

ENSafrica tax in brief

Below, please find issue 51 of ENSafrica's tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- **High Court of South Africa (Gauteng Division, Pretoria) | *Graspan Colliery SA (Pty) Ltd v CSARS (8420/18) (11 September 2020)***
 - A tariff appeal (a hearing *de novo*) in terms of section 49(9)(e) of the Customs and Excise Act, 1964 ("**Customs Act**") against the Commissioner's decision to disallow the taxpayer's diesel refund under rebate item 670.04.
 - The main issue before the court was whether the Commissioner correctly determined that the rehabilitation activities conducted by the taxpayer do not qualify as "primary production activities in mining" as intended in note 6(f)(iii) of the Customs Act.
 - The court considered, *inter alia*:
 - The interpretation of section 75, item 670.04 and note 6(f)(iii) of the Customs Act.
 - The activities listed in note 6(f)(iii), as amended.
 - A contextual interpretation of the words "mining" and "primary" over an ordinary dictionary meaning.
 - The interpretation of the word "include" in the context of the activities listed in note 6(f)(iii) and the approach thereto adopted in the unreported decision *Glencore Operations SA (Pty) Ltd v The Commissioner for the South African Revenue Service (24 October 2019)*.
 - The application of section 44(11) of the Customs Act.
 - The Commissioner's discretion in terms of Note 5 in Part 3 of Schedule 6 of the Customs Act.
 - Find a copy of this judgment [here](#).
- **High Court of South Africa (Free State Provincial Division, Bloemfontein) | *CSARS and Another v Alves (A194/2019) [2020] ZAFSHC 123 (27 July 2020)***
 - The appeal was initially against the orders of the court *a quo* authorising the return of a vehicle detained by SARS in terms of section 88(1)(a) of the Customs Act.
 - The sole issue was whether the court *a quo* correctly declared that SARS failed to finalise investigations in terms of section 88 of the Customs Act in a reasonable time. The vehicle was, in the meantime, seized again and forfeited to the State.
 - As the events unfolded, section 16(2) of the Superior Courts Act, 2013 came to the fore in that the issues might be of such a nature that the decision sought on appeal will have no practical effect or result.

- The court considered, *inter alia*:
 - the application of section 88(1)(a) of the Customs Act.
 - the application of section 16(2) of the Superior Courts Act.
 - the application of section 25 of the Constitution, 1996.
- Find a copy of this judgment [here](#).

SARS publications

- **SARS released the employer interim reconciliation submission dates for August 2020 and source codes**
 - Find a copy of the SARS media release [here](#).
 - **SARS published the Draft Response Document on the Disaster Management Tax Relief Bill, 2020 and the Disaster Management Tax Relief Administration Bill, 2020**
 - Find a copy of the Draft Response Document [here](#).
 - **SARS released an announcement on the half-yearly employer reconciliations and third party declarations**
 - Find a copy of the SARS media release [here](#).
 - **SARS published an *External Policy on Carbon Tax***
 - Find a copy of the policy [here](#).
 - **SARS published an *External Completion Manual on the DA 180***
 - Find a copy of the manual [here](#).
 - **SARS published a new guide on *Third party appointments via efiling***
 - Find a copy of the guide [here](#).
 - **SARS published an updated table of interest rates on outstanding taxes and interest rates payable on certain refunds of tax**
 - Find a copy of the table [here](#).
 - **SARS published the updated table of interest rates payable on credit amounts**
 - Find a copy of the table [here](#).
 - **SARS released an announcement on Information code 4587 for purposes of employer interim reconciliations**
 - No separate media release, refer announcement at 14 September 2020 [here](#).
 - **SARS has released its *VAT Connect Issue 11 (September 2020)* newsletter**
 - Find the newsletter [here](#).
 - **SARS has released its guide on *Taxation in South Africa 2020***
 - Find the guide [here](#).
 - **SARS has published enhancements of the functionality to improve usability of the eBooking system**
 - Find the enhancements to the eBooking system [here](#).
 - **SARS has published an updated *Venture Capital Companies ("VCC")* list with changes in particulars for existing companies and one new company.**
 - Find the updated VCC list [here](#).
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customs and excise

- **SARS has published updates to the *Customs External Policy on Offences and Penalties***
 - Updates relate to dates applicable to processes under the Promotion of Administrative Justice Act, as follows:
 - Submissions must be delivered within thirty (30) days; and
 - The committee has forty five (45) days to make a decision.
 - Find the updated Offences and Penalties policy [here](#).
- **SARS has published *draft rule amendments under sections 49 and 120 of the Customs Act for purposes of the Agreement Establishing the African Continental Free Trade Area*.**
 - The draft is open for public comment until 9 October 2020.
 - Find the draft rule amendments [here](#).
- **SARS has published an updated *Customs Clearance Declaration manual and policy***
 - Find a copy of the updated manual [here](#).
 - Find a copy of the updated policy [here](#).
- **SARS has published new *FAQs for Carbon Tax***
 - Submissions for the Carbon Tax Environmental Levy Account (DA 180) together with payments of any carbon tax liability opens on 1 October and closes on 30 October 2020 for the 2019 tax period.
 - The completed DA 180, annexures and supporting documents must be submitted via the SARS eFiling platform through the “Excise Levies & Duties”.
 - Find the new FAQs for Carbon Tax [here](#).

international

- **The OECD has released the outcomes of the third phase of peer reviews of the Base Erosion and Profit Shifting Action 13 Country-by-Country reporting initiative**
 - Find the OECD press release [here](#).

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