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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Materiality in VAT disputes

The Tax Court in Johannesburg recently handed down judgment in a dispute between a vendor and SARS in which SARS, after making a substantial refund including interest, sought to reclaim the interest because of omissions from the VAT return which would have reduced the amount of the refund.

In Case Number VAT1712, there had been two issues. The first related to the claim made by the vendor in respect of input VAT for purchases of gold in a micro-refining enterprise and the second related to interest that SARS had paid to the vendor when making a VAT refund payment. Two separate judgments were issued. We discuss here the judgment relating to SARS' attempt to recover the interest that it had paid together with a refund.

The VAT returns rendered by the vendor for the months from December 2015 to March 2016 resulted in SARS being indebted to the vendor in an amount of approximately R71m. SARS conducted a limited scope audit in June 2016 and determined that the refund was indeed payable. However, based on certain risks it identified, it passed the matter to the Investigative Audit Unit for further consideration.

In September 2016, the vendor sought an order in the Johannesburg High Court to compel SARS to pay its refund together with interest. SARS did not oppose the application, and an order was granted. Payment was made of the tax due together with interest in December 2016.

In the course of the audit, it was discovered that the vendor had not accounted for output VAT on the use of a motor vehicle by its member during three of the months in an amount of R200.36 per month. It issued assessments for the amounts in question. The vendor's objection was disallowed, and, in the response, SARS claimed that it was entitled to repayment of the interest that it had paid in respect of the refunds for those periods.

The vendor appealed to the Tax Court, and judgment was given on 29 April 2020.

The law

Windell J had no difficulty in finding that the assessment to VAT in respect of the fringe benefit granted to the member by the vendor was properly made and that the vendor was liable for the amounts so assessed. The law on this issue is not discussed further.

The critical issue was whether the vendor was liable to make repayment to SARS of interest that had been paid to it by SARS in December 2016.

Section 45(1) of the Value-added Tax Act provides:

> '(1) Where the Commissioner does not within the period of 21 business days after the date on which the vendor's return in respect of a tax period is received by an office of the South African Revenue Service refund any amount refundable in terms of section 44 (1), interest shall be paid on such amount at the

prescribed rate (but subject to the provisions of section 45(A) and calculated for the period commencing at the end of the first-mentioned period to the date of payment of the amount so refundable: Provided that—

(i) where such return made by the vendor is incomplete or defective in any material respect the said period of 21 business days shall be reckoned from the date on which—

(aa) the vendor rectifies the return and satisfies the Commissioner in writing that the incompleteness or defectiveness of the return does not affect the amount refundable; or

(bb) Information is received by the Commissioner to enable him to make an assessment upon the vendor reflecting the amount properly refundable to the vendor;'

SARS' case was that the vendor had filed defective returns and that the defect only became evident when the investigative audit was undertaken, and therefore any interest that related to the period prior to the identification of the defect was not lawfully payable and was required to be repaid by the vendor.

The judgment

It was determined in the judgment that the vendor was liable to pay the additional VAT of R600.09.

The vendor's argument was that the additional amount of VAT that was assessed was a trifling amount and that it could not sustain a conclusion that the returns filed were 'incomplete or defective in any material respect'.

Windell J summarised SARS' position at paragraph [20] of the judgment:

'SARS's contention is the following: [the vendor's] failure to declare the fringe benefit amounted to non-compliance with the provisions of section 18(3) of the Act and constitutes an "error". The "error" is material to SARS and non-compliance with the relevant provisions of the tax Acts could simply not be condoned. The Commissioner is tasked with collecting all the taxes due to the fiscus, regardless of how "immaterial" they may seem to be. If the "error" was so immaterial, this could have easily prompted [the vendor] to declare the output tax before it was caught by SARS.'

In considering this aspect, Windell J considered the application of the concept in insurance law and at paragraph [22] quoted the following passage from Qilingile v SA Mutual Life Assurances Society 1993 (1) SA 69 (A) at 74:

'… what has to be ascertained is whether the result likely to have been caused by the misrepresentation is material. Materiality is not a relative concept; something is either material or it is not. Etymologically the word "material" ("wesenlik" in Afrikaans) denotes substance, as opposed to form. In legal parlance it bears a correspondent meaning: "Of such significance as to be likely to influence the determination of a cause … ." (The Shorter Oxford English Dictionary Vol 2 at 1289.)

Conformably, its meaning in insurance law is significant in relation to the determination of the risk.'

At paragraph [23] of the judgment Windell J clarified that section 45(1) is clear in its purpose in making SARS liable to interest on refunds such that:

'SARS was thus obliged, on first principles, to make payment thereof within 21 days after the date on which [the vendor's] returns were received. It failed to pay make payment and was liable to pay interest, except if the returns were incomplete or defective in any material respect.'

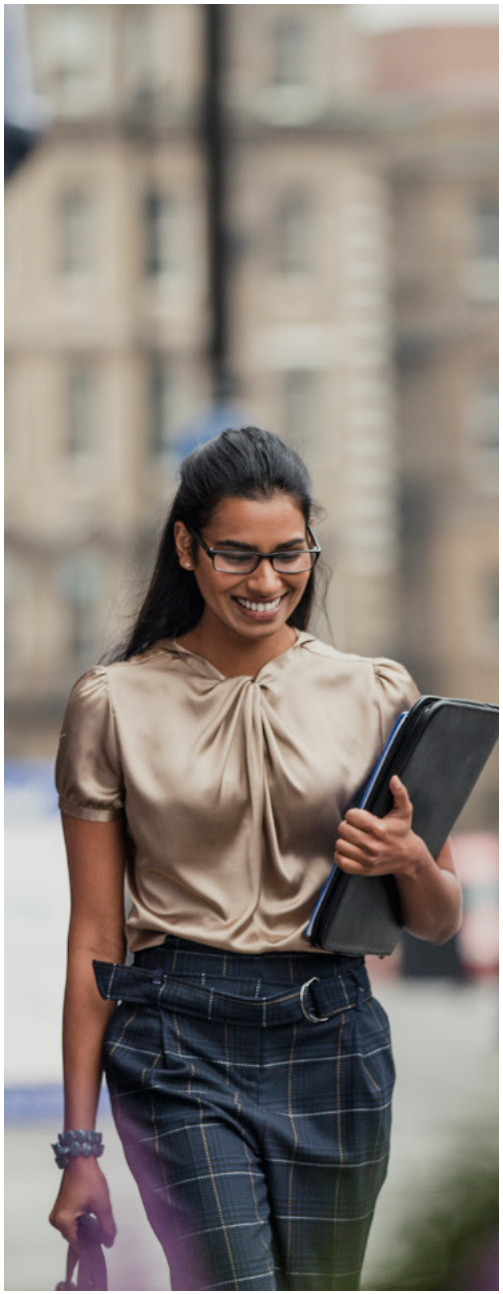
The assertion by SARS that any omission from a return is 'material' was roundly rejected. Windell J found that the provisions of section 45(1) did not support such a finding. She held at paragraph [25]:

'Section 45 is a pragmatic provision not concerned with principle but with materiality. It recognises the fact that vendors may render returns that are incomplete or defective. If it were a matter of principle then any defective or incomplete return would carry the consequence of SARS not having to pay interest. But, the Legislature, in its wisdom, determined that expedience trumps principle insofar as the payment of interest by SARS is concerned.'

In the case under consideration the defect related to some R600 in relation to a refund of R71m, a ratio of 1:180 000 or 0.0006%. Windell J therefore concluded, at paragraph [26]:

'This fraction does not satisfy the materiality test that the Legislature included in section 45 of the VAT Act. In the premises the attempt to rely on the fringe benefit errors is a transparent attempt for SARS to ex post facto wriggle out of its obligations vis-à-vis [the vendor]'

Judgment on this issue was given in favour of the vendor and SARS was ordered to pay the costs of arguing this issue.



The takeaway

The ability to defer the date from which interest is payable is peculiar to the VAT Act, and the provisions of section 45(1) apply, notwithstanding that there are provisions in the Tax Administration Act which regulate the payment of interest by SARS.

The Tax Administration Act (TAA) confers on SARS the right to defer the payment of a refund pending the outcome of a verification, inspection or audit of a refund. Unfortunately, the provisions of the TAA which determine the date from which interest shall be reckoned in respect of a variety of circumstances have not yet been brought into effect.

It appears that it is intended that section 45(1) will nevertheless continue to govern the payment of interest on VAT refunds even after the specific provisions are promulgated.

Vendors should examine carefully any refunds where interest paid does not appear to run from the due date of payment.

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Employment tax COVID-19 chronicles: Home office expenses for employees – can you or can't you?

In these difficult times, it appears that many employers are receiving questions from their employees regarding whether, and how, they can assist their employees in being able to claim a personal tax deduction in respect of working from home. In this article, we will be discussing the possible deduction an employee could claim for home office expenditure and to what extent, if any, an employer can assist employees in making such a claim.

Amongst the COVID-19 tax changes that have been announced so far, as well as in the recent draft tax proposals released for comment on 31 July 2020, nothing has been announced in terms of any special relief provisions for employees now needing to work from home. Therefore, one should look to existing legislation and guidelines to determine any relief available. Although there have been some requests for specific changes to this legislation in light of the COVID-19 developments, National Treasury has resisted any pressure in this regard, presumably on the basis that current provisions suffice.

General requirements to be met

Without getting too technical, one needs to understand some basic mechanisms of the Income Tax Act.[1] The first is that taxpayers are not permitted to deduct private or domestic expenditure in their tax return, except for a few specific cases (e.g. retirement fund contributions, medical expenditure under certain circumstances, etc). A general deduction needs to meet the requirements of section 11(a) and 23(g) to be an allowable deduction. These requirements are that an expense or loss must be:

- actually incurred,
- in the current year of assessment,
- in and for the purposes of carrying on of any trade (including employment),
- incurred 'in the production of income', and
- cannot be capital in nature.

Requirements specific to an employee

Further to the above requirements, section 23(m) limits the possible deductions that are available for an employee in particular, once again to certain specific expenses (e.g. retirement fund contributions, certain legal fees, depreciation, etc). In other words, even if all the above requirements are met, one would still need to ensure section 23(m) does not limit that expenditure. Fortunately, home office expenditure is permitted under section 23(m).

Where an employee is incurring (non-capital) expenditure during COVID-19 in respect of an office at home in order to tender services to an employer, one would be satisfied that, on the face of it, the above requirements are met. However, it is worth mentioning that one must always ask the question 'are my expenses incurred directly related to my employment, or in the production of my income?'

Improvements to one's home, such as building on an additional room to use as an office, will not be deductible, since that expense is typically capital in nature. Allowable non-capital home office expenses typically include stationery, telephone bills, rent, rates and taxes, interest on bond repayments, cleaning expenses, wear and tear on assets, internet expenses and repairs. It is also important to note that any items that the employer provides to the employee, such as laptop computers, 3G card or office furniture,

1 No. 58 of 1962

would in any event not be deductible in the employee's hands since it is not an amount actually incurred by the employee. We will discuss the tax consequences of employer-provided equipment and furniture in a future article.

Once one is satisfied that the above requirements are met (i.e. in principle the expenses are deductible in terms of section 11(a) and not specifically prohibited in terms of section 23(m)), an employee or office holder in receipt of remuneration must ensure that the requirements of section 23(b) are also met. In order for the home office expense to qualify under this section (being typically a pro rata percentage of mortgage interest, rates and utilities, rent and/or levies, based on the floor area of the office compared to the total floor area of the house), once again the normal rules governing employees being able to claim a tax deduction for such expenses would apply. In terms of section 23(b), an employee would only be entitled to claim such an expense if:

- the area used as a home office is **specifically equipped** for purposes of the taxpayer's trade only **and**
- **regularly and exclusively** used for such purposes (i.e. it cannot be a dining room table or a desk in a spare bedroom, but must be an area specifically set up as an office and **used only for that purpose) and**
- either the employee's income must consist mainly of commission or other variable payments which are based on the employee's work performance or the employee's duties must be **mainly*** performed in the home office.

*The word 'mainly' has been interpreted to mean more than 50%.

From the above specific requirements of section 23(b) it is clear that not all employees who have been working from home during the lockdown period will qualify for a home office deduction. Only those who meet all of the required provisions will qualify and the onus will be on them to prove these facts, should SARS query the claim.

Requirements to work mainly from home

The question has arisen as to whether the fact that the employee's duties must be performed in the home office in light of COVID-19 requirements is sufficient to meet that part of the requirement, or whether the employer must specifically direct the employee to work from home. There is some guidance from the Courts on this matter.

In Kommissaris van Binnelandse Inkomste v Van Der Walt 48 SATC 104 (a case that was decided before the current versions of section 23(b) and (m) were in force), it was held that a university lecturer could claim his home study expenses, where he worked after hours as a lecturer and doctoral candidate. He established the necessary connection between expenditure claimed and his earnings, since he showed that he had, in good faith, incurred the expenditure for the more efficient discharge of the duties of his employment. This leads one to conclude that there is no requirement for the employer to expressly instruct the employee to work from home in order to meet this requirement. It is a factual enquiry as to whether the employee did in fact mainly perform their duties of employment in their home office of not. If the employee is able to prove that they did mainly perform their duties from their home office, then this requirement should be met. Nevertheless, it would still be preferable if the employee was able to prove that working from home was a requirement by the employer.

Capital gains tax consequences

An often overlooked but important point to note is the future capital gains tax consequences of the above for the employee. Where an employee works at home and claims a tax deduction in respect of home office expenses, that home office now becomes a place of trade and no longer forms part of the employee's primary residence. Normally, when a primary residence is sold, there is an exclusion from the capital gains tax calculation for such primary residence, known as the primary residence exclusion. A person who has claimed a tax deduction in respect of home office expenditure will now have to apportion the primary residence exclusion to only the portion of the house that is used for residential purposes, i.e. they will have to exclude the square metres of the home office. For example, if the area of the home office is 10% of the total area of the house, then only 90% of the primary residence exclusion can be claimed on disposal of the property.

The takeaway

As is evident from the above, the rules for claiming home office expenses are very strict and not of general application, since very specific requirements need to be met to enable an employee to claim such an expense as a tax deduction. From a practical perspective, the employee would need to complete the ITR12 tax return to claim such expenditure and can expect some practical challenges in being able to claim the expense in their tax return on efiling. Since the onus of proof is on the taxpayer, the South African Revenue Service will very likely ask a taxpayer making a home office claim to prove that all the above requirements are met and will typically disallow the expenditure if they are of the view that all of the necessary requirements are not met or the employee is unable to prove the expenditure claimed.

Since there appears to be much misinformation in the public domain regarding this matter, employers are therefore advised to inform their employees of the requirements to qualify to claim home office expenses as a tax deduction in their tax returns and also point out the potential implications for them if they do. Employees should be counselled to proceed with caution as regards claiming a tax deduction for home office expenses and preferably advised to obtain tax advice from a reputable tax adviser before embarking on the process. If the demand warrants it, they could consider holding information sessions for their employees (via an appropriate online forum) where the requirements are explained, risks are pointed out, employees afforded an opportunity to ask questions, and misinformation clarified by a suitably qualified tax expert.

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Tax dispute finally determined in the Constitutional Court

Tax disputes are rarely considered by the Constitutional Court. The reason for this is that they are usually decided on issues of fact or involve a question of the interpretation of law between the taxpayer and SARS and seldom involve issues of law that are relevant to the public at large. The disputes are therefore seldom within the jurisdiction of the Constitutional Court. On 21 July 2020, the Constitutional Court issued a judgment in the matter of Big G Restaurants (Pty) Ltd v CSARS [2020] ZACC16 (21 July 2020), in which it found that the matter fell within its jurisdiction.

The Court's jurisdiction is prescribed in section 167(3) of the Constitution of the Republic of South Africa, 1996, which provides:

> '(3) The Constitutional Court—
>
> (a) is the highest court of the Republic; and
>
> (b) may decide—
>
> (i) constitutional matters; and
>
> (ii) any other matter, if the Constitutional Court grants leave to appeal on the grounds that the matter raises an arguable point of law of general public importance which ought to be considered by that Court; and
>
> (c) makes the final decision whether a matter is within its jurisdiction.'

The Constitutional Court must, in each matter, determine whether the matters that are placed before it fall within its jurisdiction before considering the legal merits. By a majority of seven to two, the judges of the Constitutional Court found that the matter fell within the Court's jurisdiction.

The issue related to the interpretation of section 24C of the Income Tax Act, No. 58 of 1962.

- The taxpayer had argued that the income that had accrued to it had been derived by reason of the franchise agreements that it had entered into to operate Spur and Panarottis restaurants and that the selfsame contract obliged it to incur expenditure in the future to effect refurbishment of its operating premises. Although the income came from the sale of food and beverages to patrons, the contracts were so inextricably linked that, without the franchise agreement, the income could not be derived.
- The Commissioner urged that the income that had accrued arose from contracts with patrons of the restaurants and these contracts imposed no future obligation on the taxpayer to effect refurbishment to its operating premises.

On the question whether the matter was within the jurisdiction of the Constitutional Court, the taxpayer argued that *'the matter raises an arguable point of law of general public importance'*, whereas the Commissioner contended that *'this matter does not transcend the narrow interests of Big G and does not implicate the interests of a significant part of the general public.'*

The three issues to establish jurisdiction are:

- Is the matter in dispute a point of law?
- Is the point arguable?
- Is it of general public importance?

The majority judgment

The judgment was delivered by Madlanga J. On the first issue, the majority found at paragraph [11]:

> 'This matter involves the interpretation of the franchise agreements and the individual contracts of sale of food. In this regard, the question is whether the franchise agreements and the contracts of sale of food are so interlinked that the sale of food income may be held to be income that accrues in terms of each franchise contract; each franchise agreement, of course, being the contract that imposes the obligation to revamp in future and thus creates the future expenditure. This interpretative question is a quintessential point of law.'

In determining whether a point of law is arguable, the Court had earlier held in *Paulsen v Slipknot Investments 777 (Pty) Ltd* [2015] ZACC 5:

> 'The notion that a point of law is arguable entails some degree of merit in the argument. Although the argument need not, of necessity, be convincing at this stage, it must have a measure of plausibility. . . . [T]he word "arguable" is used "in the sense that there is substance in the argument advanced".'

Here, the Court found that the point was arguable, apparently based on the content of the judgment in the proceedings in the Tax Court, which suggested that there might be substance in the arguments raised in the application for leave to appeal.

On the third issue, the Court found, at paragraph [14]:

> 'The point is of general public importance. It is hardly likely that within the Spur Group Big G's franchise agreements are unique. Also, we can take judicial notice of the obvious fact that Spur restaurants in particular – not so much Panarottis restaurants – are spread across the length and breadth of South Africa. So, a determination of the contested issue is likely to affect Spur franchisees throughout South Africa. The issue "transcend[s] the narrow interests of the litigants and implicate[s] the interest of a significant part of the general public". That general public is the several other Spur franchisees spread across South Africa.'

The majority was at pains to prescribe the limits that engaged the Constitutional court's jurisdiction, at paragraph [16]:

> 'I carefully and specifically link the relevance of interpreting section 24C(2) to the legal question of interpreting the contracts so that this judgment should not be read to say it is now open season for appeals on the interpretation of any provision of the Income Tax Act to be brought to this Court.'

Having determined that it had jurisdiction, the Court considered the merits and dismissed the appeal.

The minority judgment

In the judgment delivered by Majiedt J, the minority considered that the application for leave to appeal had not cleared the jurisdictional hurdle and that it ought not to have received the consideration of the Constitutional Court.

The reasoning of the minority was that, of the issues raised, only the first issue – the interpretation of the term 'in respect of' as used in section 24C – conceivably fell within the Court's jurisdiction. The second issue, the minority found, was whether two separate contracts could be interpreted as constituting 'a contract'.

Dealing with the second issue, the minority found, at paragraph [40] to [41]:

> '[40] Here, the facts were not in issue and the case was presented and argued in the Tax Court as a stated case on common cause facts. It is patently obvious that there is no law involved in determining—
>
> (a) from which contract the income is derived (Big G concedes that it is from the patron contract); and
>
> (b) whether the two contracts are so inextricably linked that it matters not from which one the income is derived.
>
> [41] These are purely factual enquiries and nothing more. The attempt to dress them up as questions of law is untenable and ought to be rejected without more …'

On the interpretation of the words used in section 24C, the minority considered that there was no ambiguity in the wording of section 24C. It deals with income derived in terms of a contract and expenditure to be incurred in fulfilling obligations under such contract. Majiedt J considered, at paragraph [44], that:

> 'It cannot be that an enquiry into (a) which of two contracts give rise to the income, or (b) whether they can be regarded as a single contract for the purpose of interpreting the phrase "in terms of", amounts to a constitutional issue or an arguable point of law of general public importance. The meaning of that phrase seems to me to be quite obvious. It plainly equates to "concerning", "regarding", "relating to", "pertaining to", or "with regard to". The Supreme Court of Appeal's reasoning and conclusion on this meaning cannot be faulted. The main judgment also accepts that reasoning and conclusion, preferring it over the contrary finding of the Tax Court. Once that finding is made, there is no basis on which it can be contended that an enquiry into a narrow or wide interpretation of the phrase constitutes a jurisdictional basis for hearing the matter. I therefore conclude that, as is the case with the interpretation of the two agreements, the interpretation of "in terms of" in section 24C(2) involves no law, but simply facts.'

Majiedt J was acutely aware of the risks of opening the door to applications based on factual issues and made this clear in paragraph [45]:

> 'The main judgment finds that determining whether the income that accrues is income in respect of which the section 24C(2) allowance may be deducted, is a legal question. And it states that the ensuing question of the interlink between the contracts "interpretative question is a quintessential point of law." I respectfully disagree. These are plainly questions of fact. That approach will, with respect, result in a deluge of litigants claiming that this Court has jurisdiction in matters which involve purely factual determinations.'

As to general importance, the minority was unpersuaded. It found that no evidence had been placed before the Court to establish that the contract in question was the same for all Spur franchisees and rejected the concept of a 'one size fits all' approach. The conclusion of the minority, at paragraph [48], was:

> 'In conclusion, save for arguability, this matter falls short in every respect of the jurisdictional standard set out in section 167(3)(b)(ii). It can be said to be arguable, due to the conflicting judgments of the Tax Court and the Supreme Court of Appeal, but even if it does entail a point of law, it is not one of general public importance.'

The takeaway

The decision is historic in the sense that income tax matters rarely meet the jurisdictional hurdles established in the Constitution. In the main, tax disputes are contingent on the manner in which the law should be interpreted and applied in light of the specific facts. It is evident that the Constitutional Court is reluctant to become the final court for the determination of tax disputes.

That said, the Supreme Court of Appeal (in Telkom SA SOC Ltd v CSARS [2020] ZASCA 19 at paragraph [15]) has stated that the interpretation of the law should be consistent, regardless of the specific factual circumstances:

> '… it is axiomatic that a statute must apply to all subjects equally and that its interpretation cannot vary from one factual matrix to the next. It is impermissible to apply a particular meaning to legislation, depending upon the factual situation, in which it is sought to be applied.'

There is therefore a tension between whether the issue hinges on the facts and whether the facts are relevant in establishing the interpretation to be applied to the words used in a statute. This may yet have to be resolved.

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SARS Watch

SARS Watch 1 August 2020 – 31 August 2020

Legislation		
31 August 2020	Disaster Management Tax Relief Bill [B11B—2020]	The National Assembly passed the following Disaster Management Tax Relief Bill, as amended by the Standing Committee on Finance, on 25 August 2020.
31 August 2020	Disaster Management Tax Relief Administration Bill [B12B—2020]	The National Assembly passed the following Disaster Management Tax Relief Administration Bill, as amended by the Standing Committee on Finance, on 25 August 2020.
28 August 2020	Rules amendments under sections under sections 8, 38, 59A, 60, 64B, 64G, 66, 69, 120A and 120 – Miscellaneous amendments to the Rules, including a number of corrections and deletions, amendments in relation to the entry for export of certain goods, amendments in relation to the definition of 'day' in rules under sections 59A and 60, the deletion of forms DA 30 and DA 31, the substitution of form DA 306, and the insertion form DA 306A (DAR202)	Notice R938 published in Government Gazette No. 43661 with an implementation date of 28 August 2020.
14 August 2020	Amendment of Part 1 of Schedule No. 2, by the insertion of anti-dumping items 213.03/7005.29.17/07.08; 213.03/7005.29.23/07.08; 213.03/7005.29.25/06.08 and 7005.29.35/07.08 in order to impose anti-dumping duties on clear float glass of a thickness of 3mm to 6mm originating in or imported from Egypt and manufactured by Guardian Egypt – Egyptian Glass Company SAE – ITAC Report 623	Notice R888 published in Government Gazette No. 43614 with an implementation date of 14 August 2020.
14 August 2020	Amendment to Part 1 of Schedule No. 2, by the substitution of anti-dumping item 213.02/6809.11/06.06 in order to maintain anti-dumping duties on gypsum plasterboard originating in or imported from Thailand and Indonesia (excluding that manufactured by PT. Siam-Indo Gypsum Industry) – ITAC Report 624	Notice R887 published in Government Gazette No. 43614 with an implementation date of 14 August 2020.
12 August 2020	Table 1 – Interest rates on outstanding taxes and interest rates payable on certain refunds of tax	Interest rates charged on outstanding taxes, duties and levies and interest rates payable in respect of refunds of tax on successful appeals and certain delayed refunds will be 7,25% from 1 September 2020.
12 August 2020	Table 2 – Interest rates payable on credit amounts	The interest rates payable on credit amounts (overpayment of provisional tax) under section 89quat(4) of the Income Tax Act 58 of 1962 will be 3,25% commencing 1 September 2020.
11 August 2020	Rule amendment under sections 19A and 120 – Rule 19A.11, to provide for further deferral period in respect of payment of excise duties on certain products (DAR201)	Notice R876 published in Government Gazette No. 43608 with an implementation date of 11 August 2020.
7 August 2020	Draft rules amendments under sections 59A, 60 and 120 – Rules 59A.01A and 60.10(1) – Calendar day grace period	Comments must be submitted to SARS by Friday, 21 August 2020.
Case law		
According to judgment date		
25 August 2020	Absa Bank Limited and Another v CSARS (21825/2019) [2020] ZAGPPHC	Whether it is appropriate to exercise the jurisdiction to grant review relief in respect of the decisions to issue letters and notices of assessment in all the circumstances, as opposed to requiring the applicants to pursue the mentioned statutory remedies.
21 August 2020	BP Southern Africa (Pty) Ltd v Commissioner for the South African Revenue Service (19955/2020, 22772/2020) [2020] ZAGPPHC 331	The applicant ('BP SA') sought interim relief in the form of an interdict, in essence prohibiting the respondent ('CSARS') from executing on a debt management certified statement (civil judgment) obtained in terms of Section 114(1)(a)(ii) of the Customs and Excise Act, 91 of 1964.
27 March 2020	SARSTC 13720 (ADM) [2020] (Johannesburg)	Whether the Respondent ('CSARS') was entitled to revise certain assessments and impose understatement penalties of 125% on the Appellant.
29 April 2020	SARSTC VAT 1712 (VAT) [2020] (Johannesburg)	Whether the Appellant was entitled to input tax claims and whether it met the requirement of 'supplies' in the VAT Act.
29 April 2020	SARSTC VAT 1712 (VAT) [2020] (Johannesburg)	Whether the Appellant was liable for output tax in respect of fringe benefits under section 18(3) of the VAT Act.

Rulings		
26 August 2020	BPR 350 – Vesting of a capital gain in a trust beneficiary and deferral of its payment	This ruling determines the tax consequences of the vesting of a capital gain in a beneficiary, where the payment of the capital gain is deferred at the discretion of the trustees and the capital gain is invested on behalf of the beneficiary.
25 August 2020	BPR 349 – Acquisition of equity shares in non-resident REIT	This ruling determines the income tax and dividends tax consequences of property income distributions to be made by a foreign REIT.
25 August 2020	BCR 074: Treaty relief – Authorised contractual scheme	This ruling determines that UK investors in an authorised contractual scheme are entitled to claim treaty relief on income from SA equity and debt instruments.
25 August 2020	BCR 073 – Dividends: When the 'qualifying purpose' definition must be satisfied	This ruling determines when the definition of 'qualifying purpose' must be satisfied for purposes of section 8EA(3) if third-party backed shares pay dividends.
7 August 2020	BCR 072: Deductibility of employment related expenditure, incurred as part of a B-BBEE ownership transaction and the PAYE treatment of interest-free loan to a share trust	The ruling confirms that the advance of an interest-free loan by the listed holding company of the applicant and class members to a managers' trust destined to hold a percentage of the B-BBEE company would not constitute a taxable benefit, with the effect that no PAYE withholding obligation would arise in respect thereof.
Guides and forms		
21 August 2020	Tax Guide for Small Businesses (2019/20)	This guide contains information about the tax laws and some other statutory obligations applying to small businesses.
14 August 2020	Income Tax Exemption Application Checklist	The list contains the documents required when completing the EI1 application form.
12 August 2020	SARS Online Query System	The purpose of this document is to assist taxpayers understand how to raise queries with SARS on the SARS Online Query System (SOQS) to avoid having to go to a branch.
Other		
26 August 2020	Media Statement: African Tax Administration Forum discusses Taxation in the Digitalised Economy	The media statement highlights the key areas that the Deputy Minister of Finance, Dr David Masondo discussed at the African Tax Administration Forum (ATAF).
25 August 2020	2020082501 Ministry Speaking Notes – Parliamentary Debate Tax Bills	National Treasury published the speech that the Minister of Finance gave to the National Assembly regarding the Disaster Management Tax Relief Bills.
24 August 2020	Tax Alert: African Continental Free Trade Agreement	The African Continental Free Trade Agreement (AFCFTA) is set to come into effect on 1 January 2021.
11 August 2020	Tax Alert: Mining Tax: Significant legislative changes proposed in draft legislation	This alert discusses the proposed amendments that, if enacted, will have a significant impact on the mining industry.
10 August 2020	OECD Taxation Working Papers 49: Reassessing the regressivity of VAT	This paper reassesses the often-made conclusion that VAT is regressive, drawing on tax micro-simulation models constructed for an unprecedented 27 OECD countries.
7 August 2020	Tax Alert: Proposed amendments relating to doubtful debt allowances	This alert discusses the proposed amendments to paragraphs (j) and (jA) of section 11 of the Income Tax Act, 1962.
6 August 2020	Tax Alert: Real Estate Investment Trusts (REITs): Proposed income tax amendments	The purpose of this Alert is to provide a high-level overview of the proposed amendments, with an effective date of 1 January 2021.

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