Synopsis

Tax today

February 2020

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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Tax obligations

In order to avoid having to pay penalties, employers are cautioned to fulfil their employees' tax obligations to SARS expeditiously

With the consistent fall in tax collections by the South African Revenue Service (SARS), SARS remains under pressure to collect taxes. In current times, we have seen a rise in SARS levying penalties and interest on those taxpayers who do not make payment of their taxes within the stipulated timeframes.

The recent case of *ABC (Pty) Ltd v The Commissioner for the South African Revenue Service*, case number: 24819, highlighted the importance of employers ensuring that employees' tax (PAYE) is paid within a week that the amount of PAYE is deducted or withheld from an employee's salary or wage.

In this case the appellant, i.e. the employer, had filed and submitted its EMP201 monthly declaration for the 2017/12 PAYE return on 18 December 2017 and initiated an e-filing payment of the amount of PAYE due to SARS, with the understanding that the payment would be presented to the bank by SARS on 3 January 2018.

The PAYE amount was due and payable to SARS within seven days after the end of December 2017. The employer, however, experienced an unforeseen credit shortage, resulting in the payment being released by the employer only on 8 January 2018.

In the interim, SARS had imposed a penalty assessment of more than R1 million on the employer in terms of, *inter alia*, paragraph 6(1) of the Fourth Schedule to the Income Tax Act, No. 58 of 1962 (ITA).

The employer requested a remittance of the aforementioned penalty in terms of section 217(3) of the Tax Administration Act, No. 28 of 2011 (TAA), which provides that SARS may remit the penalty or a portion thereof if SARS is satisfied that:

a. The penalty has been imposed in respect of a first incidence of non-compliance or involved an amount of less than R2000;

b. Reasonable grounds for the non-compliance exist; and

c. The non-compliance in issue has been remedied.

According to the employer's understanding of the timeframe for payment, it maintained that it was compliant with the provisions of the Fourth Schedule to the ITA and the TAA, and the penalty should not have been imposed at all. Alternatively, should the court find that payment was made out of time, the circumstances surrounding the slightly late payment of the employees' tax establishes objectively reasonable grounds for its non-compliance.

SARS, however, refused to accede to the employer's request on the basis that the employer made payment of the PAYE late.

SARS argued that due to the fact that the declared amount was not paid over to SARS by 6 January 2018, the employer is deemed to have used or applied the declared amount for purposes other than the payment to the Commissioner of SARS and the burden of proof is on the employer to prove otherwise.

SARS contended further that the grounds that the taxpayer offered as reasons for late payment, namely 'the employer was waiting for the debtors to make payment', do not satisfy SARS that reasonable grounds exist for the non-compliance but demonstrate reasonable steps to remedy the non-compliance.

In arriving at its decision about whether reasonable grounds for the non-compliance exist, the court considered, *inter alia*, the framework of the Fourth Schedule, the day-counting rules in section 4 of the Interpretation Act No. 33 of 1957 read with the TAA and the grounds put forth by the employer to establish reasonable grounds for its non-compliance.

In respect of the framework of the Fourth Schedule, the court stated that:

> '[24] the Fourth Schedule is directed at requiring the employer to pay over to SARS within the week the exact amount of PAYE is deducted or withheld from the employee's salary or wage … The purpose of PAYE is to ensure that an employee's income tax liability calculated on remuneration is settled at the same time that the remuneration is earned. The advantage of this system is that the liability for the year of assessment is settled over the course of that whole year. The employer who pays becomes liable to pay the amount and deduct the amount for PAYE from the remuneration every month.'

In respect of the day-counting rules, the court pointed out that:

> '[26] It is evident that the Interpretation Act excludes Sundays and public holidays, whereas section 244(1) of the TAA includes Saturdays, Sundays and public holidays in calculating the dues. It must be borne in mind that the funds had already accrued to SARS upon on payment of an employees' salary, and the seven day period is merely an indulgence to facilitate payment by the employer. It can therefore reasonably be concluded that the intention of the legislature with regard to deadlines, envisaged that a deadline should be calculated in days, inclusive of Saturdays, Sundays and public holidays. The TAA envisages that a deadline may expire on a Saturday, Sunday or public holiday and directs that the last business day before the Saturday, Sunday or public holiday becomes the deadline, by calculating backwards. It must be borne in mind that the employees' tax had accrued to SARS at the end of the previous month, and calculating the dues backwards would not prejudice the employer in any manner.
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> [27] The intention of the legislature was clearly not to extend the period beyond seven days, but to calculate backwards in the event that a deadline falls on a Sunday or public holiday. I am satisfied that a proper interpretation of section 244(1) of the TAA directs that the deadline for the payment that was due should have been made on the last business day before the Saturday or Sunday, which was Friday 5 January 2018. This approach is consistent with the intention, purpose and scope of the legislation.'

In respect of the grounds put forth by the employer to establish reasonable grounds for its non-compliance, the court stated that:

> '[32] The appropriate test concerning whether an insufficiency of funds amounts to a reasonable excuse is to examine if the underlying cause of the insufficiency is reasonably foreseeable or reasonably avoidable. If it was reasonably foreseeable or avoidable, it will not amount to a reasonable excuse. As a general rule, bad debts do not amount to a reasonable excuse, since they are an inherent risk for most types of business.
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> [35] The rationale for this provision is that the amount of employees' tax due by the employer to the Commissioner constitute trustee funds (paras 2 and 16 (2C) of the Fourth Schedule to the ITA. It requires the director of the company to control or be regularly involved in managing the company's financial affairs and exercise her/his fiduciary duties as required by the Companies Act. In my view, the payment of the employees' tax should have been given preference to other payments of business debts...
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> [36] The following must … be noted with regards to the weeks before 5 January 2018:
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> a. The liability was known to the appellant as early as 18 December 2017 being the date on which the EMP201 return was filed;
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> b. The cash book administrator was tasked with the cash-flow management for this period;
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> c. Over-reliance was placed on the cash book administrator's responsibility…;
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> d. That the appellant was aware of a downward spiral in the economy, which was clearly illustrated on the cash flow forecast;
>
> e. That no other and alternative efforts, other than updating the cash flow forecast, were taken by the appellant to settle the liability.'

The court ultimately found that the lack of funds for payment of the PAYE amount could have been reasonably avoided, given the exercise of reasonable foresight, due diligence and proper regard for the fact that tax was due on 5 January 2018. Since the employer was also unable to prove that reasonable steps, other than reliance on the cash-flow forecast, were taken before the payment deadline to discharge the PAYE liability, the court was satisfied that the employer had failed to establish reasonable grounds for the late payment of employees' tax.

The takeaway

Every employer must pay the PAYE amount to the Commissioner within seven days after the end of the month during which the amount was deducted or withheld.

The TAA envisages that the deadline for payment may expire on a Saturday, Sunday or public holiday and directs that the last business day before the Saturday, Sunday or public holiday becomes the deadline for payment, by calculating backwards.

Any employer who misses a deadline in respect of its obligation to pay PAYE to SARS is subject to a penalty.

Employers must ensure that their tax or financial departments are fully equipped (in terms of professional staff and in terms of its systems) to make payment of PAYE to SARS timeously.

Where an employer foresees that it will not have enough cash to meet its tax obligations, other means must be explored by the employer for purposes of settling its tax debt timeously.

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Does the current policy underpinning the anti-dividend stripping rules accord with commercial reality?

The appreciation in value of a shareholder's equity interest in a company presents the shareholder with an opportunity to realise that appreciation. In order to do so, the shareholder may either (1) dispose of all or part of the equity interest; or (2) where the shareholder has sufficient influence over the affairs of the company (this will be the case where the shareholder has a significant shareholding in the company), cause the company to declare a substantial dividend.

Each of these options has its own tax consequences. A disposal of shares will give rise to a gain, which will invariably be subject to tax (whether on capital or revenue account). As a general principle (i.e. unless the dividend is exempt from dividends tax), the payment of a dividend by the company will trigger a liability for dividends tax.

In the case of a shareholder that is a resident company, dividends paid to the shareholder, as a 'beneficial owner' of the dividend, will, in terms of section 64F of the Income Tax Act, 1962, be exempt from dividends tax.

What is 'dividend stripping'?

Dividend stripping takes place where, in order to avoid anticipated tax that would be triggered on the disposal of shares in a company ('the target company'), the target company (before the sale of the shares) distributes a dividend to its shareholder. As stated above, if the shareholder is a resident company, the dividend is exempt from dividends tax. As a result of the payment of the dividend, the value of the shares (and therefore the taxable gain on their subsequent disposal) is reduced.

In a South African context, the anti-dividend stripping rules are contained in section 22B of the Act and paragraph 43A of the Eighth Schedule to the Act.

The rules were first introduced in 2009 in anticipation of the introduction of the dividends tax. As explained in the Explanatory Memorandum (EM) to the Taxation Laws Amendment Bill, 2009:

> 'The Dividends Tax can give rise to arbitrage opportunities for company shareholders. In particular, an incentive exists for company shareholders intending to sell shares to rather convert sale proceeds/consideration to dividends. As a general matter, this conversion eliminates capital gains … In some instances, this conversion may eliminate ordinary revenue. The conversion of taxable sale proceeds to exempt dividends requires some basic mechanics. In the simplest case, the target company being sold can distribute excess profits to the selling shareholders. These pre-sale dividends will reduce the selling price (thereby reducing sale proceeds/consideration for purposes of the tax calculation).
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> Pre-sale dividends of this nature may involve distributions by the target company of excess cash or of assets unwanted by the purchaser. Oftentimes, however, the target company does not have excess cash or assets that are unwanted by the purchaser. In these instances, the conversion of capital gains to pre-sale dividends will require indirect support from the purchaser. This indirect support can be in a variety of forms, including:
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> - The prospective buyer can make a contribution to the target company in exchange for target company shares so the contribution proceeds can be distributed as a pre-sale dividend; or
> - The target company can take out a loan from the purchaser or that is guaranteed, secured or otherwise initiated by the prospective purchaser so the loan proceeds can be distributed as a pre-sale dividend.'

As appears from the above extract from the EM, a fundamental consideration underlying the original design of the anti-dividend stripping rules was whether or not the relevant dividend was funded by the prospective purchaser. It was, at the very least tacitly, acknowledged that it is perfectly acceptable, from a commercial perspective, to distribute accumulated profits of a company by way of a dividend where the company had the funds to do so. In this regard, the EM goes on to state the following:

> 'While an argument could be made that pre-sale dividends are a mere accumulation of profits that could have been distributed previously, this argument becomes suspect once the cash funding is coming from the purchaser. Purchaser-funded pre-sale dividends economically amount to sale proceeds and will be utilised almost exclusively to undermine the South African tax base' (our emphasis).

In light of the above, the original anti-dividend stripping rules denied the company shareholder arbitrage advantage arising from dividend stripping arrangements only where the pre-sale dividend were directly (or indirectly) funded by purchasers.

Changes in 2017

The first significant changes to the rules were made in the 2017 legislative cycle. A significant shift in policy was signalled in the EM to the 2017 Taxation Laws Amendment Bill regarding the requirement that, in order for the anti-dividend stripping rules to apply, the dividend must have been funded directly or indirectly by the purchaser of the shares in the target company. In this regard, it was stated, in the section on the background to the amendments proposed by the 2017 Bill, that:

> 'This limitation that focuses on the manner in which the pre-sale dividend is funded was put in place because at the time, pre-sale dividends that were indirectly funded by the prospective purchaser were viewed as being abnormal and considered more suspicious that pre-sale dividends funded out of the accumulated profits of the target company'.

In government's view, the anti-dividend stripping rules had a limited scope of application because of their focus on debt funding advanced, directly or indirectly, by the prospective purchaser. Accordingly, the debt-funding requirement was removed. In its place, the following requirement was introduced. In order for the rules to apply, the dividend had to be an 'extraordinary' dividend. Essentially, the amount of the dividend had to be sufficiently large in order for the rules to apply (for example, in the case of ordinary shares, the amount of the dividend had to exceed 15% of the higher of the market value of the shares within the 18 months prior to their disposal or at the date of their disposal).

The reason for the change in policy of government was succinctly summarised in a single paragraph in the EM:

> 'No regard will be had to how the extraordinary dividend is funded. This is because, taxpayers are funding the dividends in a number of ways and although the funding may in some instance be questionable, it is not the mischief that negatively affects the fiscus. The mischief is the conversion of taxable share sale consideration into exempt dividends' (our emphasis).

Changes in 2019

In the 2019 Budget Review, it was announced that further amendments would be made to the anti-dividend stripping rules in order to curb the use of certain arrangements that can, effectively, result in a dividend strip, but that do not involve a disposal of shares in the target company.

In the arrangements of concern, a dividend is, as is the case in any dividend stripping arrangement, also distributed. However, the distribution is not followed by a disposal of shares by the shareholder in the target company, but instead by the issue of additional shares in the target company to a third party. Effectively, therefore, the transaction results in the shareholder company having a negligible interest in the shares of the target company without having triggered the then existing anti-dividend stripping rules (on the basis that there has been no disposal of the shares in the target company, which was a requirement for those rules to be triggered).

The concern was summarised in the EM to the Taxation Laws Amendment Bill, 2019, as follows:

> 'It has come to Government's attention that certain taxpayers have embarked on abusive tax schemes aimed at circumventing the current anti-avoidance rules dealing with dividend stripping arrangements. These schemes involve millions of Rands and have a potential of eroding the South African tax base. These latest schemes involve, for example, a substantial dividend distribution by the target company to its shareholder company combined with the issuance, by that target company, of its shares to a third party or third parties. The ultimate result is a dilution of the shareholder company's effective interest in the shares of the target company that does not involve a disposal of those shares by the shareholder company. The shareholder company ends up, after the implementation of this arrangement, with a lowered effective interest in the shares it holds in the target company without triggering the current anti-avoidance rules. This is because the current anti-avoidance rules are triggered when there is a disposal of shares while these new structures do not result in an ultimate disposal of the shares but a dilution of the effective interest in the shares of the target company'.

Accordingly, in order to address this perceived 'abuse', the anti-dividend stripping rules were extended to apply not only in respect of actual disposals of shares but also in respect of deemed disposals of shares. Essentially, the amendments have the effect that, where a shareholder holds equity shares in a target company, that shareholder will (for the purposes of the anti-dividend stripping rules) be deemed to have disposed of those equity shares if:

- the target company issues new shares to another party, and
- after that issue of new shares, the 'effective interest' held by the shareholder company in the equity shares of that target company is reduced by reason of that issue.

Concerns with the current policy position relating to the anti-dividend stripping rules

There are a number of significant concerns with the current policy underpinning the anti-dividend stripping rules. What follows is a brief discussion of these concerns.

Payment of a dividend is simply regarded as an avoidance mechanism

The fundamental change in policy in 2017 as outlined above has the effect that the payment of pre-sale dividends that are simply an appropriation of profits that could have been distributed previously are, merely because these dividends might be large, regarded as an avoidance practice. Simply because the dividend is substantial should not, by itself, be cause for concern – there may be many valid, commercial reasons for large dividends to be paid. On the other hand, borrowing money in order to pay a dividend does tend to indicate an ulterior motive for the payment of a dividend, and this is therefore the appropriate criterion for the application of the rules.

Overly broad application of the 2019 amendments relating to share issues

The proposed rules are overly broad in their application. Any new share issue, no matter how small, would reduce the effective interest of an existing shareholder in the target company, potentially triggering the rules even where there is absolutely no link between the share issue and the relevant dividend.

For this reason, consideration should be given to limiting the overly broad application of the proposed rules. This could be done by:

- making use of a *de minimis* rule (i.e. where the dilution of the effective interest is not substantial, there will be no deemed disposal for the purposes of the rules); and/or
- requiring a link between the dividend and the share issue; and/or
- requiring that the share issue results in a change in control of the target company.

The 2019 amendments: ignoring commercial reality?

There are most often commercial reasons, unrelated to tax avoidance, for the issuance of shares (as opposed to the disposal of shares) as a means of altering the interests of shareholders in a company.

If it is accepted that the commercial outcome or outcomes that are achieved from the dilution of a shareholder's interest in a company as a result of the issue of additional shares could not have been achieved had the dilution been the result of a disposal, it is probable that the dilution (i.e. resulting from a share issue) was not effected for purposes of tax avoidance.

There is a clear difference between (1) share issuances that are effected in circumstances where the commercial outcome would have been the same had there been a share disposal and (2) share issuances that are effected because the commercial circumstances dictate that a share disposal would not achieve the desired commercial objectives.

The first category of share issuances is, and should be, of concern. However, transactions falling under the second category are underpinned by commercial reasons, and there should be less of a concern with such share issuances.

It is accepted that it may be difficult to draft rules that differentiate between issuances that are effected for commercial reasons and those that are effected in order to circumvent the application of the anti-dividend stripping rules.

However, it must also be accepted that essentially deeming a share issuance to give rise to a disposal for the purposes of the anti-dividend stripping rules will result in the rules being of extremely (and overly) broad application. There should, therefore, of necessity be some limitation on the breadth of application of the rules.

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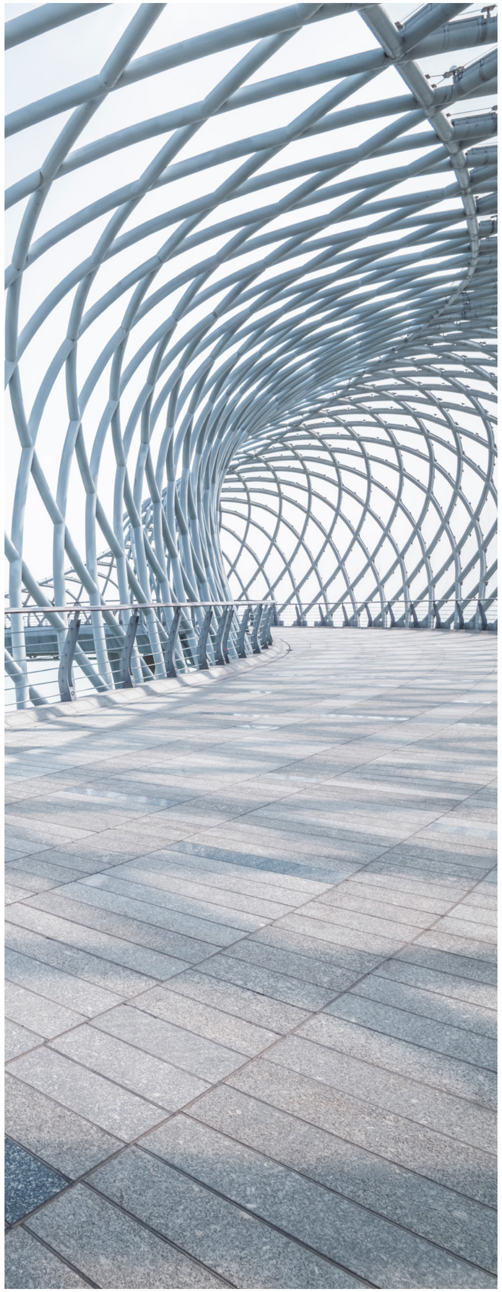

‘Tax as a strategic asset’ series

Topic 2: Data science in tax: Taking us ‘back to the future’ – to upskill, digitalise, and adapt to provide an appropriate tax narrative

Recently the Commissioner Edward Kieswetter stated that the South African Revenue Service has embarked on a journey to ‘… *reimagine a future revenue authority where increasingly its work will be informed by data-driven insights, self-learning computers, artificial intelligence and interconnectivity of people and devices*’. The message is that SARS is professionalising data science as a deep discipline capability, to work through volumes of data, enabling risk and trend detection and better outcomes. The Commissioner mentioned that they have access to an enormous amount of data and that the plan is to work in a coherent manner to systematically put this into a data management universe and impose artificial intelligence to enforce compliance.

This approach is observed worldwide where tax authorities in the spirit of the fourth industrial revolution are building highly advanced infrastructure, collecting information, and running forward-thinking projects through significant investment to unlock new capabilities. The OECD[1] has also confirmed that tax administrations are taking a proactive approach to compliance risk management through the use of large and integrated datasets, and that this has fuelled a significant increase in the use of analytics tools and techniques deploying strategies aimed at increasing their pool of data scientists and analysts.

As a result of these capabilities, financial tax disclosures will no longer be the main source of information for revenue authorities. They intend to derive new insights from other available data and build their own detailed picture of the taxpayer, its activities, value chain and substance. This picture will be informed by data from banks, merchants or payment intermediaries, service providers, supplier, customers, other government agencies, international partners, mass media, the internet, chambers of commerce, stock exchanges and digital channels (e.g. mobile platforms, messaging apps, IoT, social media and bitcoins).

1 5. OECD Tax Administration, Comparative Information on OECD and Other Advanced and Emerging Economies 2019

Tax administrations’ objectives are to improve and enforce compliance and collections, detect new tax evasion behaviours and patterns, identify organised tax evasion networks or simply reduce errors. This practice also provides effective tools to understand non-compliant behaviours, spot high-risk areas, predict fraudulent taxpayers or businesses and create proactive measures to avoid or deter. Predictive modelling can be used to investigate errors and fraud, predictive analytics for risk evaluation and prescriptive analytics to calculate expected outcomes and help recommend the best course of action for decisions, such as changing a tax policy.

The increasing amount of data available relating to the taxpayer that will be subjected to sophisticated analytics also informs the discussion on tax transparency. In last month’s issue we discussed the need to consider more public disclosure on non-financial information, and the value in integrating a tax transparency communication strategy with reporting on sustainability and economic impact. Both the public and internal stakeholders are placing higher value on corporate citizenship, in which the tax function plays a major role. With the growing level of transparency and pressure on compliance,

tax priorities in this new decade include focusing on harnessing the power of uncertainty to enhance capabilities and become more agile and resilient. Organisations' tax governance, processes, data, systems, reporting and transparency strategies are required to undergo rapid transformation to give greater peace of mind to both internal and external stakeholders. Tax compliance and reporting will always be a core competency within the tax function. However, automation, better integrated data and processes, more analytic capabilities, technology-savvy tax professionals, strategic insights and solid internal controls have become non-negotiable. Our observation is that organisations are struggling to convert data into usable and actionable intelligence for tax purposes, the main reasons being data siloing, poor data reliability and a lack of analytical talent.

Consider:

- What are the consequences when the tax authority has real-time access to your organisation's business and financial data?
- What will be the direct impact on your organisation?
- What should you do now to transform and evolve to meet this level of disruption?
- How will your organisation transform in this digital and transparent world of tax and become a strategic asset to the business?

What does 'being a strategic asset to the business' mean from a tax function perspective?

In this environment, adding value suggests the ability to produce accurate, timely and compelling tax data and analytics to drive change beyond the tax function and influence broader business decisions. To be successful, tax professionals need to demonstrate many skills in addition to tax technical knowledge. A broad range of capabilities – including relationship building and cross-functional collaboration – are needed; however, digital upskilling is perhaps most urgent in this era.

In the past, tax specialists saw data as nothing more than a static collection of figures used for annual accounts and tax returns. However, by quickly gaining insight into relevant data, people can make a strategic contribution at various levels. In the past: you would evaluate historical data and pass judgement in relation to compliance and reporting. Real-time data *now* allows you to monitor processes and prevent or punctually resolve errors. In the near *future* you should be able to use data modelling to create a dynamic forecast to allow you to contribute to the planning process and make strategic decisions. Your insight will be further improved when visualisations are used to bring static figures to life. The brain is faster and more efficient at processing graphical representation of data. So, visualisations can quickly help to identify trends, spot outliers and expose poor data quality.

Until now you have been able to operate in a reactive way, i.e. to develop a narrative for historical transactions and narrow cases. Soon you will need to be proactive, providing an all-embracing narrative in real time.

To transform your tax capability in the new digital world requires substantial investments in data preparation, technology and employee training. But even in the short term this is likely to pay off. What will happen if you are not ready? Answering queries, preparing documentation, getting legal advice, resolving tax disputes and repairing reputational damage – all of this is expensive, and these costs can easily outrun the investment costs needed for digital transformation in tax.

The ability to analyse more relevant data faster and better than ever before appears to be an appealing future prospect for most organisations. However, the first steps into the future can already be taken today. What can you already do now to exploit the power of data analysis? Are you comfortable that data related to your business's position on tax, tax numbers, key performance indicators, and economic contributions to the governments per jurisdiction is not just accessible, but reliable and understandable?

To establish a digitally fit tax function involves so much more than just learning new skills or new technology. It requires a shift in mindset, pushing teams and leaders to look at solving problems in a totally new way. Looking at old processes in new ways empowers people to innovate, test new operating models and adjust to a new way of working. The tax function needs to understand how different technologies such as robotic process automation, artificial intelligence, blockchain and advanced analytics can be used and are being used. To enable greater tax transparency, these technologies allow organisations to respond to the demand for quality data from various sources in a more measured and controlled manner.

Think big, start small.

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SARS Watch

SARS Watch 27 January 2020 – 26 February 2020

Legislation		
26 Feb 2020	Draft 2020 Rates and Monetary Amounts and Amendment of Revenue Laws Bill	Comments must be submitted to SARS and NT by Monday, 30 March 2020.
21 Feb 2020	Draft rule amendment – Export of goods	Comments must be submitted to SARS by Friday, 6 March 2020.
18 Feb 2020	Part 1 of Schedule No. 2, by the insertion of various items under item 213.03 in order to implement anti-dumping duties on clear float glass originating in or imported from Saudi Arabia and the United Arab Emirates – Final Determination – Omission – ITAC Report 615	Notice R177 published in Government Gazette No. 43028 with an implementation date of 18 February 2020.
11 Feb 2020	Section 12I Tax Allowance Programme (Robor (Pty) Ltd – Elandfontein FD Mill) – Approval Withdrawn	Notice 52 published in Government Gazette No. 42999 with an implementation date of 4 July 2019.
11 Feb 2020	Section 12I Tax Allowance Programme (AGCO South Africa (Pty) Ltd) – Approval Withdrawn	Notice 52 published in Government Gazette No. 42999 with an implementation date of 4 July 2019
11 Feb 2020	Section 12I Tax Allowance Programme (Wispeco (Pty) Ltd) – Not Approved	Notice 51 published in Government Gazette No. 42999 with an implementation date of 9 April 2019.
11 Feb 2020	*Section 12I Tax Allowance Programme (Alpen Food South Africa (Pty) Ltd) – Approval Withdrawn*	Notice 51 published in Government Gazette No. 42999 with an implementation date of 24 July 2018.
11 Feb 2020	Section 12I Tax Allowance Programme (Siyanda Chrome Smelting Company (Pty) Ltd) – Approval Withdrawn	Notice 51 published in Government Gazette No. 42999 with an implementation date of 24 May 2019.
11 Feb 2020	Section 12I Tax Allowance Programme (Mara Phones South Africa (Pty) Ltd) – Approved	Notice 51 published in Government Gazette No. 42999 with an implementation date of 30 January 2019.
11 Feb 2020	Section 12I Tax Allowance Programme (Tiger Consumer Brands Ltd) – Not Approved	Notice 51 published in Government Gazette No. 42999 with an implementation date of 24 May 2019.
11 Feb 2020	Section 12I Tax Allowance Programme (Sonae Arauco South Africa (Pty) Ltd – White River Expansion Project) – Not Approved	Notice 51 published in Government Gazette No. 42999 with an implementation date of 1 November 2018.
11 Feb 2020	Section 12I Tax Allowance Programme (Nampak Products Ltd) – Not Approved	Notice 51 published in Government Gazette No. 42999 with an implementation date of 16 May 2019.
11 Feb 2020	Section 12I Tax Allowance Programme (B Braun Medical (Pty) Ltd) – Notice 50 Duplicate	Notice 51 published in Government Gazette No. 42999 with an implementation date of 17 July 2018.
11 Feb 2020	Section 12I Tax Allowance Programme (CCL Label South Africa (Pty) Ltd) – Approved	Notice 51 published in Government Gazette No. 42999 with an implementation date of 24 July 2018.
11 Feb 2020	Section 12I Tax Allowance Programme (B Braun Medical (Pty) Ltd) – Approved	Notice 50 published in Government Gazette No. 42999 with an implementation date of 17 July 2018.
11 Feb 2020	Section 12I Tax Allowance Programme (RCL Foods Consumer (Pty) Ltd) – Approved	Notice 50 published in Government Gazette No. 42999 with an implementation date of 18 July 2018.
10 Feb 2020	List of Qualifying Physical Impairment or Disability Expenditure	The list of qualifying expenditure is effective from 1 March 2020.
7 Feb 2020	Part 1 of Schedule No. 2, by the insertion of various items under item 213.03 in order to implement anti-dumping duties on clear float glass originating in or imported from Saudi Arabia and the United Arab Emirates – ITAC Report 615	Notice R110 published in Government Gazette No. 43000 with an implementation date of 7 February 2020.

27 Jan 2020	Table 3 – Rates at which interest-free or low-interest loans are subject to income tax	The repurchase rate will be 7.25% with effect from 1 February 2020.
31 Jan 2020	Amendment to Schedule No. 1, to implement the revised Tariff Rate Quota in terms of the Economic Partnership Agreement (EPA)	Notice R82 published in Government Gazette No. 42985 with retrospective effect from 1 January 2020.
31 Jan 2020	Draft rule and schedule amendments – Diesel refund scheme	Comments must be submitted to SARS by Monday, 16 March 2020.
31 Jan 2020	Amendment to Schedule No. 1, to implement the revised Tariff Rate Quota in terms of the Economic Partnership Agreement (EPA)	Notice R81 published in Government Gazette No. 42985 with retrospective effect from 1 September 2019 to 31 December 2019.
Case law		
In accordance with date of judgment		
11 Feb 2020	Alfdav Construction CC v South African Revenue Service (399/2017) [2020] ZAECPEHC 5	This is an application brought in terms of rule 42 of the Uniform Rules of Court. The order sought by the applicant is that the judgment handed down by Chetty J on 10 October 2017 be amended.
28 Nov 2017	Brits and 3 Others v CSARS (2017-44380) ZAGPJHC	SARS having seized all documentation relating to transactions in question refused to give appellant access to the documents seized which the Applicant requires to respond meaningfully to audit findings.
Interpretation notes		
21 Feb 2020	IN 44 (Issue 3) – Public Benefit Organisations: Capital Gains Tax	This Note provides guidance on the application and interpretation of paragraph 63A and must be read with Interpretation Note 24 Public Benefit Organisations: Trading Rules – Partial Taxation of Trading Receipts.
21 Feb 2020	Draft IN on PBOs - provision of residential care for retired persons	Comments must be submitted to SARS by Thursday, 30 April 2020.
18 Feb 2020	Draft Interpretation Note on doubtful debts and accompanying documents	Comments must be submitted to SARS by Tuesday, 31 March 2020.
11 Feb 2020	IN 75 (Issue 3) – Exclusion of certain companies and shares from a 'group of companies' as defined in section 41(1)	This Note provides guidance on the application of the proviso to the definition of 'group of companies' in section 41(1).
31 Jan 2020	IN 16 (Issue 3) – Exemption from income tax: Foreign employment income	This Note discusses the interpretation and application of the foreign employment remuneration exemption in section 10(1)(o)(ii).
28 Jan 2020	IN 67 (Issue 4) – Connected Persons	This Note provides guidance on the interpretation and application of the definition of 'connected person' in section 1(1) of the VAT Act.
National Treasury		
26 Feb 2020	National Budget 2020	On Wednesday, 26 February 2020 the Minister of Finance tabled the 2020 Budget in Parliament.
Rulings		
21 Feb 2020	BPR 339 – Transfer of listed shares to a collective investment scheme in exchange for participatory interests	This ruling determines the tax consequences of a transfer of listed shares to a collective investment scheme (CIS) in exchange for participatory interests in that CIS.
13 Feb 2020	Draft BGR on unbundling of unlisted company – impact of non-qualifying shareholders	Comments must be submitted to SARS by Tuesday, 31 March 2020.
30 Jan 2020	BGR 9 (Issue 4) – Taxes on income and substantially similar taxes for purposes of South Africa's tax treaties	This BGR identifies the taxes administered by SARS which in its opinion constitute taxes on income or substantially similar taxes for purposes of South Africa's tax treaties.
Guides and forms		
21 Feb 2020	Tax Guide for Share Owners (Issue 7)	This guide summarises some of the key aspects holders of shares need to be aware of in computing their liability for income tax and CGT.
18 Feb 2020	Guide on venture capital companies	This guide provides users with general guidance on venture capital companies and investments in such companies.

Other publications

25 Feb 2020	OECD:IT-tools to support the implementation of TRACE and the wider exchange of tax information	The OECD Treaty Relief and Compliance Enhancement (TRACE) is a standardised system that allows the claiming of withholding tax relief at source on portfolio investments and removes the administrative barriers that affect the ability of portfolio investors to effectively claim the reduced rates of withholding tax.
18 Feb 20	Tax Alert: Diesel refunds draft rules	This alert discusses the Drafts of diesel refund rules and proposed changes to the Customs and Excise Act, Act 91 of 1964 published by SARS for public comments.
14 Feb 20	OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors	Part I reports on the activities in the OECD's international tax agenda, in particular the progress made in addressing the tax challenges arising from the digitalisation of the economy. Part II reports on the activities of the Global Forum.
6 Feb 20	OECD consultation document on the review of Country-by-Country Reporting and invites public input (BEPS Action 13)	Comments to the OECD must be submitted by Friday, 6 March 2020.
5 Feb 20	Tax alert: The exemption for foreign remuneration	This alert discusses the significant changes to the foreign remuneration exemption which are scheduled to take effect from 1 March 2020.