Synopsis

Tax today

February 2021

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.

Editor: Al-Marie Chaffey

SARS Watch: Linda Mathatho

VAT treatment of prepaid vouchers

In brief

The High Court in Johannesburg recently handed down judgment in a dispute between MTN Telephone Networks (Pty) Ltd ('MTN') and SARS ('MTN judgment') in respect of the VAT treatment of prepaid vouchers. The court held that prepaid 'airtime vouchers', which entitle the holder to receive various products or services to the extent of the monetary value stated on such voucher, must be treated as a section 10(19) voucher, resulting in the output tax payable at the time the voucher is issued and not when the voucher is redeemed by the title holder for goods or services.

Background

On 12 January 2021, the High Court handed down judgment in the matter of MTN vs CSARS (79960/2019). The case concerned the VAT treatment of prepaid vouchers (i.e. multi-purpose voucher) issued by MTN entitling the holder to redeem such voucher, based on the monetary value stated thereon, for an array of services or products available through the MTN mobile network.

MTN offers two types of vouchers, one being a specific voucher and the other a multi-purpose voucher. In this judgment, consideration was given to a prepaid voucher (i.e. multi-purpose voucher described as an 'airtime' voucher), which allows the title holder to receive/access any services or products available through MTN's network based on value stated on the voucher. When an airtime voucher is purchased and activated the title holder's sim card is credited to the value of the voucher. This storage of money is referred to as a 'main wallet', which can be used to access the various services or products available through the MTN networks. Consequently, when the title holder accesses the services or products, the applicable cost of that service based on the prevailing tariff is deducted from the main wallet.

In November 2017 MTN applied to SARS for a private binding ruling to confirm that its multi-purpose voucher (described as an 'airtime' voucher) falls within the ambit of section 10(18). However, SARS issued a ruling in April 2019 determining that an airtime voucher falls within the ambit of section 10(19). Accordingly, MTN sought a declaratory order from the High Court to confirm whether the supply of its airtime voucher falls within the ambit of section 10(18) of the VAT Act.

Law

Section 10(18) deals with the right of the holder to receive unspecified goods or services to the extent of the monetary value stated on any voucher. The goods or services to which the person is entitled to are not specified on such voucher. In these instances, the supply of the voucher is disregarded for VAT purposes, i.e. the sale of the voucher does not trigger a VAT liability, except and to the extent the voucher is purchased for a sum exceeding its face value. Therefore, the vendor is required to charge and account for output tax only when and to the extent the voucher is redeemed for goods or services. Based on the Explanatory Memorandum on the Value Added Tax Bill, 1991 ('Explanatory Memorandum'), section 10(18) vouchers are regarded as a means of exchange, similar to money. A gift voucher typically falls into this category.

Section 10(19) deals with vouchers that specify the goods or services that the holder is entitled to receive. As the goods or services that will be supplied or redeemed are known at the time the voucher is supplied, there is certainty as to what the applicable VAT rate would be and therefore VAT is levied on the sale of the voucher. When the voucher is subsequently redeemed for goods or services, the

vendor does not have any further VAT liability, as the value attributable to goods or services supplied on redemption is regarded as nil.

The main difference is therefore that no VAT is accounted for when a section 10(18) voucher is issued, as the VAT is accounted for only on the value of the goods or services when the voucher is redeemed, whereas VAT is accounted for on the full value of the section 10(19) voucher when it is issued and no VAT is accounted for when the voucher is redeemed for goods or services.

The judgment

Declaratory order

SARS disputed MTN's entitlement to seek declaratory relief, as it argued that MTN requested the court to advise on which section of the VAT Act should be applied. SARS stated that a 'generic declaratory order' with no time specification was sought that placed the court in a position to determine the VAT treatment on general terms and facts provided.

Hughes J indicated that MTN was entitled to seek such declaratory relief and he placed reliance on the judgment of the Supreme Court of Appeal case *CSARS vs Langholm Farms (Pty) Limited*. Further, he highlighted that nothing would change SARS's interpretation of the specific section and that no amount of further facts or information would alter SARS's legal view. As such, the declaratory application was deemed appropriate.

VAT on vouchers

The court held that the airtime voucher can be used to make and receive calls, send messages, and use the internet and data. It considered that the 'airtime' can be used for multiple purposes, but that it does not change the nature of the voucher being for specific goods or services. Therefore, an airtime voucher is not akin to a gift voucher, which is a means of payment for goods or services but rather falls within the ambit of specific goods or services as envisaged in section 10(19). Therefore, the VAT should be accounted for at the time the voucher is sold.

Takeaway

It is important to note that the court agreed that the taxpayer correctly applied for a declaratory order to contest the SARS decision/interpretation as contained in the private binding ruling. While taxpayers have typically not followed this approach to contest SARS's decision/interpretation, this judgment now provides certainty that this course of action is available to taxpayers.

Judgment shortcomings

Recent judgments

At the outset, it is important to acknowledge the rapidly changing environment in the telecommunications industry and how the concept of airtime has evolved. Historically, airtime was used only for voice calls, but for some time now airtime is considered a store of value which can subsequently be applied by the title holder for various services of products.

In light of the above, the concept of airtime has changed and moved towards a means of exchange rather than its linear application of a few years ago. This evolution brings us to the recent Supreme Court of Appeal case (1010/2019), in which David Unterhalter acknowledged the ever-changing business environment and the complexities that comes with it in paragraph 29 of the judgment:

'It is of limited assistance to make use of synonyms in order to understand the specificity of the statutory formulation: in the course of making taxable supplies. Two observations assist the interpretative exercise. First, the diversity of goods and services that may constitute taxable supply in a modern economy and the complexity of the lines of supply that may be used in the making of such goods and services should not be underestimated. An interpretation that is too restrictive of what is required to make taxable supplies runs the risk of underestimating this diversity and complexity'.

In our view this was not evident in the MTN case and it is disappointing that the judgment relied on a historical interpretation of the VAT Act and understanding of airtime.

A further case of interest is the judgment in the Tax Court of Income Tax Case IT 24510 ('Income Tax judgment'). In this case, the court took into consideration that prepaid vouchers are governed by the Consumer Protection Act, No. 68 of 2008 ('CPA') in section 63 and 65. Section 63 of the CPA provides that *'exchange for a prepaid certificate, card, credit voucher or similar device … is the property of the bearer of that … device to the extent that the supplier has not redeemed it in exchange for goods or services ...'.*

Section 65 of the CPA provides that the supplier must not treat the consideration as its property and requires that the supplier *'in the handling, safeguarding and utilisation of that property, must exercise the degree of care, diligence and skill that can reasonably be expected of a person responsible for managing any property belonging to another person …'*

Having regard to the above, the court correctly concluded that the supplier accounts for the sales proceeds as 'gross income' only when the voucher is redeemed / when it expires. MTN relied on similar principles and submitted that it accounts for the revenue on the sale of an airtime voucher only when the voucher is activated and used (i.e. redeemed). Hughes J indicated that *'this cannot be correct as in terms of section 9(1) of the VAT Act the applicant is entitled to account for VAT charged on the sale of the voucher in the period in which the voucher was sold'.*

There appears to be a conflict between the two judgments as a result of the different tax laws that were considered. However, in the context of the MTN voucher issue, section 9(1) has no bearing, as the time and value to account for VAT hinges on the correct application of section 10(18) or (19).

Practical implications

In concluding that an airtime voucher is classified as a section 10(19) voucher and that VAT is accounted for at the time the voucher is sold, the following practical difficulties arise.

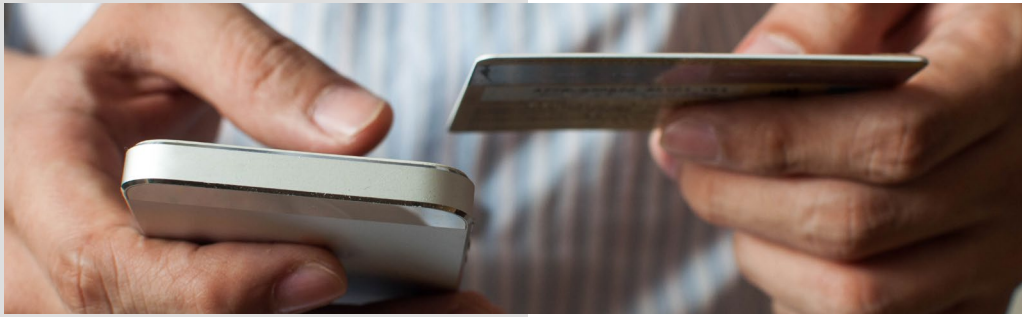
At the point the voucher is sold, the nature of the goods or services and the applicable VAT rate is not known by MTN or the consumer. Unfortunately, this judgment seems to rely on the fact that MTN only offers goods or services that are standard rated but does not consider other products or services that can be supplied which are not standard rated. It is inevitable that this will result in the incorrect taxation of the voucher, especially when the monetary value of the voucher is subsequently applied as means of payment for other than standard rated supplies. The obvious approach to correct this incorrect VAT treatment would be for MTN to issue a credit note. However, when you consider the complex distribution networks that Telecom Service Providers use to sell airtime vouchers, this option will never work, as credit notes can be issued only by the Telecoms Service Provider to the recipient, which in many cases won't be the Telecoms Service Provider subscriber but the Telecoms Service Provider distributor. This then results in inappropriate or double taxation.

Gift vouchers

The court rejected the notion that the MTN airtime voucher could be similar to a gift voucher. However, in our view, there are similarities between an airtime voucher and a gift voucher. When purchasing a gift voucher, the holder is entitled to unspecified goods or services on redemption. Therefore, the gift voucher is treated as a section 10(18) voucher and regarded as a means of exchange. The MTN airtime voucher also entitles the holder to various unspecified goods or services offered by MTN on redemption. This in our view is no different from, for example, a clothing store gift voucher which can only be redeemed for goods which are standard rated (a clothing store gift voucher is currently being treated as a section 10(18) voucher). Based on this comparison, we therefore have difficulty in understanding how these two similar vouchers can be treated differently from a VAT perspective. If this judgment holds true, are we then at a point where vouchers similar to clothing store gift vouchers are to be regarded as section 10(19) vouchers and must be taxed at the point the vouchers are sold? Only time will tell how this rationale progresses.

In our view, it appears that the court placed emphasis on the wording used to describe the multi-purpose voucher as an 'airtime voucher', thereby limiting its purpose to access only specific goods or services. In MTN's submission to the court a quo, it accepts that it has specific vouchers on which it accounts for VAT when the vouchers are sold (e.g. vouchers for a specified number of minutes or SMSs). However, it went to great lengths to show that it also has a very different type of voucher which serves as a multi-purpose voucher. However, it commonly refers to both types of vouchers as 'airtime vouchers'.

Based on this, would the solution be as simple as MTN just changing and branding the vouchers differently?



Rodney Govender
+27 (0) 31 271 2082

Matthew Besanko
+27 (0) 21 529 2027

Agreement Establishing the Africa Continental Free Trade Area – Ready, Set … Go?

Introduction

At the 13th Extra Ordinary Session of the Assembly of the African Union ('AU'), in December 2020, it was announced that trade in goods under the Africa Continental Free Trade Area ('AfCFTA') will start from 1 January 2021. Consistent with *'Agenda 2063: The Africa we want'*, the AfCFTA aims to be the AU's shining beacon of integration between the African communities, boosting intra-Africa trade in goods and services. The AU has highlighted that the main objective of the AfCFTA is to create a single continental market for goods and services with free movement of people and investments, thus expanding intra-Africa trade across the continent, enhancing competitiveness and supporting economic transformation in Africa. To date, 54 out of 55 African Union Member States are signatories to the AfCFTA Agreement, further to which, 36 Member States have ratified the AfCFTA Agreement. Eritrea is the only African country yet to become a signatory to the AfCFTA Agreement.

Is it all systems go?

It is important to note that Free Trade Agreements, such as the Agreement establishing the AfCFTA, do not possess supra-nationality and the obligations and rights flowing from the Agreement ought to be enacted through domestic measures, so as to give effect to their provisions. Accordingly, Member States ought to ratify the AfCFTA Agreement and update, *inter alia*, their national tariff books, provide domestic measures regarding the issuance of certificates of origin and streamline the implementation of additional technical customs compliance measures, so as to give effect to and provide a legal foundation for the enforcement of the provisions, as provided for in the AfCFTA Agreement. Ultimately, the AfCFTA Agreement will not automatically guarantee the facilitation of trade amongst African States, until national obligations, as enacted by Member States, gives effect to the Agreement's status. Accordingly, only through the implementation of domestic measures, will we see the real effectiveness and enforcement of provisions as envisaged in the AfCFTA Agreement.

From a South African perspective, the tariff offer, rules of origin and general notes to Schedule 1 of the Customs and Excise Act, 1964 were published in the *Government Gazette (No.44049)* in late December 2020, inclusive of the AfCFTA preferential tariff column added to the tariff book. Accordingly, the administrative procedures to receive imports under the AfCFTA into the South African market are in place. Does this mean that it is all systems go? Not quite. Particular attention ought to be devoted to the implementation and interpretation of the Johannesburg Decisions of December 2020. A clear distinction is drawn between customs unions *'whose members have all ratified the AfCFTA Agreement or by those members of the Customs Unions that have ratified the AfCFTA Agreement and can legally implement the Schedule of Tariff Concessions on an individual basis'*.

Due to fact that a Customs Union (such as SACU) has a Common External Tariff, the Member States **must make joint tariff offers and must adopt and implement final offers jointly**. In light of the Johannesburg Decisions by the Assembly of the AU, Members of a Customs Union (where not all Members of that Customs Union have ratified the AfCFTA) can trade under the AfCFTA, if legally allowed to individually implement the Custom Union's Schedule of Concessions.

Currently, the South African Tariff book includes the preferential tariffs for imports from AfCFTA State Parties. The general notes to Schedule 1 clarify the meaning of 'State Parties' as the non-Southern African Development Community (SADC) countries listed in the notes. Currently, Egypt and São Tomé and Príncipe are the only two State Parties listed. It is unclear if South Africa will grant these individual countries

preferential access based on the Custom Union's tariff concession or only to the Customs Union, once all members have ratified the AfCFTA.

Below we have tabulated and set out the status of the AfCFTA Agreement across selected trading blocs in Africa, namely, the Southern African Customs Union (SACU); the East African Community (EAC); the Economic Community of West African States (ECOWAS) and the Economic and Monetary Community of Central Africa (CEMAC).

Table 1: Status of the ratification of the AfCFTA by selected trading blocs

	East African Community (EAC)	Southern African Customs Union (SACU)	Economic Community of West African States (ECOWAS)	Economic and Monetary Community of Central Africa (CEMAC)
Status	The outstanding States are expected to ratify the Agreement by June 2021 to enable the EAC to submit its tariff offers, rules of origin and other schedules of commitment to enable full trading with the rest of the State Parties.	In SACU, Botswana has yet to ratify the agreement. Lesotho, South Africa, Namibia and Eswatini are already State Parties.	The AfCFTA has been ratified by 13 out of the 15 ECOWAS Member States. Common schedules of tariff concessions for trade in goods have been submitted to the AU.	All Member States of CEMAC have submitted tariff offers as a Union. CEMAC is ready to commence trade with other State Parties.
Countries that have ratified the AfCFTA	• Kenya • Republic of Rwanda • Republic of Uganda	• Eswatini • Lesotho • Namibia • Republic of South Africa	• Burkina Faso • Cabo Verde • Cote d'Ivoire • The Gambia • Ghana • Guinea • Guinea-Bissau • Mali • Niger • Nigeria • Senegal • Sierra Leone • Togo	• Cameroon • Central African Republic (CAR) • Republic of the Congo • Chad • Equatorial Guinea • Gabon
Awaiting Ratification of the AfCFTA	• Republic of Burundi • South Sudan • United Republic of Tanzania	• Botswana	• Benin • Liberia	None

Protocol on trade in goods

Under the AfCFTA, liberalisation of trade is being implemented through the already existing Customs Unions – EAC, SACU, CEMAC and ECOWAS. Each of the Customs Unions is required to prepare its tariff offers, rules of origin and schedule of commitment in trade in goods and services for submission to the AfCFTA Secretariat. Accordingly, the AfCFTA does not abolish existing Free Trade Agreements within Regional Economic Communities but aims to function alongside existing intra-African trade regimes.

Existing Free Trade Agreements will create the foundational building blocks of the AfCFTA. Notwithstanding this, traders ought to pay particular attention to Article 19 of the AfCFTA Agreement wherein provision has been made for *Conflict and Inconsistency with Regional Agreements. Article 19(1) outlines that 'In the event of any conflict and inconsistency between this Agreement [AfCFTA Agreement] and any regional agreement this Agreement shall prevail to the extent of the specific inconsistency, except as otherwise provided in this Agreement'.* Tariff offers from 44 Member States have been submitted to the AU, with outstanding offers expected to be submitted by June 2021.

The protocol of trade in goods aims to liberalise 90% of tariff lines to be traded under a preferential rate of import and export duty in ten years. The protocol recognises 7% of the tariff lines identified to be sensitive goods and 3% of tariff lines which will be excluded from preferential trade terms subject to negotiation through the request and offer mechanism.

The takeaway

According to the World Economic Forum: *'The AfCFTA Agreement aims to reduce all trade costs and enable Africa to integrate further into global supply chains – it will eliminate 90% of tariffs, focus on outstanding non-tariff barriers, and create a single market with free movement of goods and services. Cutting red tape and simplifying customs procedures will bring significant income gains. Beyond trade, the pact also addresses the movement of persons and labour, competition, investment and intellectual property.'*

Importers and exporters need legal certainty regarding the rollout and implementation of binding tariff schedules, rules of origin and customs procedures. An enabling environment ought to be created for private firms to make calculated risks regarding the importation and exportation of goods and services to new markets that operate within the AfCFTA.

Furthermore, investors ought to have comfort regarding the enforcement of legally binding provisions, within domestic territories, as provided for in the AfCFTA Agreement – before they consider the establishment of commercial presence within a foreign market, in the AfCFTA. Traders looking to take advantage of the benefits of the AfCFTA ought to be mindful of the ratification status of the necessary instruments, within specific jurisdictions of both export and import, inclusive of the ratification status of Member States of an existing Customs Union.

The AfCFTA offers massive opportunity for the optimisation of companies' supply chains, so as to take full advantage of the benefits created by the AfCFTA. Companies are further encouraged to understand the impact of the AfCFTA on their business through a holistic lens. Companies ought to examine their entire supply chain to consider and to identify the associated risks and opportunities that present themselves in this space. It is highly recommended that companies assess the full benefits of the AfCFTA through an interconnected approach, wherein the areas of customs, international trade, international tax and transfer pricing are aligned to ensure optimum benefit creation.

Herman Fourie
Associate Director – Customs and International Trade

Jason Daniel
Manager – International Tax, Transfer Pricing, International Trade

An interesting development for VDP applicants as well as for the South African Revenue Service on VDP interest

Of late, the Voluntary Disclosure Programme ('VDP') legislation in Chapter 16 of the Tax Administration Act, No. 28 of 2011 ('TAA') seems to be causing confusion in practice. This is brought about by a combination of the inconsistent application of the VDP provisions by SARS's VDP Unit as well as certain loosely worded provisions contained in Chapter 16 of the TAA.

An example of such provision is section 229 of the TAA, which provides for the relief that an applicant could qualify for, should they participate in the VDP: i.e., SARS must not pursue criminal prosecution for a tax offence arising from the default, SARS must grant relief in respect of understatement penalties and SARS must grant 100% relief in respect of administrative non-compliance penalties. The section, however, remains silent on relief from interest levied in terms of a VDP application. Additionally, Chapter 16 of the TAA, as a whole, is silent on the interest component of a VDP application.

This stance differs from the 'old' VDP process, as under section 6 of the Voluntary Disclosure Programme and Taxation Laws Second Amendment Act, No. 8 of 2010, the Commissioner was empowered to grant 50% or 100% relief in respect of interest otherwise payable by the VDP applicant.

This begs the question of whether a VDP applicant can request the remission of interest outside the VDP process, via the normal channels, for example section 187 of the TAA (which has been partially promulgated) read with section 89quat(3) of the Income Tax Act, No. 58 of 1962 or section 39(7) of the Value-Added Tax Act, 89 of 1991 ('VAT Act').

In the recent case of *Medtronic International Trading S.A.R.L v The Commissioner for SARS*[1] *('Medtronic case')*, SARS had refused to consider the Applicant's request for the remission of interest in terms of section 39(7)(a) of the VAT Act following the conclusion of two VDP agreements between SARS and the Applicant. The Applicant sought a review of, *inter alia*, this decision.

The facts of this case are that an employee of the Applicant had embezzled an amount of R537,236,176 from the Applicant. This was attained by the employee submitting false VAT201 returns to SARS and then seeking reimbursements from SARS in order to conceal her embezzlement.

The Applicant thus sought to regularise its affairs via the VDP. On 14 and 18 June 2018 two VDP agreements were concluded between SARS and the Applicant. According to these VDP agreements the Applicant was liable for the payment of the capital VAT amount of R286,464,756.62 and interest of R171,205,356.12.

SARS' VDP Unit had waived all understatement and administrative non-compliance penalties amounting to R172m and also agreed to refrain from pursuing any criminal action against the applicant. The Applicant proceeded to sign the VDP agreement as well as pay over the capital and interest amounts to SARS.

The Applicant then sought to have the interest in the amount of R171,205,356.12 remitted in terms of section 39(7) of the VAT Act, which states:

> *'Where the Commissioner is satisfied that the failure on the part of the person concerned or any other person under the control or acting on behalf of that person to make payment of the tax within the period for payment contemplated in subsection (1) (a), (2), (3), (4), (6), (6A) or (8) or on the date referred to in subsection (5), as the case may be-*
>
> *(a) was due to circumstances beyond the control of the said person, he or she may remit, in whole or in part, the interest payable in terms of section ....'*

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Further, the Applicant relied on the explanation of what constitutes 'circumstances beyond a person's control' per interpretation note 61:

> *'circumstances beyond a person' control are generally those that are external, unforeseeable, unavoidable or in the nature of an emergency, such as an accident, disaster or illness which resulted in the person being unable to make payment of VAT due.'*

According to the Applicant, the embezzlement of funds by an employee of the Applicant was beyond the control of the Applicant.

However, SARS argued that the application of section 187(6) of the TAA Act and likewise section 39(7)(a) of the VAT Act are not applicable to a situation where the VDP agreement is in play. In addition, SARS alleged that the Applicant's request for remission of interest effectively constituted an attempt to renege on the VDP agreements.

The Gauteng High Court held that *'it is evident that the interest and penalties were added to the eventual amount attained in the VDP agreement by virtue of the application of section 39(1) of the VAT Act.'*

Hughes J took the view that *'if remission requests of interest were not intended to be sought in situations where there was a VDP agreement, either by way of section 187 of the [TAA] or section 39(7) of the VAT Act, the legislature would have set this out succinctly in the provisions regulating the VDP agreement and procedure.'*

On this basis, the Court held that *'the notion adopted by [SARS] that the Applicant seeks to vary the VDP agreement through the back door by seeking the remission cannot stand muster. This is so because it is common cause that the applicant has already complied with the VDP agreement as it has paid the interest sought' and went on to state that 'The entire purpose of the VDP process pertains to taxes and is regulated by Acts which are tax related with the Tax Act being the default position if there is conflict or confusion. How then does one exclude that which is a self-prevailing Act when dealing with a process borne out in that same Act. Hence, the analogy being that if section 187(6) can be applied then the equivalent that being section 39(7) of the VAT Act, most certainly is applicable.'*

Accordingly, the Court held that the VDP provisions contained in the TAA do not prohibit a request for remission of interest in terms of section 39(7) of the VAT Act, notwithstanding a VDP agreement being entered into. The impugned decisions taken by SARS were pertinently swayed by errors in law, were not authorised by any empowering legislation and were made without important and relevant considerations being considered.

Ultimately, the decision made by SARS (i.e. the refusal to consider the Applicant's request for the remission of interest in terms of section 39(7)(a) of the VAT Act) was referred to SARS for consideration.

Key takeaways

- The Medtronic case provides welcome clarity for taxpayers who are undertaking the VDP process and who seek to request the remission of interest (in appropriate circumstances) borne out of the VDP process.
- Although the SARS VDP unit is not empowered to remit interest, this does not prohibit the taxpayer from seeking remission of interest via the standard procedures separately from or subsequent to its VDP application.
- It remains to be seen whether the Medtronic case is the final push for some of the VDP provisions in Chapter 16 of the TAA to be amended.

Elle-Sarah Rossato
Lead: Tax Controversy and Dispute Resolution
+27 (0) 11 797 4938

Jadyne Devnarain
Senior Manager: Tax Controversy and Dispute Resolution
+27 (0) 11 797 4282

SARS Watch

1 February 2021 – 28 February 2021

Legislation		
26 February 2021	Draft schedule and notes to the draft schedule – Harmonized System (HS) 2022	Comments must be submitted to SARS by Friday, 30 April 2021.
26 February 2021	Fixing of rate per kilometre in respect of motor vehicles – section 8(1)(b)(ii) and (iii)	Official Public Notice relating to rate per kilometre in respect of motor vehicles is still to be published in the Government Gazette.
26 February 2021	Amendment to Part 6 of Schedule No. 1, by the insertion of Note 4 as well as the substitution of various items under export tax item 193.00, in order to insert the African Continental Free Trade Agreement (AfCFTA) column and reduce the rate of export duty as promulgated in the Taxation Laws Amendment Act, 2020, on 20 January 2021 to free until 31 July 2021	Notice R. 147 published in Government Gazette No. 44194 with effect from 1 March 2021 up to and including 31 July 2021.
26 February 2021	Amendment to Part 6 of Schedule No. 1, by the substitution of the export tax rates under export tax item 193.00, as promulgated in the Taxation Laws Amendment Act, 2020, on 20 January 2021	Notice R. 150 published in Government Gazette No. 44198 with an effective date of 1 August 2021.
24 February 2021	Draft Income tax notice, scheduled for publication in the Government Gazette, under section 8(1) relating to daily amounts in respect of meals and incidental costs	Official Public Notice daily amounts in respect of meals and incidental costs is still to be published in the Government Gazette.
24 February 2021	Draft Notice on amounts for purposes of definition of retirement annuity funds	Comments are due to SARS and National Treasury by Wednesday, 31 March 2021.
24 February 2021	Draft Notice on UIF remuneration limit	Comments are due to SARS and National Treasury by Wednesday, 31 March 2021.
19 February 2021	Amendment to Part 1 of Schedule No. 3, by the insertion of rebate item 311.40/00.00/01.04, in order to create a rebate facility for yarns and textiles for use in the manufacture of apparel – ITAC Report No. 641	Notice R. 99 published in Government Gazette No. 44169 with an implementation date of 5 February 2021.
19 February 2021	Amendment to Part 2 of Schedule No. 4, by the insertion of various items under rebate item 460.15, in order to create a rebate facility for the importation on tinplate – ITAC Report No. 640	Notice R. 98 published in Government Gazette No. 44169 with an implementation date of 5 February 2021.
19 February 2021	Amendment to Part 1 of Schedule No. 1, by the substitution of Note 5 in Chapter 98 of Section XXII, in order to implement the policy directive for the inclusion of semi-knocked down vehicles kits as eligible products under the automotive production and development programme – ITAC Minute M03/2020	Notice R. 97 published in Government Gazette No. 44169 with an implementation date of 5 February 2021.
19 February 2021	Public notice published in terms of section 25(7) of the Tax Administration Act, 2011, extending the deadline to file Country-by-Country Report returns by persons as specified in the notice	Public notice 101 published in Government Gazette No. 44171.
12 February 2021	Amendment to Schedule No. 1, to implement the revised Tariff Rate Quota in terms of the Economic Partnership Agreement (EPA)	Notice R. 89 published in Government Gazette No. 44153 of 12 February 2021, with retrospective effect from 1 September 2020 up to and including 31 December 2020.
12 February 2021	Amendment to Part 1 of Schedule No. 1, by the insertion of tariff subheadings 3002.20.11; 3002.20.19 and 3002.20.90, in order to provide for vaccines for human medicine for inoculation against Coronavirus and its variants as well as other vaccines	Notice R. 88 published in Government Gazette No. 44152 with an implementation date of 12 February 2021.
12 February 2021	Amendment to Part 1 of Schedule No. 1, by the substitution of tariff subheadings 1001.91 and 1001.99 as well as 1101.00.10, 1101.00.20, 1101.00.30 and 1101.00.90, to reduce the rate of customs duty on wheat and wheaten flour from 54,42c/kg and 81,63c/kg to 10,27c/kg and 15,41c/kg respectively, in terms of the existing variable tariff formula – Minute 08/2020	Notice R. 87 published in Government Gazette No. 44151 with an implementation date of 12 February 2021.

9 February 2021	Draft rule and schedule amendments in respect of the diesel refund scheme	Comments must be submitted to SARS by Wednesday, 24 March 2021.
1 February 2021	ITAC certificate issued to SARS under paragraph 8 of Schedule 1 to the Value-Added Tax Act, Rebate Item 412.11/00.00/01.0 (), for the importation of vaccines, for use in the vaccination of persons against the Severe Acute Respiratory Syndrome Coronavirus 2 or SARS-CoV-2 for the treatment of the coronavirus disease or COVID-19	Notice 34 published in Government Gazette 44113 with an implementation date of 28 January 2021.
Case law		
In accordance to date of judgment		
15 February 2021	Medtronic International Trading SARL v CSARS (33400/2019) [2020] ZAGPPHC	Whether the provisions of the voluntary disclosure agreement prohibit a request for remission of interest under section 39(7) of the VAT Act.
2 February 2021	PricewaterhouseCoopers Inc and Another v Minister of Finance and Another (25705/2019)	This matter involved a constitutional law challenge brought by PricewaterhouseCoopers (PwC) Inc. and PwC Partnership in respect of section 39(7) of the VAT Act 89 of 1991.
26 November 2020	SARSTC VAT 1940 (VAT) [2020] (Cape Town)	Whether the appellant was entitled to the deduction it claimed under section 16(3)(c) of the VAT Act.
Interpretation notes		
26 February 2021	Draft Interpretation Note 59 (Issue 2): Tax treatment of the receipt or accrual of government grants	Comments must be submitted to SARS by Friday, 23 April 2021.
9 February 2021	Interpretation Note 47 (Issue 5) – Wear-and-tear or depreciation allowance	This Note provides guidance on the circumstances in which the wear-and-tear or depreciation allowance in section 11(e) may be claimed as a deduction.
Rulings		
9 February 2021	BGR 7 (Issue 4) – Wear-and-tear or depreciation allowance	This BGR reproduces the parts of Interpretation Note 47 (Issue 5) 'Wear-and-Tear or Depreciation Allowance' dated 9 February 2021 that comprise a BGR under section 89 of the Tax Administration Act.
Guides and forms		
25 February 2021	Employers Guide to the AA88 Third-Party Appointment Process	The purpose of this document is to assist employers in understanding the Third-Party Appointment (AA88) process.
19 February 2021	Estate Duty Implications on Key Man Policies	Currently no case law exists regarding the application of section 3(3)(a)(ii) of the Estate Duty Act. This document expresses the views of SARS in this regard; and any letter previously issued by a SARS office differing from the views expressed in this document is hereby withdrawn.
5 February 2021	Malt Beer Policy	This excise policy applies to role-players in the malt beer industry and is effective from 4 February 2021.
5 February 2021	Other Fermented Beverages	This excise policy applies to role-players in the other five fermented beverages (OFB) industry and is effective from 4 February 2021.
Other publications		
26 February 2021	OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors (Italy) – February 2021	In addition to an update on the progress made to address the tax challenges arising from the digitalisation of the economy, the report also provides an update on the other G20 tax deliverables (tax transparency, implementation of the BEPS measures and capacity building to support developing countries).
25 February 2021	OECD – Ending the Shell Game: Cracking down on the Professionals who enable Tax and White Collar Crimes	This report sets out a range of strategies and actions for countries to take to tackle professional intermediaries who enable tax evasion and other financial crimes.
24 February 2021	Tax Alert: Budget 2021	The purpose of this alert is to discuss some of the main tax proposals from the 2021 Budget.
22 February 2021	Tax Alert: Important amendments to the Tax Administration Act, 2011	The purpose of this Alert is to outline the key issues arising from Tax Administration Laws Amendment Act, 2020, and to highlight a few of the areas which may give rise to constitutional issues in the future.
19 February 2021	Tax Alert – Value-added tax: the treatment of prepaid vouchers	This alert discusses the recent High Court judgment in a dispute between MTN Telephone Networks (Pty) Ltd and SARS in respect of the VAT treatment of prepaid vouchers.
3 February 2021	Tax Alert: Functional link required between costs incurred and taxable supplies	In a recent judgment of the Supreme Court of Appeal, the Court introduced the concept of the requirement of a 'functional link' existing between the incurral of costs and the entity's taxable activities in order to deduct input tax.

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