

ENSafrica tax in brief

Below, please find issue 48 of ENSafrica's tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- **High Court, Western Cape Division | *Barnard Labuschagne Inc v SARS***
 - Application made for rescission of a "civil judgment" in terms of section 172 of the Tax Administration Act, 2011 ("TAA").
 - Whether a certified statement by the South African Revenue Service ("SARS"), treated as a civil judgment in terms of section 172 read with section 174, is capable of rescission, considered.
 - Held that while such certified statements are required to be treated as civil judgments, they are subject to amendment and are therefore not final judgments capable of rescission.
 - Constitutionality of sections 172 and 174, considered.
 - Held that sections 172 and 174 do not oust the jurisdiction of the courts in respect of civil judgments and do not violate the right of access to courts or the rule of law.
 - Find a copy of this judgment [here](#).

advance tax rulings

- **Binding general ruling 53 | Rules for the taxation of interest payable by SARS under section 7E**
 - This ruling determines the interaction between deemed accruals, in terms of section 7E of the Income Tax Act, 1962 ("Act"), of amounts of interest payable to a taxpayer by SARS, and the actual accrual of such amounts in terms of general principles.
 - Find a copy of the ruling [here](#).
- **Binding general ruling 54 | Unbundling of unlisted company: Impact of non-qualifying shareholders**
 - This ruling provides clarity on what constitutes an "unbundling transaction", in terms of section 47 of the Act, when an unbundling company having non-qualifying shareholders unbundles shares in an unlisted unbundled company.
 - Find a copy of the ruling [here](#).

SARS publications

- **Draft Interpretation Note 87 | Vesting of income in a resident beneficiary by a non-resident trust**
 - This draft interpretation note addresses the interaction between section 25B(1) and section 7(8) of the Act.
 - The due date for public comment on the draft is 20 July 2020.
 - Find a copy of the document [here](#).
- **Draft External Business Requirements Specification | Country-by-Country and Financial Data Reporting v2.6**
 - Following trade testing of the e-filing facility to upload country-by-country reports (“CbCR”) in XML format, SARS has opened this functionality for submission of CbCR from 19 June 2020.
 - An updated draft of the relevant External Business Requirements Specification (“BRS”) has been updated to include the XML document submission process.
 - Find a copy of the draft BRS [here](#).

international

- **OECD | ongoing negotiations to address the tax challenges of the digitalisation of the economy**
 - Responding to recent statements and exchanges, the OECD Secretary-General has confirmed that the Inclusive Framework on Base Erosion and profit shifting will continue its schedule of meetings on the tax challenges of the digitalisation of the economy with a goal to reaching a global solution by the end of the year.
 - In particular, a meeting of the Inclusive Framework is to be held in October 2020.
 - Find a copy of the statement [here](#).

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