

ENS tax in brief

Below, please find issue 118 of ENS' tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- **Richards Bay Mining (Pty) Ltd v C:SARS (2023/045310) [2024] ZAGPPHC**
 - This case involved a High Court declarator application by the taxpayer ("**Applicant**") on:
 - A point in *limine* raised by SARS objecting to the High Court's jurisdiction – specifically the interpretation of section 105 of the Tax Administration Act No.28 of 2011 ("**TAA**") and whether the provision contains an ouster of the High Court's inherent jurisdiction in respect of all matters related to tax administration procedures and provisions, i.e. whether the Tax Court was the only court with jurisdiction in respect of tax matters; and
 - The meaning and interpretation of section 4(2) of the Mineral and Petroleum Resources Royalty Act No.28 of 2008 ("**the Act**") – specifically the words "mineral resources". The Applicant contended the phrase clearly indicated the plural form of the concept whereas SARS contended that it should be considered to be a reference to the singular form of the concept.
 - The Applicant was successful on both issues. The High Court held that:
 - Section 105 of the TAA found no application on the facts and SARS' point in *limine* was without substance. The issue on the facts (being the interpretation of section 4(2) of the Act) did not impugn an "assessment" or "decision" of SARS and hence section 105 of the TAA did not find application; and
 - No absurdity results in following the plural form of the concept of mineral resources in section 4(2) of the Act and that in the context of the Act as a whole the legislature did apply the singular form where so intended and that the change in the meaning of the word in section 4(2) of the Act to "mineral resources" by the legislature was intentional. To conclude otherwise, would defeat the purpose of the rules of statutory interpretation, especially where no absurdity would follow by applying that principle.

tax rulings

- VAT apportionment | published rulings

- VAT Ruling [006](#) | varied turnover-based method in respect of a vendor in the asset-based financial services
- VAT Ruling [007](#) | varied turnover-based method in respect of a vendor in the micro-lending industry
- VAT Ruling [008](#) | varied input-based method in respect of a vendor in the short-term insurance industry
- A repository of all published alternative apportionment methods (eight in total to date) is available [here](#).

SARS publications

- **SARS Online Query | system and guide updated**
 - The ‘Submit supporting documents’ and ‘Report new estate case’ queries have been updated in line with the latest system enhancements.
 - The following new queries have been included in the SARS External Guide that is available [here](#):
 - The request for Auto Assessment status which enables the taxpayers to query whether they are part of the SARS Auto Assessment population or not.
 - The submit an LBI query which enables the taxpayers registered at the Large Business and International (“LBI”) or High Net Worth (“HNW”) to direct their queries to LBI or HNW.
- **Third party data | annual submissions and guides**
 - The SARS Third Party Data Annual Submissions process for the period 1 March 2023 to 29 February 2024 opens on 1 April 2023 and will close on 31 May 2024.
 - The following guides relating to third-party data submission have been updated and made available on the SARS website:
 - The Guide for the Submission of Third-Party Data Using the Connect Direct Channel available [here](#).
 - The Guide for the Submission of Third-Party Data Using the https Channel available [here](#).
 - The Manage Submission of Third-Party Data guide available [here](#).
- **Guide | SARS Customs Outward processing Procedure**
 - Outward processing is a customs procedure whereby goods that are in free circulation (that is, not subject to customs control) are temporarily exported from South Africa to undergo processing or repair abroad. The processed or repaired goods are re-imported and released for home use with partial relief from import duty as only the added value, being the cost of repair or processing, is subject to the payment of duty and VAT on re-importation.
 - This publication provides guidance on the outward processing customs procedure and is aimed at enhancing the understanding of the customs outward processing procedure.
 - Find the SARS Customs Outward processing Procedure Guide [here](#).
- **Guide | SARS Overview of Manufacturing Rebate and Drawback Procedures**
 - To stimulate the local manufacturing industry, a rebate of customs duty and/or a VAT exemption is provided for on specific imported raw materials

used in local manufacturing in certain specified circumstances. Provision is also made in certain circumstances for a drawback of customs duty that the importer paid when importing goods that were used in manufacturing of goods that were subsequently exported. The Customs and Excise Act, 91 of 1964 makes provision for duty rebates and drawbacks while the Value-Added Tax Act 89 of 1991 makes provision for VAT exemptions.

- This guide aims to enhance the understanding of the customs Manufacturing Rebate and Drawback processing procedures.
- Find the SARS Overview of Manufacturing Rebate and Drawback Procedures Guide [here](#).
- **SARS IBIR-006 Tax Directives Interim Interface Specification | Version 6.701**
 - To facilitate the upcoming “two-pot retirement system” changes which will become effective on 1 September 2024, SARS will be making enhancements to the Tax Directives process, which changes are detailed in the Interim Interface Specification.
 - Once the law has been promulgated, an updated version of the Interface Specification will be made available. SARS will also communicate trade testing dates in due course.
 - The publication describes the generic interface between the Income Tax System (“ITS”) of SARS and any external system used in applying for tax directives (IRP3).
 - The publication describes the protocol and data format to use when applying for directives electronically and receiving responses to such applications.
 - The SARS system shall be capable of processing different types of directive requests and either provide the requested directive or decline the directive request and provide a reason for doing so.
 - Find the Tax Directives Interim Interface Specification [here](#).
- **Guide | SARS Quick Reference Table to Amendments, Substitutions, and Cancellation of Bills of Entry**
 - This guide provides a reference to enhance the understanding of amendments, substitutions, and cancellation of bills of entry and provides guidance in deciding which declaration procedures or options are appropriate under various circumstances.
 - Find the guide [here](#).
- **SARS External Guide Excise | DA 180 Environmental Account for Carbon Tax | Revision 1**
 - The purpose of this guide is to assist business entities that generate carbon emissions liable to carbon tax in South Africa, to complete the DA 180 Environmental Account for Carbon Tax and its annexures.
 - The guide has been revised as follows:
 - To align with the relevant sections of the Customs and Excise Act, No. 91 of 1964.
 - Updated the name as well as acronym for the Department of Forestry, Fisheries and the Environment.
 - The calculation of net levy payable was amended.
 - The document code changed from SE-CBT-03-M01 to SE-CBT-04.
 - Find the guide [here](#).
- **SARS SE-SP-02 – Spirits – External Policy Guide | Revision 15**

- The Excise Spirits Policy has been updated to align with the following:
 - The outcome of a court case in SARS's favour which confirmed that the absolute alcohol content of flavourings is dutiable.
 - The legislation changes for Rebate item 621.21.
 - The legislative requirements for Rebate item 624.50.
- Find the revised policy guide [here](#).
- **SARS SE-OFB-02 - Other Fermented Beverages - External Policy | Revision 13**
 - The purpose of the policy is to explain:
 - I. The activities that are permitted in the spirit warehouses;
 - II. Completion of the DA 260 account;
 - III. The assessment of excise duty which involves duty paid removals and non-duty paid removals; and
 - IV. Reprocessing, destruction or abandonment.
 - The published Excise Other Fermented Beverages policy has been updated to indicate the exclusions in terms of item 624.50.
 - Find the revised external policy [here](#).
- **SARS Ad Valorem Excise Duty – External Policy and Ad Valorem Value Determination | Revision 7**
 - Ad Valorem Excise Duty is payable on certain locally manufactured goods and goods imported of the same class or kind. Ad Valorem Excise Duty is determined in terms of Schedule 1 Part 2B, which specifies the goods on which duty is levied, each with its own applicable rate of duty. The policy and annexure have been updated to align with legislation.
 - Find the Ad Valorem Excise Duty – External Policy [here](#) and Ad Valorem Value Determination – External Annexure [here](#).

customs and excise

- **SC-CF-19-A02 – Facility Code List – External Annexure**
 - The facility codes used in Box 30 on the Customs Clearance Declaration (CCD) have been updated to include the details of the new approved container depot – Imperial Clearing and Forwarding South Africa in Durban.
 - Find the Facility Code List – External Annexure [here](#).
- **Customs and Excise Act, 1964 (“Customs and Excise Act”) | Tariff Amendments**
 - The [tariff amendments notices](#), were published in the Government Gazette 50381 on 28 March 2024. Publication details for [tariff amendment notices R4551, R4552, R4553, R4554, R4555, and R4556](#), are now available and relate to the following amendments:
 - With effect from 1 April 2024:
 - Part 3A of Schedule No. 1, by an increase of 4c/bag in the rate of environmental levy on plastic bags from 28c/bag to 32c/bag to give effect to the Budget proposals announced by the Minister of Finance on 21 February 2024

- Part 3C of Schedule No. 1, by an increase of R5/lamp in the rate of environmental levy on electric filament lamps from R15/lamp to R20/lamp to give effect to the Budget proposals announced by the Minister of Finance on 21 February 2024
- Part 3D of Schedule No. 1, by an increase of R14 per g/km CO₂ in the rate of motor vehicle carbon dioxide emissions levy from R132 to R146 on new passenger vehicles on emissions exceeding 95g/km and, by R19 per g/km CO₂ from R176 and R195 on new double cab vehicles on emissions exceeding 175g/km, respectively to give effect to the Budget proposals announced by the Minister of Finance on 21 February 2024
- With retrospective effect from 1 January 2024:
 - Part 3F of Schedule No. 1, by an increase of R31 per tonne in the rate of environmental levy on carbon dioxide equivalent from R159 to R190 per tonne to give effect to the Budget proposals announced by the Minister of Finance on 21 February 2024
 - Part 5A of Schedule No. 1, by the substitution of Notes 7(a)(vi) and b(vi) in order to change the density factors for the calculation of the carbon fuel levy from 0.75 to 0.7405 kilogram per litre for petrol and from 0.0845 to 0.8255 kilogram per litre for diesel to give effect to the Budget proposals announced by the Minister of Finance on 21 February 2024
- With effect from 3 April 2024:
 - Part 5A of Schedule No. 1, by substitution to Note 8 as well the increase of 1c in the carbon fuel levy from 10c/li to 11c/li for petrol and from 11c/li to 14c/li for diesel, respectively to give effect to the Budget proposals announced by the Minister of Finance on 21 February 2024

The protection of your personal information is important to us

ENSafrica takes your privacy and the protection of your personal information very seriously and is committed to doing the right thing as underpinned by our [privacy policy](#) and values.

It is our understanding that you are receiving this communication because you are an esteemed client of our firm or have historically elected to opt-in to receive communications from us. If you no longer wish to receive communications from us, please [click here to unsubscribe](#) so we can ensure your details are removed from all our communication lists. Should you change your mind, you can subscribe to specific areas of interest using the following link <http://www.ensafrica.com/contact-us>.

We appreciate your ongoing support and interest.

ENS africa | Africa's largest law firm

info@ENSafrica.com | ENSafrica.com

[privacy statement](#) | [unsubscribe](#)

