



Below, please find issue 167 of ENS' tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- **Constitutional Court | Absa Bank Ltd and Another v Commissioner for the South African Revenue Service (CCT 72/24) [2026] ZACC 15**
 - Find the ENS tax team's newsflash on this important judgment regarding the General Anti-Avoidance Rules ("GAAR") [here](#).
 - Find a copy of the judgment [here](#).
- **Tax Court | Taxpayer Bank Limited v Commissioner for the South African Revenue Service (VAT 32666) [2026] ZATC JHB**
 - The taxpayer, a bank, introduced a "cashback scheme" in terms of which clients who met certain qualifying criteria had their monthly banking fees credited to their accounts, and the taxpayer claimed an input tax adjustment in respect thereof which was denied by SARS.
 - The Court was required to determine whether the crediting of banking fees previously debited under the cashback scheme triggered the provisions of section 21(1)(c) of the Value-Added Tax Act, 1991 ("VAT Act").
 - The Court held that the jurisdictional requirement under section 21(1)(c) is simply that a previously agreed consideration has been altered by agreement with the recipient, whether due to a discount or for any other reason, which is a purely factual enquiry. As such, section 21(1)(c) of the VAT Act applied, entitling the taxpayer to an input tax adjustment.
 - The appeal was upheld and SARS was ordered to alter its additional assessment to allow for the deduction.
 - No order as to costs was made.
 - Find a copy of the judgment [here](#).
- **High Court | Trakman NO v Commissioner for the South African Revenue Service (58927/21) [2026] ZAGPPHC**
 - Silver Lake Trading 447 (Pty) Limited ("**Silver Lake**") claimed diesel refunds for the period January 2017 to October 2018 under rebate item 670.04 of Schedule 6 to the Customs and Excise Act, 1964 ("**Customs and Excise Act**"). Silver Lake only registered as a diesel refund user on 21 December 2018, after it had ceased mining operations. SARS rejected the claims on the basis that Silver Lake was not entitled to refunds for periods before its registration.
 - The Court held that registration is prospective, and refunds can only be claimed for diesel purchased after registration. The two-year period in section 75(4A)(b)(ii) of the Customs and Excise Act relates solely to the submission of refund claims and does not confer eligibility for periods before registration. Silver Lake's reliance on the withdrawn Diesel/Biodiesel Refund Guide and the contra fiscum rule was dismissed.
 - The application was dismissed with costs.

- Find a copy of the judgment [here](#)
- **High Court | *Multipurpose Distributors v Commissioner for the South African Revenue Service and Others* (000317/2023) [2026] ZAGPPHC 90**
 - Multipurpose Distributors sought to review and set aside SARS' decision to issue a letter of demand for customs duties, VAT, interest, penalties and a forfeiture amount under section 88(2)(a) of the Customs and Excise Act, for an alleged diversion of exported alcohol products.
 - The court held that the review was launched out of time, with no condonation sought or established.
 - The review application was dismissed with costs.
 - Find a copy of the judgment [here](#).
- **Supreme Court of Appeal ("SCA") | *Glencore Operations SA (Pty) Ltd and Others v Commissioner for the South African Revenue Service and Another* (406/2024) [2026] ZASCA 47**
 - Glencore and ARM Coal formed a Joint Venture ("JV").
 - The main issue appealed by all three parties was the High Court's decision to uphold a SARS National Appeal Committee's (NAC) determination that the JV was not entitled to diesel fuel levy refunds under the Customs and Excise Act because it did not hold a mining right in its own name as required by Note 6(f)(ii)(cc) of Schedule 6 to the Act.
 - The right in question had been registered in Glencore's name, but the notarial deed required Glencore to exercise the right jointly with ARM through the JV. The SCA found that a purposive interpretation meant the JV substantively possessed the necessary authorisation and was entitled to refunds. SARS failed to exercise its discretion in this regard under Note 5 and this action was unlawful and a reviewable irregularity.
 - The SCA also held that the NAC (1) lacked jurisdiction, as the original determination fell within the Regional Appeal Committee's monetary threshold, and (2) acted impermissibly by introducing a new ground of disallowance and increasing the amount disallowed from cR5.1 million to R83 million.
 - The appeal is upheld with costs, including the costs of two counsel.
 - Find a copy of the judgment [here](#).
- **High Court | *X and Another v Commissioner for the South African Revenue Service* (A117/2025) [2026] ZAWCHC**
 - The appellants objected to estimated additional assessments issued by SARS under section 95(1) of the Tax Administration Act, 2011 ("TAA").
 - SARS treated the objection as invalid under the Tax Court Rules because the appellants failed to submit substantiating documents.
 - The High Court upheld the Tax Court's findings that there is nothing in the Tax Court Rules or the TAA to support a less onerous procedural burden for taxpayers objecting to estimated assessments. The appellants failed to submit the very documents they had identified as substantiating their objection, rendering the objection invalid.
 - The appeal was dismissed with costs.
 - Find a copy of the judgment [here](#).

legislation and draft legislation

- Preparation of legislation | Income Tax Act, No. 58 of 1962 ("ITA")
 - SARS invited comment in writing on the following [draft notices](#):

- Section 76C of the ITA – prescribing the persons eligible to apply to the Commissioner for a double taxation agreement (“**DTA**”), i.e. a bilateral, advance pricing agreement (“**APA**”);
- Section 76D of the ITA – prescribing the fees payable by an applicant in an application for a DTA APA;
- Section 76I(b) of the ITA – prescribing the additional requirements that may lead to the rejection of an application for a DTA APA;
- Section 76J(1) of the ITA – specifying the requirements for processing an application for a DTA APA
- Section 76J(3) of the ITA – prescribing the information to be contained in a preliminary DTA APA; and
- Section 76P of the ITA – specifying the procedures and guidelines for the implementation and operation of the DTA APA system.
- Comments are due to SARS by 29 May 2026.

SARS publications

- Tax practitioner registration and verification process
 - SARS is modernising the Tax Practitioner registration process to improve governance and compliance, retaining a three-step process (Registered Controlled Body (“**RCB**”) initiation, RAV01 completion, eFiling finalisation) but now applying risk-based verification after receiving the application.
 - Registration status on eFiling is simplified to Active, Suspended, or Deregistered for RCBs, improving visibility and accuracy of the tax practitioner register.
 - Find a copy of the updated guides below:
 - [Criteria for the Registration of Tax Practitioners – External Guide](#)
 - [How RCBs can Manage Tax Practitioner Members on eFiling – External Guide](#)
- Simplified Beneficial Owner Register for Partnerships
 - SARS is replacing the requirement for each partner to declare all other partners’ details on their ITR12 with a single Beneficial Owner Register IT3(BO) form, submitted annually on eFiling by a designated partnership representative.
 - Once processed, SARS issues an IT3(BO) unique number. Individual partners need only quote this number when declaring partnership details on their ITR12.
 - Once the partnership representative submits the Partnership IT3(BO), SARS will issue an IT3(BO) unique number after processing the IT3(BO) form.
 - For more information see the [Guide to the Beneficial Owner Register for Partnership IT3\(BO\) Form](#).
- Draft Interpretation Note | Section 12V of the ITA | Deduction in respect of production of battery electric and hydrogen-powered vehicles
 - A draft interpretation note has been published for public comment.
 - The note provides guidance on the interpretation and application of section 12V of the ITA which provides for a deduction in respect of production of battery electric and hydrogen-powered vehicles.
 - Comments are due to SARS by 28 May 2026.
 - Find a copy of the draft interpretation note [here](#).
- Public [Notice 7422](#) | Submission of income tax returns for 2026 year of assessment
 - Notice in terms of section 25 of the Tax Administration Act, 2011 (“**TAA**”), read with section 66(1) of the ITA, for submission of income tax returns for the 2026 year of assessment and the period within which the returns must be submitted.

exchange control

- Exchange control circular No. 16/2026
 - Authorised dealers are advised of amendments to the list of names contained in section B.10(K) of the Currency and Exchanges Manual for Authorised Dealers under the heading of Absa Bank Limited.
 - Certain branches have been deleted, and some have been added.
 - Find a copy of the attached circular [here](#).

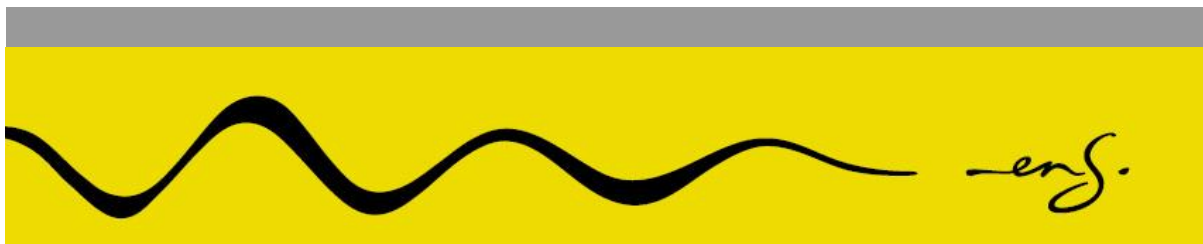
advance tax rulings

- VAT Ruling 020 (“**VR 020**”) | Consideration
 - VR 020 addresses the VAT treatment of deposits paid by guests and subsequently forfeited upon cancellation of a booking.
 - Find a copy of VR 020 [here](#)
- VAT Ruling 021 (“**VR 021**”) | VAT treatment of donor funds
 - VR 021 clarifies the VAT consequences of discretionary grant funding received from a registered Sector Education and Training Authority (“**SETA**”).
 - Find a copy of VR 021 [here](#).

customs and excise

- Increase in diesel refund claims from 80% to 100%
 - A new policy related to diesel refund claims under rebate item 670.04 of Schedule 6 to the Customs and Excise Act came into effect on 01 April 2026.
 - This policy increases the allowable diesel consumption percentage for diesel refund claims for on-land primary sector beneficiaries from 80% to 100%. As a result, the eligible litres calculation has been updated in the system and on the policy document.
 - Find the updated policy [here](#).
- Tariff amendments
 - [Notice R.7389](#)
 - Amendments to Part 1 of Schedule No. 2, by the insertion of various items under item 216.01, in order to impose anti-dumping duties on fully automatic top load machines, of a dry linen capacity exceeding 10 kg but less than 17 kg, classifiable under tariff subheading 8450.20.20 originating in or imported from the People’s Republic of China and the Kingdom of Thailand (ITAC Report 772).
 - Implementation date is 23 April 2026.
 - [Notice R.7417](#)
 - Amendment to Part 2 of Schedule No. 4, by the substitution of rebate item 460.03/0207.14.9/01.07, in order to increase the annual quota for frozen bone-in cuts of the species Gallus Domesticus originating in or imported from the United States of America from 71 963 tonnes to 73 881 tonnes.
 - Implementation date is 30 April 2026.

- [Notice R.7418](#)
 - Amendment to Part 1 of Schedule No. 1, by the deletion of tariff subheadings 3917.39.20 and 3917.39.90 and the insertion of tariff subheadings 3917.39.21, 3917.39.23, 3917.39.93 and 3917.39.99 in order to increase the rate of customs duty on tubes, pipes and hoses of polymers of ethylene, seamless, with fittings, multi-layered, having an intermediate layer of aluminium and with an outside diameter not exceeding 32 mm from 15% to 20%.
 - Implementation date is 30 April 2026.
- [Notice R.7419](#)
 - Amendment to Part 2A of Schedule No. 1, by the substitution of item 116.10.10/8543.40.10, in order to increase the rate of excise duty from R3.18/ml to R3.29/ml.
 - Implementation date is 30 April 2026.



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