dates for matched agreements and the option to calculate entry into effect dates on the basis of anticipated dates of deposit.
 - find the MLI Matching Database (beta) [here](#).
- UN | draft updates to the *United Nations Practice Manual on Transfer Pricing for Developing Countries*
 - draft updates include:
 - a new chapter on intra-group financial transactions;
 - revised text on the profit split transfer pricing method; and
 - revised text on establishing transfer pricing capability, risk assessment, and transfer pricing audits.
 - find the note with the draft updates [here](#).

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