

ENSafrica tax in brief

issue 41 | a snapshot of the latest tax developments in South Africa.

case law

- **Supreme Court of Appeal | C: SARS v Clicks Retailers (Pty) Ltd**
 - appeal against decision of Tax Court, in respect of which the Commissioner for the South African Revenue Service was directed to partially allow a claim by taxpayer in terms of section 24C of the Income Tax Act, 58 of 1962 ("Act").
 - whether cost of sales in honouring vouchers, issued to clients in terms of a loyalty programme and expected to be redeemed in the following year, constituted expenditure for purposes of section 24C of the Act, considered.
 - whether expenditure incurred in honouring vouchers held by clients arose in terms of the same contract in respect of which sales income accrued to the taxpayer, considered.
 - find a copy of the judgment [here](#).
- **High Court of the South Africa | C: SARS v Spur Group (Pty) Ltd**
 - whether a contribution to a trust qualifies as expenditure incurred in the production of income in terms of section 11(a) of the Income Tax Act, 58 of 1962, considered.
 - whether there is a sufficiently close connection between the taxpayer's contribution to a trust in respect of its employee share incentive scheme and its production of income, considered.
 - find a copy of the judgment [here](#).
- **Supreme Court of Appeal | C: SARS v Langholm Farms (Pty) Ltd**
 - whether the court appropriately exercised its discretion in circumstances where SARS had not issued a final assessment.
 - interpretation of section 75(1C)(a)(iii) of the Customs and Excise Act 91 of 1964, considered.
 - interpretive principles to be applied where clear language of a provision produces an "unpalatable" outcome, considered and confirmed.
 - exercise of the court's discretion in terms of section 21 of the Superior Courts Act 10 of 2013, considered.
 - find a copy of the judgment [here](#).

legislation and draft legislation

- [amendments](#) were made, on 20 November 2019, to the Taxation Laws Amendment Bill [B18—2019] as tabled by the Minister of Finance in the National Assembly on 30 October 2019
 - find a copy of the amended Bill [here](#).
- Carbon Tax Act, 2019: Regulations | *Government Gazette* 42873
 - Carbon Tax Act regulations were published in *Government Gazette* 42873.
 - find a copy of the regulations [here](#).
- Carbon Tax Act, 2019: Draft Regulations | Trade Exposure Allowance
 - proposed regulations in terms of section 10 of the Carbon Tax Act, 2019
 - find a copy of the regulations [here](#)
- Carbon Tax Act, 2019: Draft Regulations | GHG Emissions Intensity Benchmarks
 - proposed regulations in terms of section 19(a) of the Carbon Tax Act, 2019
 - find a copy of the regulations [here](#).

advance tax rulings

- binding private ruling 335 | STT exemption for foreign governments
 - section 8(1)(k) of the Securities Transfer Tax Act 25 of 2007 (“STT Act”).
 - this ruling determines whether the securities transfer tax (“STT”) exemption for any sphere of a foreign government is available in situations where a foreign central bank acts as investment manager for a sovereign wealth fund.
 - find a copy of this ruling [here](#).
- binding private ruling 336 | liquidation distribution
 - section 1(1), paragraph (k) of the definition of “gross income” in terms of the Income Tax Act, 58 of 1962 (“Act”)
 - sections 10(1)(k), 47(1), 47(5), 64G(2)(b) of the Act
 - paragraphs 11(2)(b)(i), 12(A)(6)(e), 43A, and 77 of the Eighth Schedule to the Act
 - section 8(1)(a)(v) of the STT Act
 - this ruling determines the income tax and STT consequences of a liquidation distribution.
 - find a copy of the ruling [here](#).

SARS publications

- no new publications noted

exchange control

- no new exchange control circulars noted
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customs and excise

- Customs and Excise Act, 1964 | Draft rule amendment notice R1549 in *Government Gazette 42862*
 - amendment relating to places where container depots may be established
 - find a copy of the notice [here](#).

international

- OECD | Kenya and Oman sign landmark agreement to strengthen their tax treaties
 - Kenya and Oman have signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting becoming the 91st and 92nd jurisdictions to join the Convention, which now covers over 1,630 bilateral tax treaties..
 - find a copy of the media release [here](#).
- OECD | Benin, Bosnia and Herzegovina, Cabo Verde, Mongolia and Oman join the most powerful multilateral instrument against offshore tax evasion and avoidance
 - A further five countries signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, therewith bringing the total number of participating in the Convention to 135.
 - Find a copy of the media release [here](#).
- OECD | Public comments received on the Global Anti-Base Erosion (GloBE) Proposal under Pillar Two
 - On 8 November 2019, interested parties were invited to provide comments on certain aspects of the GloBE Proposal under Pillar Two.
 - Find a copy of the comments [here](#).
- OECD | Tax revenues have reached a plateau
 - Tax revenues in advanced economies reached a plateau during 2018, with almost no change seen since 2017, according to new OECD research. This ends the trend of annual increases in the tax-to-GDP ratio seen since the financial crisis.
 - The 2019 edition of the OECD's annual Revenue Statistics publication shows that the OECD average tax-to-GDP ratio was 34.3% in 2018, virtually unchanged since the 34.2% in 2017.
 - find a copy of the media release [here](#).
- OECD | Montenegro joins the Inclusive Framework on BEPS
 - The Inclusive Framework on BEPS welcomes Montenegro bringing to 136 the total number of countries and jurisdictions participating on an equal footing in the Project.
 - find a copy of the media release [here](#).

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