

ENS tax in brief

Below, please find issue 126 of ENS' tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- **Supreme Court of Appeal (“SCA”) | Christoffel Hendrik Wiese and Others v CSARS (1307/2022)**
 - SARS instituted action against the appellants under section 183 of the Tax Administration Act 28 of 2011 (the “TAA”). Section 183 of the TAA provides that a third party (in this case, the appellants) will be jointly and severally liable with a taxpayer (in this case, Energy Africa Propriety Limited (“**Energy Africa**”)) if they knowingly assist in dissipating the taxpayer’s assets in order to obstruct the collection of a tax debt of the taxpayer.
 - After disputing SARS’ audit findings, but prior to the issue of SARS’ assessments based on the audit, Energy Africa disposed of its sole asset.
 - SARS invoked section 183 of the TAA against the appellants who disputed their liability thereunder on the basis that no “tax debt” (i.e. no assessment) existed at the time Energy Africa’s sole asset was disposed.
 - The SCA held that section 183 did not require that the taxpayer’s liability to pay tax due to SARS should have been determined by assessment at the time of the dissipation of assets. To avoid the mischief which section 183 seeks to cure, a tax debt exists within the context that section, irrespective of the absence of an assessment of the tax debt.
 - On a separate issue regarding the admissibility of a transcript of evidence presented by the appellants at an inquiry held in terms of section 50 of the TAA during 2015 and 2016, the SCA held that based on the purpose of that chapter of the TAA (which is to facilitate the execution of SARS’ statutory mandate to collect tax), the transcripts were admissible.
 - The appeal was accordingly dismissed with costs.
 - Find the judgment [here](#).

tax rulings

- **Binding Private Ruling 404 | Expenditure incurred in respect of environmental conservation**
 - This ruling determines the tax consequences pertaining to land to be declared a nature reserve.

- Find the ruling [here](#).

SARS publications

- **Announcements | Withdrawal of Practice Note 31**
 - It was previously communicated on 16 November 2022 that SARS intends to withdraw Practice Note 31: “Interest paid on moneys borrowed” (“**PN 31**”) for years of assessment commencing on or after 1 March 2023.
 - Following representations received National Treasury proposed the introduction of section 11G – “Deduction of expenses incurred in the production of interest”, which was subsequently enacted in the Taxation Laws Amendment Act No.17 of 2023. The proposed effective date of section 11G is for years of assessment commencing on or after 1 January 2025.
 - The withdrawal of PN 31 will be delayed to coincide with the effective date of section 11G.
- **SARS | Self Service WhatsApp Channel**
 - Taxpayers can now use WhatsApp to interact with SARS for tax advice and specific personal income tax queries.
 - From your desktop click [here](#).
- **Tax Directives software update for the Two Pot Retirement system**
 - To facilitate the upcoming two-pot retirement system changes, SARS will be making enhancements to the Tax Directives process. Trade testing commenced on 1 July 2024 and will run until 16 August 2024.
 - The latest changes are detailed [here](#).
- **New SARS Monthly Tax Digest**
 - Find the new SARS monthly digital column [here](#).

exchange control

- **Exchange Control Circular No. 8/2024 | Amendment of the trading name of Sikhona Forex (Pty) Ltd**
 - The name of Sikhona Forex (Pty) Limited has been amended to Sikhona Forex (Pty) Limited trading as Ria Money Transfer in sections A.2(A) and A.2(B) of the Currency and Exchanges Manual for Authorised Dealers in foreign exchange with limited authority and the Currency and Exchanges Manual for Authorised Dealers (Manuals), respectively, as well as the guideline documents for business entities and individuals (guideline documents).
 - Find a copy of the circular [here](#).

customs and excise

- **Customs | Tariff Determination Enhancements**

- The SARS Tariff Determination enhancement project, which includes the publication of Tariff Determinations is divided into two phases.
- Electronic submission of new applications by traders will follow in the second phase of the project which is planned for around September 2024.
- The abridged version of the finalised tariff determinations can be viewed [here](#) from the 1st of July 2024.
- **Customs | Tariff Amendments**
 - The tariff amendments notices, scheduled for publication in the Government Gazette, relate to the amendments 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 free of duty to 17,63c/kg and 26,45c/kg to respectively, in terms of the existing variable tariff formula (ITAC Minute M02/2024);
 - Part 1 of Schedule No. 1, by the substitution of tariff subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99, to reduce the rate of customs duty on sugar from 140.91c/kg to 109.36c/kg in terms of the existing variable tariff formula (ITAC Minute 01/2024); and
 - Part 1 of Schedule No. 1 by the substitution of tariff subheadings 8507.10.91 and 8507.10.99 in order to increase the rate of customs duty on lead acid batteries from 15% to 30% (ITAC Report 702).
 - Find the tariff amendment notices [here](#).

international

- **The Organisation for Economic Co-Operation and Development (“OECD”) | Corporate Tax Statistics 2024**
- The OECD published the Corporate Tax Statistics 2024 report which is an OECD flagship publication on corporate income tax. It includes information on corporate taxation, MNE activity, base erosion, and profit shifting (“BEPS”) practices.
- Find the full report [here](#).

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