Synopsis
Tax today
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A monthly journal, published by PwC South Africa, that gives informed commentary on current developments in the tax arena, both locally and internationally.

Through analysis of and comment on new laws and judicial decisions of interest, Synopsis helps executives to identify developments and trends in tax law and revenue practice that may affect their business.

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Interpretation of statutes – the Constitutional Court adds guidance

Over the past five years the adoption of a contextual approach to the interpretation of words used in documents, including statutes, has resulted in decisions that are more consistent and better understood. The seminal judgment of the Supreme Court of Appeal in the matter of Natal Joint Municipal Pension Fund v Endumeni Municipality that directed the adoption of this approach in our courts has itself been interpreted to an extent in subsequent proceedings. The Constitutional Court has added some words of caution against attempting to extend the search for context too widely.

In *Marshall N.O. and Others v Commissioner for the South African Revenue Service* (Case CCT 208/17, judgment delivered on 25 April 2018), the Constitutional Court considered the late filing of an application for leave to appeal against a judgment of the Supreme Court of Appeal ("SCA"). In coming to its decision, the Court considered the merits of the issue in dispute and the submissions of the applicant to the merits.

The applicant argued that the SCA had erred in interpreting words in the Value-added Tax Act by placing reliance on the interpretation found in Interpretation Note No. 39 dated 8 February 2013 in support of its decision. In the judgment of the SCA, Dambuza JA had stated:

> These Interpretation Notes, though not binding on the courts or a taxpayer, constitute persuasive explanations in relation to the interpretation and application of the statutory provision in question. Interpretation Note 39 has been in circulation for years and has not been brought into contention until now. 5 (*Footnote omitted*.)

In his judgment in the Constitutional Court, Froneman J noted that the SCA had indicated that evidence of the interpretation that had been applied by persons responsible for the administration of a statute *"is admissible and may be relevant to tip the balance in favour of that interpretation"* (CSARS v Bosch [2014] ZASCA 171). The SCA had indicated that interpretations or practice over a period of time may be of use when considering the *contra fiscum* principle (i.e. that in cases of ambiguity, an interpretation that does not favour the fiscus should be adopted).

Froneman J considered that the approach suggested required reconsideration. It had its origin almost a century earlier, at a time when the guiding principle in interpretation was to establish the intention of the legislature, where courts would consider "custom" in order to make an appropriate interpretation in the case of ambiguous legislation.

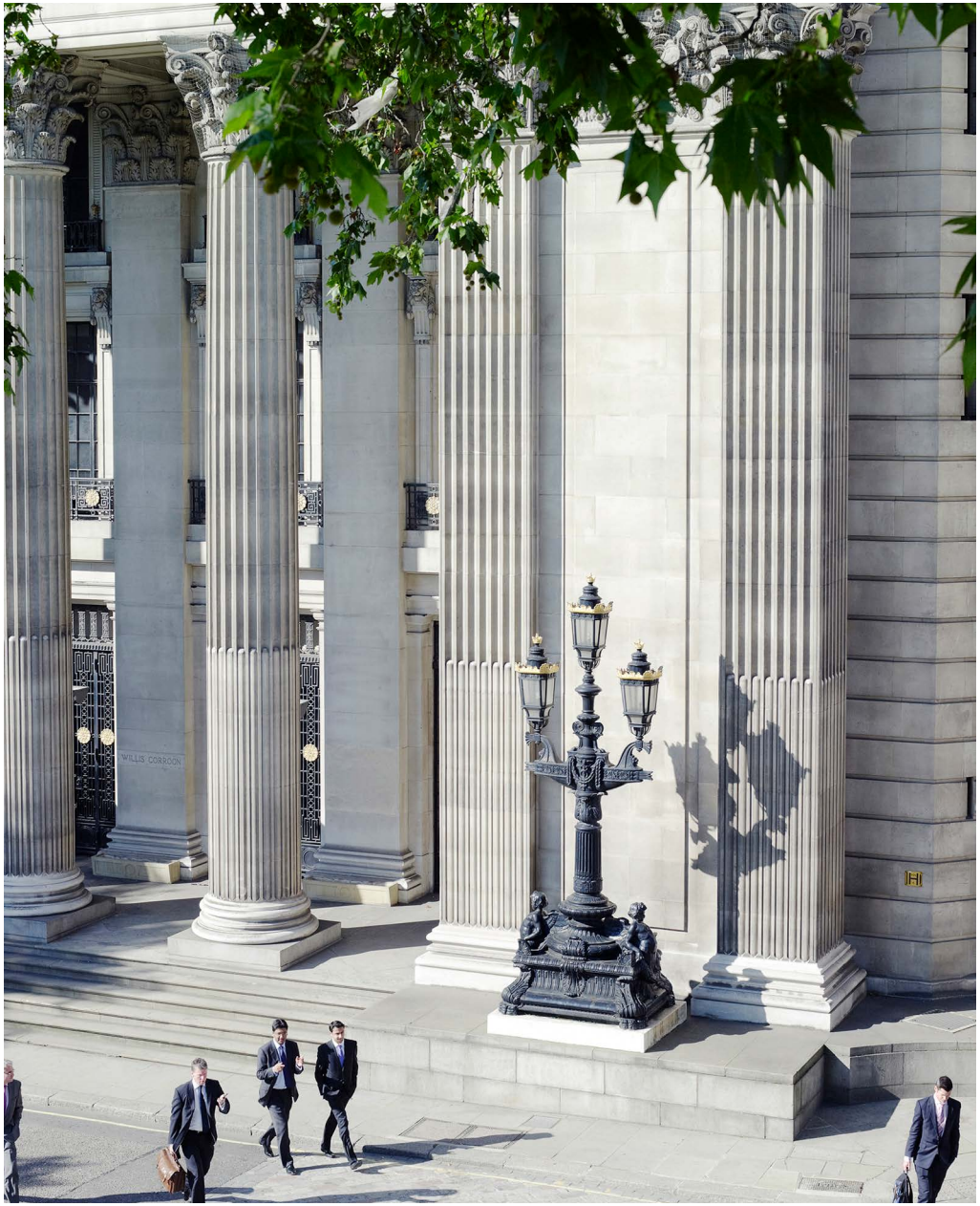
In paragraph [9] of the judgment, Froneman J noted:

> Bosch recognised that the rule had to be adapted to contextual statutory interpretation. The rationale for relying on consistent interpretation by those responsible for the administration of legislation also changed from "custom" to the assistance that could be gained from their evidence in determining "the meaning that should reasonably be placed upon those words". (*Footnotes omitted*.)

But, Froneman J observed, it appeared that the reformulation of this approach ignored that the law in South Africa had undergone a fundamental change from legislative supremacy to constitutional democracy. The approach of referring to interpretations by the administration was questioned in paragraph [10] of the judgment:

> Why should a unilateral practice of one part of the executive arm of government play a role in the determination of the reasonable meaning to be given to a statutory provision? It might conceivably be justified where the practice is evidence of an impartial application of a custom recognised by all concerned, but not where the practice is unilaterally established by one of the litigating parties. In those circumstances it is difficult to see what advantage evidence of the unilateral practice will have for the objective and independent interpretation by the courts of the meaning of legislation, in accordance with constitutionally compliant precepts. It is best avoided. (*Footnotes omitted*.)

Stripped down to this examination, interpretation notes are revealed as lacking independence, being the view of one of the litigants in any tax dispute. Essentially, a court should consider the interpretation of the words used in a statute objectively and independently.



This judgment places interpretation notes firmly in perspective. Neither SARS nor a taxpayer should base a case of interpretation on the content of an interpretation note. It is the duty of the court to determine the interpretation objectively and independently.

Furthermore, they lack true contextual relevance, as they are issued well after the preparation and promulgation of the legislation to which they relate.

The independent approach has been demonstrated in the Tax Court on occasion. In *ITC 1830* 70 SATC 123, for example, a taxpayer sought to persuade the Court that an interpretation found in Practice Note 33 should be applied, even though it was in conflict with an objective interpretation of the law, as it represented the customary practice. The Tax Court was unpersuaded and refused to adopt the interpretation contended by the taxpayer, holding that *"the Commissioner cannot … change the law by making concessions to address unintended results"*.

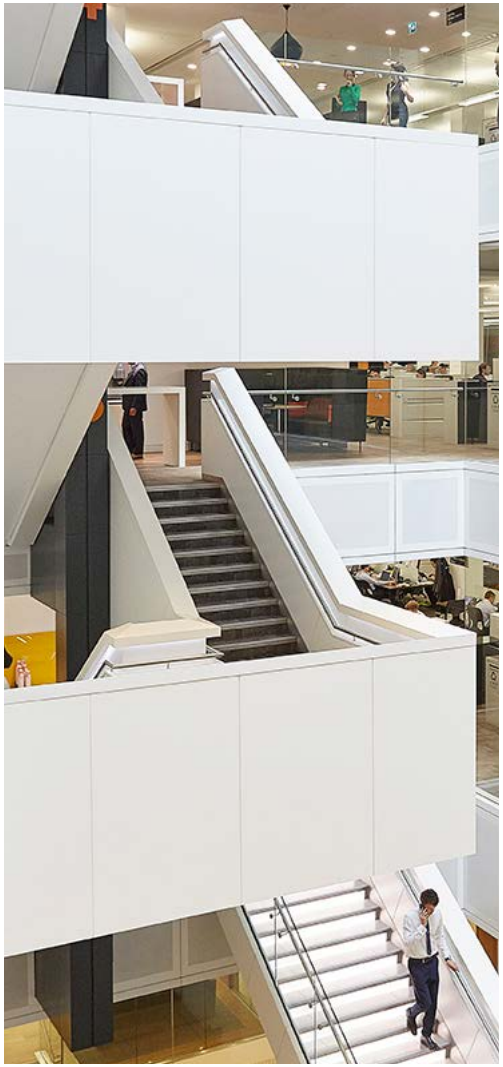
Interpretation Notes should therefore be considered in a narrow light when it comes to disputes with SARS. They fall within the ambit of "practice generally prevailing" for purposes of the Tax Administration Act ("TAA").

A taxpayer may rely on practice generally prevailing in limited circumstances.

SARS is precluded from raising an additional assessment if the amount that was assessed was so assessed in accordance with a practice generally prevailing at the time that the original assessment was issued (TAA section 99(1)(d)(i)).

However, the time for lodging an objection based upon reliance on practice generally prevailing is strictly limited. A senior SARS official may not extend the period for lodging an objection if the grounds of objection are based wholly or mainly on a change in a practice generally prevailing which applied on the date of the assessment or of the decision that is the subject of the objection.

Disputed assessments: The conclusivity of an assertion of a sole director and shareholder of a company as to the "intention" of that company



In many tax contexts, the subjective intention of the taxpayer impacts on the fiscal nature and consequences of a transaction.

For example, where the taxpayer acquires property with the intention of selling it at a profit, this is an important consideration in determining whether the profit on resale is of a revenue or of a capital nature.

An inquiry into a taxpayer's intention remains necessary where the taxpayer is a juristic person, such as a company. It is then necessary to determine, *as a matter of law*, the intention of the company, even though a company has no physical existence and does not, in a literal sense, have a mind of its own, let alone an intention.

Regarding a company as analogous to a human being is a convenient legal fiction, as a company can obviously act only through human intermediaries.

The Income Tax Act is silent in regard to the manner in which a company can be possessed of a particular intention, but there is a considerable body of judicial precedent, in South Africa and overseas, that is to say judgments of courts, in relation to the intention of a company.

Assume the existence of a hypothetical company whose sole director is also the sole shareholder

To put the issue into sharp focus, assume that a hypothetical company is a true one-person company, that is to say, it has only one shareholder who is also its sole director.

If that sole director attests that, in acting for the company at a particular juncture and in relation to a particular transaction, his intention was x – even though there is no contemporaneous written record of that intention and no written resolution of the company's board of directors – is the director's mere assertion conclusive of the intention of the company?

In such circumstances, could an assessment survive a legal challenge if it were based on the proposition that the company's intention was something other than x?

A decision of the Federal Court of Australia

This was the issue facing the Federal Court of Australia in *Rowntree v Commissioner of Taxation* [2018] FCA 182, in which judgment was given on 1 March 2018.

This matter came before the court as an appeal from the Australian Administrative Appeals Tribunal, which is the counterpart to South Africa's Tax Court, that is to say, it is the first-tier tribunal to hear an appeal against a disputed assessment.

In this case, a certain Bruce Rowntree had, during four tax years, received in excess of A$4 million from six companies of which he was either the sole director or which were under his control. He did not document the transactions as having any particular legal character at the time he received the money, and he later asserted that they were loans to him from the companies.

The Commissioner of Taxation issued an assessment in respect of each of the four tax years in which these sums were treated as *income* received by Rowntree, who then applied to the Tribunal for a review of that assessment.

In the terminology of our own Tax Administration Act, he filed an objection and appeal against the assessment, and when he was unsuccessful in that forum he lodged an appeal to the Australian Federal Court.

Rowntree argued (see para [46] of the judgment) that *his belief* that each payment by the relevant company and the corresponding receipt by him was a loan *established decisively* that it was indeed a loan. He contended that, once the Tribunal concluded that *he had believed that these were loans*, his state of mind in this regard *sufficed to discharge the onus of proof* resting upon him.

He argued that the Tribunal had erred in expecting him to provide further evidence in this regard before it could find in his favour, given that the law does not require an ordinary loan to be in writing.

In the event, the Australian Federal Court found, on appeal, that the Tribunal had not misdirected itself in dismissing Rowntree's objection against the assessment and that his appeal must consequently fail.

The significant findings in the judgment

The significant points that emerge from the judgment of the Federal Court of Australia are as follows:

- In a disputed assessment, the onus of proof is on the taxpayer to prove the assessment wrong.
- A party's testimony must not be rejected simply because it is self-serving; on the other hand, a taxpayer's subjective belief that money had been advanced to him as a loan is not determinative of the issue.

- In terms of the applicable companies legislation, the sole director of a private company can exercise all of its powers (including borrowing and lending money), save those that are required to be exercised by a shareholders' meeting.
- As a matter of law, a director can enter into a contract with his company.
- In terms of company legislation, a company is required to keep written financial records that correctly record and explain its transactions.
- As a matter of law, the intention of a person can, in principle, be attributed to the company, even where that person is the sole director.
- To establish that money paid by the company was a loan to its sole director and shareholder, all the requirements for *a valid contract of loan* must be demonstrated. The provisions of the contract must be certain, including the terms of repayment and the assumption of a legally enforceable obligation. Failing proof in this regard (even if the individual in question genuinely believed that the money had been advanced to him as a loan), it will not have been proven, objectively, that it was indeed a loan. A transaction may, on scrutiny, be too ambiguous or uncertain to be viewed as a legally binding contract of loan.

South Africa

As with Australia, South Africa's law, including its tax law, recognises that a company is a legal entity in its own right, separate from its directors and shareholders. Our courts have also accepted the principle expounded by Lord Denning in his judgment in *Bolton (Engineering) Co Ltd v Graham & Sons* [1957] 1 QB 159 (CA), where he said –

> A company may in many ways be likened to a human body. It has a brain and nerve centre which controls what it does. It has hands which hold the tools and act in accordance with directions from the centre. Some of the people in the company are mere servants and agents who are nothing more than hands to do the work . . . Others are directors and managers who represent the directing mind and will of the company and control what it does. *The state of mind of these managers is the state of mind of the company and is treated by the law as such.*

South African courts have also affirmed that the logic of Lord Denning's dictum, quoted above, extends to a company that has only one director. Thus, in *Commissioners of Inland Revenue v Richmond Estates (Pty) Ltd* 1956 1 SA 602 (A), Centlivres CJ said –

> A company is an artificial person with no body to kick and no soul to damn and the only way of ascertaining its intention is to find out what its directors acting as such intended. Their formal acts in the form of resolutions [passed by the board of directors] constitute evidence as to the intentions of the company of which they are directors *but where a company has only one director . . . it is perhaps not going too far to say that his mind is also the mind of the company*.

There have been a number of judgments in South Africa where, in a tax context, the courts have been required to determine the intention of a company by attributing the intention of the directors to the company itself.

Thus, in *SIR v Trust Bank of Africa Ltd* 1975 (3) SA 652 (A), the issue before the court was whether certain shares acquired by the company some years previously were capital assets (the proceeds on the disposal of which would be capital) or stock-in-trade (the proceeds on the disposal of which would be income).

The determination of this issue depended on whether the shares in question had been acquired by the company in the course of a *scheme of profit-making*, that is to say, with a view to making a profit by selling the shares at an enhanced price, or whether the shares had been acquired to secure "collateral benefits" such as to attract further banking business.

It was held in this case that the intention of the company vis-à-vis the acquisition of the shares in question had to be sought in the intention of the *management committee* of the board of directors, and that this intention did not necessarily have to be recorded in formal resolutions.

Botha JA, giving the judgment of the court, said in the course of his judgment that –

> there cannot, in the case of a one-man company, be any reason in principle why it should be incompetent for him to give evidence as to what the intention of his company at any time was . . .

Botha JA went on to say that there is no reason why the person or persons who were in effective control of the company cannot give *oral testimony* as witnesses in regard to what the intention of the company was in regard to a particular matter at a particular time.

South African law and Australian law are therefore in harmony as regards the fundamental principle that the purpose of the individuals who are in effective control of the company *can be attributed to the company itself*, even where that individual is the company's sole director.

There has, as yet, been no reported decision of the South African courts in which they have had to confront head-on, as acutely as was required of the Federal Court of Australia in *Rowntree v Commissioner of Taxation*, discussed above, the issue of whether – on the basis of credibility and the overall probabilities – the *oral testimony of the sole director of a company*, uncorroborated by any board resolution or other document, is to be accepted as sufficient proof of the intention of the company vis-à-vis a particular transaction.

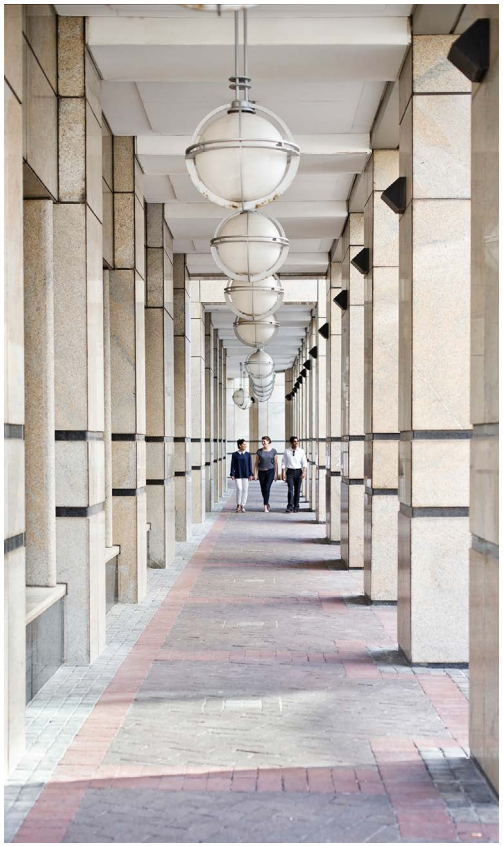
The takeaway

It is possible for a contract to be concluded between a company and its sole director where the same person acts in two capacities, one of which is as the controlling mind of the company. Where this occurs, the purpose of the transaction is known only to one person, and, in the absence of corroboration by way of a written contract or a board resolution, the company's purpose may be open to interpretation.

This decision points to the inevitable difficulty that arises when the actions of a party are explained simply by verbal evidence. The lack of any other form of evidence is not simply indicative that the verbal evidence must, for want of contradiction, constitute proof. The task of an appeal judge is to determine whether the evidence establishes the existence of an asserted issue of fact. This was made clear by the Federal Court in this case.

When may SARS institute applications for preservation orders?

Orders for the preservation of assets of a person are considered to be an extreme action to which resort should be had only in cases of dire necessity. Recently, SARS secured confirmation of a provisional preservation order that had been made in 2014. While readers may not expect to become embroiled in the sorts of activities which gave rise to the original application for this preservation order, the judgment in the proceedings provides guidance on the right of SARS to apply for and obtain preservation orders.



In the matter of *CSARS v Huang and Others* Case No. 43511/2014 in the Gauteng Division of the High Court, SARS had suspected that the respondents had not declared the full amounts of taxable income and taxable supplies (in respect of those respondents that were vendors) and that they were involved in the systematic expatriation of funds out of South Africa.

The facts are described in the judgment as "murky" and little would be served in this instance by attempting to record them in any detail.

In order to compel full compliance and to halt any further expatriation of funds, SARS had sought an order entitling it to attach assets of the respondents. The mechanism that it relied upon for this purpose was the one set out in section 163 of the Tax Administration Act.

Section 163(1) provides:

> A senior SARS official may, in order to prevent any realisable assets from being disposed of or removed which may frustrate the collection of the full amount of tax that is due or payable or the official on reasonable grounds is satisfied may be due or payable, authorise an ex parte application to the High Court for an order for the preservation of any assets of a taxpayer or other person prohibiting any person, subject to the conditions and exceptions as may be specified in the preservation order, from dealing in any manner with the assets to which the order relates.

Was tax due and payable?

The first crucial element for obtaining such an order is that a senior SARS official must be satisfied that an amount of tax is due and payable or that reasonable grounds exist for a conclusion that an amount of *tax may be* due and payable.

SARS had made a preliminary estimate of the liability of the respondents to income tax and VAT in 2014 based on information seized from the respondents, which was of a considerable volume. Various documents, including bank statements, suggested that amounts had been received by or accrued to the respondents or had flowed into or through bank accounts operated by the respondents.

No evidence was produced to indicate that the estimated tax liability was not based on reasonable grounds.

Although the court did not so state, it is considered that, in the absence of an amount already having been assessed, a court must be satisfied on a preponderance of probability that there will be a liability to tax. In this instance, the existence of evidence of substantial transactional cash flows and the absence of any explanation as to their origin or purpose was sufficient to satisfy the court in this respect.

Necessity for preservation

The purpose of a preservation order is "to prevent any realisable assets from being disposed of or removed which may frustrate collection of the full amount of tax…"

An application for a preservation order must contain information which would satisfy a court that there is an apprehension of the removal or disposal of assets. In this matter, the Court was critical of the content of the affidavit submitted on behalf of SARS in support of its application. Satchwell J noted (at paragraph 23):

> I agree … that the Founding Affidavit is, in itself[,] very slim on detail as to the alleged risk of dissipation… It would seem SARS takes lightly some of the requirements placed upon it before it can exercise these very draconian powers.

In this instance, the Founding Affidavit had been supported by detailed annexures comprising fifteen ring binders of information. Annexures to the Founding Affidavit are evidence, as was held by the Supreme Court of Appeal in *Executive Officer, Financial Services Board v Dynamic Wealth Ltd and Others* 2012 (1) SA 453 at paragraph [15].

Satchwell J therefore took cognisance of the information contained in the annexures to the Founding Affidavit. In support of her approach, she stated (at paragraph 25):

> I cannot see that this court should ignore the existence of such information merely because there is absence of formulaic repetition of the content of annexures in [the] founding affidavit or because there is absence of interpretation thereof in [the] founding affidavit. [The deponent] told the court he had read all the material, had formed an opinion thereon and what his opinion was. He gave the court the opportunity to read the material and to assess the reasonableness of his opinion and form its own view so as to exercise its discretion as to whether or not the order was "required" in terms of section 163(3).

After briefly summarising the circumstances enumerated in the annexures, Satchwell J was able to conclude at paragraph 28:

> To my mind, [the deponent] did not overstep the mark in forming an opinion that an application needed to be made for a provisional order "in order to prevent any realisable assets from being disposed of or removed which may frustrate the collection of the full amount of tax that … the official on reasonable grounds is satisfied may be due or payable."

Is intention a requirement?

An important element of the judgment dealt with the question of intention. Section 163 permits an application for preservation of assets to secure the collection of taxes due or reasonably likely to be due and payable.

There must, as the court rightly had considered, be an apprehension that assets might be dissipated. In common law preservation orders, an applicant is required to show not only the risk of dissipation but also that the dissipation is effected with the intention of frustrating the applicant's claim.

However, Satchwell J observed, at paragraph 52:

> Whereas the common law anti-dissipation order requires *prima facie* proof that respondents will dissipate assets with the intention of defeating the applicant's claim, the very enactment of section 163 of the TAA suggests that SARS need not meet the standards of the common law. No proof of intention on the part of the taxpayer is required in section 163.

This does not give SARS *carte blanche*, as indicated in paragraph 53 of the judgment:

> But such a preservation order is not simply to be had for the asking. In meeting the standards of persuading the court that such a preservation order is "required" for the purposes of the section (ensuring availability of assets for payment of tax which assets would otherwise go walkabout), SARS should cover [a canvas] which ranges from the material risk that assets may be diminished through to the practical advantage of a preservation order.

It was possible, in this matter, for the Court to find that a proper case had been made relating to the material risk (without consideration of the purpose of the respondents), as Satchwell J found at paragraph 56:

> The result is that there is more than reasonable apprehension of the material risk of continuing and future dissipation. The methodology is known and practiced (sic), the means are available, the design is accepted and pursued.

In the result, the provisional order was confirmed and made final.

In this case, the outcome was largely achieved in SARS' favour, notwithstanding the criticism of the content of the Founding Affidavit by the obstructive behaviour of the respondents or officials of the respondents, who primarily disavowed any knowledge of any of the transactions referred to in the voluminous annexures and attempted to shift accountability onto persons who were no longer alive or no longer living in the Republic.

Even if the criticisms of the SARS papers were well-founded, the respondents did nothing to rebut or explain any of the allegations therein. This left the court with little choice other than to take the allegations at face value.

Dispute resolution involving SARS is risky business. Skilful and experienced practitioners should be involved at an early stage. Tax controversy practitioners specialise in understanding the powers conferred on SARS and the limitations on those powers. They are also well versed in litigation pertaining to tax disputes in both the Tax Court and the High Court, including the preparation of documents to be submitted in litigation, with an eye to the discharge of the burden of proof.

PwC has recently established a Tax Controversy specialism led by Elle-Sarah Rossato, who has extensive experience in the management of tax disputes both with SARS and in private practice.

Tax controversy and dispute resolution – SARS audits

How do you respond to a request for information by SARS?

Section 46 of the Tax Administration Act No. 20 of 2011 (as amended) allows the South African Receiver of Revenue (SARS) to request from a taxpayer the submission of relevant material. In recent years, SARS have increased their audit activities, changing their focus from individual taxpayers to multinational taxpayers and SMMEs. Generally, audits are triggered by risk assessments and, in particular, refund assessments. These audits have resulted in taxpayers being requested to produce evidence before the relevant facts are taken into consideration or accepted. Sometimes SARS' requests can hold up refunds, even when supporting documentation has already been submitted. Further issues can be where taxpayers are not sure whether a request by SARS is perhaps too broad, or whether they should submit certain documents which could be subject to legal professional privilege. SARS' audits can cover any area of tax, ranging from domestic taxes to international taxes and including both direct and indirect taxes such as customs and value-added taxes (VAT). In *CSARS v Julian Brown (561/2016)*, the taxpayer argued that SARS was on a 'fishing expedition' when SARS argued as follows:

'If a request for relevant material is received, a person 'must submit the relevant material to SARS at the place and within the time specified by SARS in the request', as required under section 46(4) of the TAA.

There are, however, circumstances where a request for information must be carefully scrutinised before SARS is furnished with a reply.

Our approach

Our professional team of advisors are here to guide and assist you with requests for information from SARS. Alternatively, we can manage the tax audit for you, ensuring that the correct internal practices and procedures are followed so that your SARS tax audit is managed in the most proactive manner.

Our team comprises accountants and attorneys who specialise in the full range of tax services that clients might require when dealing with SARS.

Elle-Sarah Rossato is our Lead in Tax Controversy and Dispute Resolution. She has 16 years' experience as an admitted attorney, 14 of which have been devoted to dispute resolution, tax litigation, debt management and international revenue assistance. She joined SARS in 2003 as a tax lawyer, where she managed high-profile cases involving audits, legal advice and litigation, assisted with debt recovery, and handled all incoming international requests for information. Her duties furthermore included litigation on behalf of other revenue agencies in South Africa. Before joining SARS, Elle-Sarah headed up the Tax Controversy and Dispute Resolution team for another Big Four auditing firm.

Service offerings

- Engaging with SARS regarding compliance and audits, i.e. managing your tax audit and dealing with all correspondence with SARS
- Liaising with SARS regarding debt management, i.e. suspension of payment, settlement/ compromises
- Voluntary disclosure (VDP) applications / Tax clearance certificates / Applications for remission for interest
- Objections / Appeals and alternative dispute resolution (ADR) representation

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SARS Watch:

Legislation		
20 Apr	Amendment of Rules (DAR 174)	Government Notice R. 431 published in Government Gazette No. 41577 with effect from 1 April 2018, amending the rules published in Government Notice R. 1874 of 8 December 1995
4 Apr	Table 3 – Rates at which interest-free or low-interest loans are subject to income tax	The South African Reserve Bank changed the "repo rate" to 7.5% on 29 March 2018 and the interest rate table in accordance with section 1, "official interest rate", has been updated accordingly.
Rulings		
20 Apr	BPR 301 – Taxation of dividends received by a borrower under a securities lending arrangement	This ruling determines whether a South African-sourced dividend received by a borrower in terms of a securities lending arrangement must be included in the "income" of the applicant and whether any related securities lending expenditure will be deductible.
26 Apr	BPR 302 – Corporate restructuring and unbundling of listed shares	This ruling determines the tax consequences for the applicant and the co-applicants of the proposed corporate restructuring and unbundling of listed shares to shareholders.
Case law		
25 Apr	Marshall and Others v Commissioner South African Revenue Service	Constitutional Court of South Africa – an application for leave to appeal against a decision of the Supreme Court of Appeal on the proper interpretation of sections 8(5) and 11(2)(n) of the Value-Added Tax Act
28 Mar		Valuation of preference shares for the purposes of determination of a capital gain
28 Mar	CSARS v The Executors of Estate Late Sidney Ellerine	Valuation of preference shares for the purposes of determination of a capital gain
27 Mar	CSARS v Danwet	The issues on appeal were whether a Tax Court had the necessary jurisdiction to entertain and thereafter grant an application for condonation of the late filing of an appeal against an assessment.
Guides and forms		
25 Apr	Frequently asked questions: Increase in the VAT rate (Issue 4)	The FAQs are drafted to assist vendors and the public at large to obtain clarity and to ensure consistency on certain practical and technical aspects of implementing the change to the VAT rate.
20 Apr	Guide to Complete and Submit a Recognition of Transfer Form	The purpose of this guide is to provide guidance on the use and submission of the transfer form (ROT01) for transfers between funds and the purchase of an annuity form (ROT02) when annuities are purchased on retirement or the beneficiary purchases an annuity upon the death of the member or annuitant.
20 Apr	Refunds and Drawbacks	This document encapsulates the refund and drawback legal requirements, processing, requirements, and time frames allowed for refunds and drawbacks prescribed in sections 75 and 76 of the Customs and Excise Act.
18 Apr	Guide to Understatement Penalties (Issue 2)	This guide is a general guide on understatement penalties under Chapter 16 of the Tax Administration Act 28 of 2011.
6 Apr	Guide on US Foreign Account Tax Compliance Act (FATCA)	This is a general guide on the application and interpretation of specific issues arising from the statutory obligations placed on South African financial institutions in terms of the agreement between South Africa and the United States of America.
29 Mar	Short guide to the Tax Administration Act, 2011	The guide is provided to assist taxpayers to understand their obligations and entitlements under the Tax Administration Act No. 28 of 2011, which commenced on 1 October 2012.
29 Mar	External Completion Manual: DA179 and Schedule	The manual will assist licensees of Manufacturing Warehouses (VM) in the sugary beverages industry to complete the monthly Health Promotion Levy Return for Sugary Beverages (DA 179 and DA 179.01).
29 Mar	Health Promotion Levy on Sugary Beverages	This Customs and Excise policy document applies to manufacturers in the sugar beverages industry as a result of the implementation of the health promotion levy on sugary beverages.
28 Mar	Draft guide on the calculation of the tax payable on lump sum benefits (Issue 3)	This guide provides general guidance on the calculation of the tax payable on the taxable portion of lump sum benefits from retirement funds in South Africa. Comments must be submitted to SARS by Friday, 29 June 2018.

Davis Tax Committee (DTC)		
12 Apr	DTC – Report on feasibility of a wealth tax in South Africa	The report addresses the feasibility of a net wealth tax in South Africa as a means to reduce wealth inequality.
12 Apr	DTC – Report on the public benefit organisation and the tax system	The report examines whether the present tax dispensation remains appropriate to the needs of South Africa as a country.
12 Apr	DTC – Final VAT Report	This report replaces the December 2014 interim report that was published in July 2015.
12 Apr	DTC – Report on the efficiency of South Africa's corporate income tax system	This report reviews certain aspects of the South African corporate income tax structure that impact on its efficiency and comes up with recommendations for reform where the current structure is considered to be inefficient.
Organisation for Economic Cooperation and Development (OECD)		
18 Apr	OECD and IGF invite comments on a draft practice note that will help developing countries address profit shifting from their mining sectors via excessive interest deductions	Comments must be submitted by 18 May 2018 and should be sent by email to CTP.BEPS@oecd.org.
17 Apr	Public comments received on misuse of residence by investment schemes to circumvent the Common Reporting Standard	This document contains the public comments received by the OECD in respect of schemes to circumvent the Common Reporting Standard.
Other publications		
13 Apr	Tax Alert – Davis Tax Committee: Final reports and conclusion of work	On 12 April 2018, the Davis Tax Committee released its four final reports and announced the conclusion of its work based on its Terms of Reference. The alert highlights the outcomes from the reports released.
6 Apr	Tax Alert – SARS' Diesel Refund Scheme	The alert looks at diesel refund scheme relief that is available to primary producers in mining, farming, forestry and various other defined sectors in terms of the Customs and Excise Act.
27 Mar	Tax Alert – Lesotho VAT rate increase	Lesotho issued an extraordinary Government Gazette, Volume 63, No. 24, dated 23 March 2018, confirming that the VAT rate would be increased on 1 April 2018 on electricity from 5 per cent to 8 per cent; on telecommunications from 5 per cent to 9 per cent; and on all other supplies from 14 per cent to 15 per cent.