Synopsis

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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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The invisible tax hand – How the PIT burden 'quietly' grew over the last 20 years

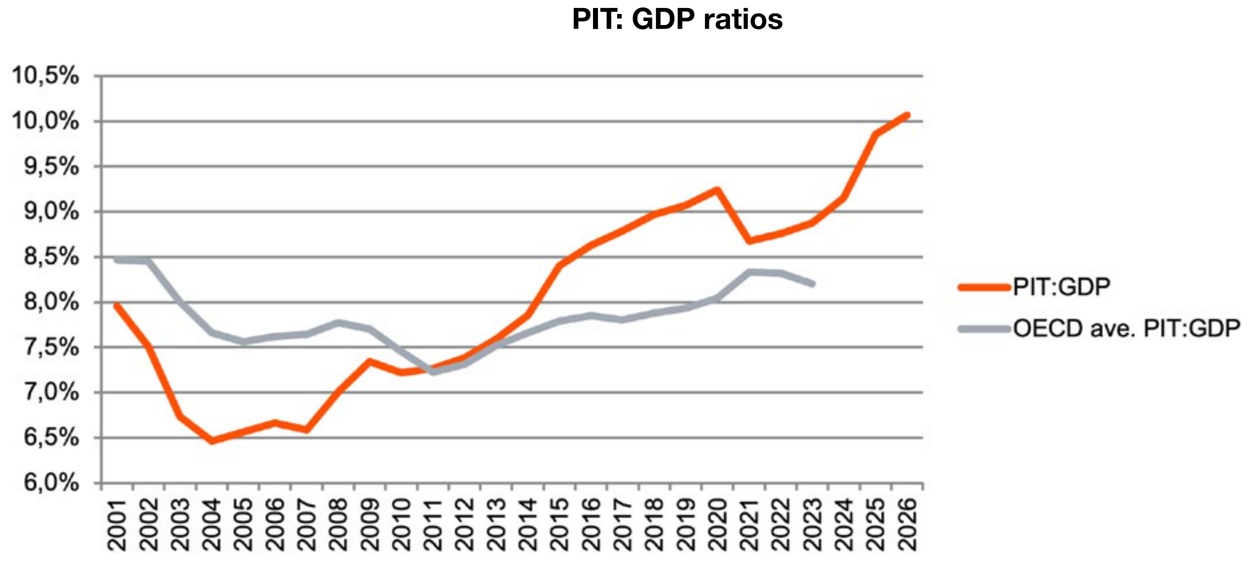
Every so often, a familiar narrative claiming that the rates of personal income tax ('PIT') have been on the decline since the 1990s resurfaces. This perception leans on a superficial reading of PIT history pointing to the reduction in the number of tax brackets or the drop in the top marginal tax rate to as low as 40% in the 2000s. But when measured against the full tax policy landscape, this narrative quickly proves to be inaccurate.

PIT remains the single largest and most stable source of government revenue. Thus, misdiagnosing how much individuals are truly paying in PIT distorts public debate, potentially fuels policy missteps, and places a heavy, unrecognised burden on the already small pool of PIT taxpayers. With the national budget under constant pressure, interrogating the structural evolution of PIT is crucial to any honest discussions about fiscal sustainability, fairness and, perhaps, who should shoulder the costs of South Africa's future.

The macroeconomic picture

A key indicator of the tax burden is the ratio of PIT collections to gross domestic product ('GDP'). The rising PIT-to-GDP ratio depicted below signals a tax system extracting a progressively larger share of tax revenue from individuals. South Africa's PIT burden is not only at a record level but is one of the highest in the world, far exceeding the average for both OECD and other middle-income countries.

South Africa's PIT:GDP ratio compared to average PIT:GDP ratio in OECD countries



In 2001, PIT collections were approximately 8.0% of GDP. In the early to mid-2000s it fell sharply as significant tax rate relief was granted to taxpayers. However, this figure is now projected to rise to over 10.0% by 2027, and this is no accident. It reflects a strategic policy pivot towards relying on the stable revenue from PIT over the more volatile corporate income tax ('CIT'), whose contribution fluctuates with economic cycles. For context, PIT averaged 8.2% of GDP and 23.7% of total tax revenue (up 1.6% since 2011) across OECD countries in 2023, underscoring the international drift towards a heavier PIT footprint. Moreover, preliminary 2024 data show that PIT rose as a share of GDP in 28 of 36 countries,[1] consistent with real wage recovery — conditions that amplify bracket creep where thresholds are not fully indexed. The catalyst for the shift to greater reliance on PIT was, of course, the 2008 global financial crisis. The tax breaks for PIT in the early to mid-2000s were largely made possible by high corporate profits, improved enforcement around CIT, and a significantly greater contribution to tax revenues from PIT. However, corporate profits and CIT revenues fell sharply in the wake of the global financial crisis and have never recovered to even close to the 6.2% of GDP they were at the time. Over the following years, the economy grew slowly and budget deficits continued

to build amid growing pressure to increase spending. For the most part, the release of that pressure came through deliberate actions to increase the aggregate PIT burden. We unpack this in more detail below.

The individual's microeconomic story

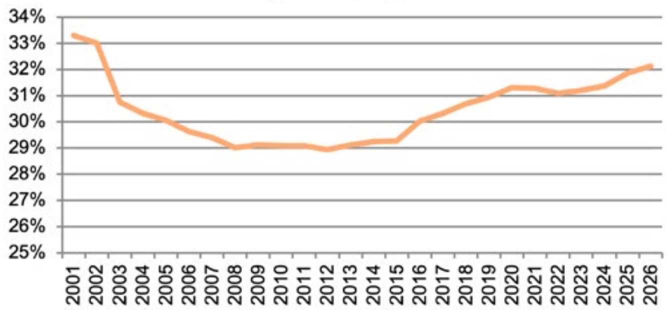
This macroeconomic pressure translates directly to the individual taxpayer. For example, consider an individual earning a constant real salary equivalent to R2.5 million in today's terms, every year since 2001. Based only on headline tax rates and rebates, which is a rather simplistic view, it appears that this taxpayer's effective tax rate has dropped from approximately 33.3% in 2001 to 31.8% in 2025. This apparent decline forms the basis of the myth.

However, this view ignores important changes to broaden the PIT tax base, including in the tax treatment of employment benefits, for one. As an example, suppose the same individual receives part of their compensation as a travel allowance, which is common among higher-

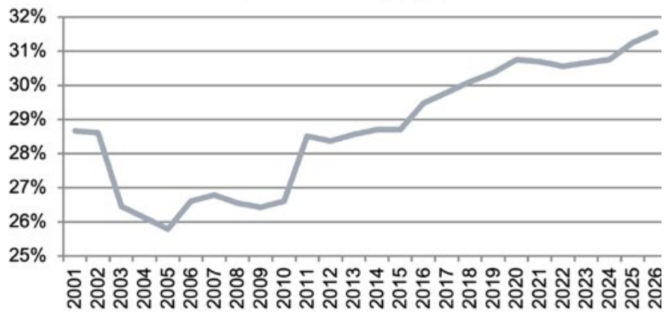
1 OECD Revenue Statistics 2025 pages 12 and 13

income earners, but their total cost to company (‘CTC’) remains R2.5 million in today’s terms throughout the period. The result is a complete inversion of the myth, with the effective tax rate actually increasing from 28.7% in 2001 to 31.3% in 2025 despite the same CTC. The rules around travel allowances have been tightened in various ways over the years, resulting in a higher tax burden. And this is only one example.

Effective tax rate of high-income earner (basic pay)



Effective tax rate of high-income earner (structured pay)



The culprit is a widening net

Evidently, the primary driver of the increased burden has been the systematic expansion of the tax base. Base broadening refers to increasing the range of income subject to tax while reducing available tax deductions and reliefs. The timeline below illustrates a roadmap of some of the deliberate, multi-decade PIT base-broadening strategy.

Timeline of some of the major base-broadening measures affecting PIT

2001
Shift to residence-based taxation
Introduction of capital gains tax (CGT)

2002
Introduction of section 23(m) to limit employee deductions

2003
Scrapping of entertainment deduction

2005, 2006, 2010
Tightening of the travel allowance fringe benefit

2007
Capping of tax-free medical aid contributions

2012
Medical aid contributions changed from deduction to credit

2016
Limiting of retirement fund contribution deductions

2020
Capping of foreign employment income exemption

Foundational shifts

The move to a residence-based system brought the worldwide income of residents into the South African tax net. In the same year, CGT was also introduced to tax wealth creation from the appreciation of assets.

Remuneration reforms

The tax treatment of fringe benefits such as the use of company cars and travel allowances has been consistently tightened over the years. In 2005, the deemed private mileage for travel allowances was increased from 14,000 to 16,000, with a further increase to 18,000 in 2006. In 2010, the deemed business mileage was scrapped altogether. In addition, the introduction of section 23(*m*) severely restricted the ability of salaried employees to claim deductions against their income. Lastly, the once common entertainment allowance deduction was scrapped entirely.

Recalibrating reliefs

The tax treatment of retirement fund contributions was harmonised but also limited to R350,000 per year. Furthermore, the previously full exemption for foreign employment income has been capped to R1.25 million. Notably, these thresholds – as well as the CGT annual exclusion, annual and lifetime contribution limits to tax-free savings accounts, and many other monetary amounts across the legislation – have not been adjusted for inflation, thereby eroding the benefit of these tax exemptions/allowances in real terms.

Fiscal drag as a stealth tax

Beyond explicit legislative changes, the tax burden has also been heightened by a second, more subtle culprit, namely the deliberate use of fiscal drag. Fiscal drag, or 'bracket creep', occurs when inflation pushes taxpayers to a higher effective tax rate, thereby increasing their real tax liability. In several recent budgets, National Treasury has chosen not to adjust tax brackets for inflation, using fiscal drag as an explicit revenue-raising tool. To put the impact of this into perspective, the 2025 Budget proposed to raise additional tax revenue of R15.5 billion from the non-adjustment of tax brackets alone.

The takeaway

The story of South Africa's PIT system is one of a relentless, quiet expansion of the tax burden. This burden is shouldered by a dangerously small number of taxpayers. National Treasury's data show that only 533,000 taxpayers earning over R1 million are projected to pay 47.5% of all PIT for the 2025/26 fiscal year. These taxpayers represent only 6% of the registered taxpayer pool above the tax threshold.

Understanding the evolution of the PIT policy is essential for any credible tax conversation. The system has reached a point where increasing reliance on the already small pool of taxpayers poses significant economic risks and raises questions around long-term fiscal sustainability. Any debates about future reform must begin with this honest picture: taxpayers are already paying progressively more through a series of structural and highly effective reforms that have been decades in the making.

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The 'but for' test – clearing (or clouding) the air in GAAR cases

This article unpacks a recent South African GAAR case through the lens of the 'but for' test, under the 'tax benefit' requirement of the GAAR. It considers two schools of thought on the application of the test, highlighting competing interpretations and comparing a narrow approach that simply excises the impugned steps with a broader counterfactual analysis. In the case discussed, the court adopted the broader view, comparing the taxpayer's tax exempt dividend receipts with the likely taxable alternative of fees or commissions and concluding that a tax benefit arose 'but for' the chosen structure. The piece highlights current uncertainty about the correct application of the test, urging careful qualification in advice.

Introduction

The decision in *Mr Taxpayer G v Commissioner for the South African Revenue Service*[1] concerns a tax appeal by an individual taxpayer (the appellant, referred to as 'Mr G') against additional assessments raised by SARS under the general anti avoidance rules ('GAAR)' in Part IIA of Chapter III of the Income Tax Act 58 of 1962 (the 'Act').

For the 2008–2014 years of assessment, SARS raised additional assessments totaling approximately R46,7 million, premised on its view that a series of dividend driven schemes implemented by or through a corporate vehicle, Teea Investments (Pty) Ltd ('Teea'), constituted 'impermissible avoidance arrangements' under the GAAR.

1 [2025] IT 24502 (30 September 2025).

The arrangements were designed to generate secondary tax on companies ('STC') credits which could be used by SA companies external to the scheme (Teea's clients) to cover STC liabilities on future dividends, while allowing Mr G to extract value in the form of tax exempt dividends rather than taxable income. The judgment is a significant application of the various elements of the GAAR as contained in sections 80A–80L.

While the judgment raises a number of noteworthy issues and analyses, including the application of the purpose test and the various so-called 'tainted element' tests, this article focuses specifically on the tax benefit requirement as analysed by the Court. In particular, it examines how the Court identified and framed the tax benefit in relation to the taxpayer, and the reasoning it adopted in concluding that the receipt of dividend based returns, in place of taxable remuneration, constituted a tax benefit for purposes of the GAAR.

Facts of the case in brief

The case involved a number of complex structured transactions (collectively, the 'Teea Arrangements') implemented over several years. At a high level, the key features of these transactions were as follows:

- Teea contracted with various external SA companies (Teea's customers) to create STC credits for those customers.
- The structures relied on the declaration of large dividends within chains of companies to generate STC credits at specific points in the chains.
- Mr G played a central role in that he devised and effectively controlled the structures, which also entitled him to dividends and related instruments.
- The core economic objective for Teea's customers was the creation of STC credits.

Within this overarching framework, three main schemes were analysed: the Moonsun, Amazonite, and Amber schemes. In essence, and without canvassing the detail of each scheme individually, these schemes all followed the same basic pattern:

- A foreign company in a tax exempt jurisdiction (i.e., Moonsun, Amber, or Amazonite), holding large reserves and a loan receivable from a holding company, was acquired by Teea and then effectively donated to an SA company lower down in the structure.
- That SA company, now holding the foreign subsidiary for no consideration, had substantial distributable reserves on paper.
- The foreign company then declared a large dividend (*in specie*, via Teea promissory notes) to its SA shareholder. Since the foreign company was not subject to STC, this step did not attract STC, but the incoming dividend created STC credits in the hands of the SA company.
- Those credits were then pushed up a chain of SA entities via further dividends, ultimately allowing Teea's external SA clients to acquire shares and receive dividends that generated STC credits and STC free outflows, while Teea extracted a fee.
- Mr G, in turn, became entitled to tax exempt dividend flows and rights under promissory notes and subsequent agreements.

SARS subsequently audited these arrangements and issued additional assessments, relying on the GAAR on the basis that the structures were impermissible avoidance arrangements under sections 80A–80L.

Arguments in a nutshell

SARS

As noted, this article focuses on the 'tax benefit' requirement of the GAAR as canvassed in the judgment, which requirement is discussed in detail further below. For context, we simply summarise in passing SARS' overarching arguments with respect to the other elements of the GAAR.

SARS contended that, regarding 'participant' in an 'arrangement':

1. Mr G was the creator and principal architect of the Moonsun, Amazonite, and Amber schemes.
2. The schemes were designed with the dominant purpose of securing tax benefits for (i) Teea's external corporate clients (by generating STC credits), and (ii) Mr G personally, by ensuring his compensation took the form of tax exempt dividends/related instruments rather than taxable income.

SARS further contended that, regarding 'tainted elements':

3. The arrangements were entered into or carried out by means or in a manner which would not normally be employed for *bona fide* business purposes but rather to obtain a tax benefit, as ordinary commercial arrangements to remunerate a promoter or adviser would have taken the form of direct service fees, performance based bonuses, or other straightforward remuneration structures.
4. Instead, the schemes relied on multiple layers of interposed entities, complex share subscriptions and dividend declarations, and notes and assignments of rights to dividend proceeds. SARS' position was that this complexity was not driven by genuine non tax commercial considerations (e.g., risk allocation, funding needs, or operational requirements) but primarily by tax design.
5. SARS also submitted that the arrangements lacked commercial substance in relation to Mr G, within the meaning of section 80C. In particular, there was a mismatch between the form of the transactions and the underlying economic reality, in that they converted what was, in substance, service remuneration into tax exempt flows.
6. The transactions did not significantly affect the economic position of Mr G or the counterparties, apart from the tax effects.
7. The structures created rights and obligations not normally created between persons dealing at arm's length, since the allocation of dividend rights, notes, and profit linked payments to Mr G bore little resemblance to standard arm's length remuneration or financing structures.
8. The relationships among the parties, including the use of nominees and atypical note exchanges, indicated that the legal form did not align with the commercial substance of an arm's length arrangement.

Accordingly, SARS contended that the arrangements fell within the GAAR, as they qualified as 'avoidance arrangements' within the meaning of section 80L, and that they were 'impermissible' within the meaning of section 80A.

The taxpayer

Mr G disputed SARS' characterisation on multiple fronts, focusing on the absence of a tax benefit (see discussion below), the presence of genuine commerciality, and the arm's length nature of the arrangements. In summary, Mr G contended as follows with respect to the latter two aspects of the GAAR:

'purpose' requirement

1. Mr G argued that the Teea arrangements did not have, as their sole or main purpose, the objective to obtain a tax benefit. The principal purpose, he contended, was to provide Teea's clients with STC credit solutions, and, for himself, to participate in the economic upside of the business as an entrepreneur and risk taking promoter.
2. According to the appellant, his use of dividends and related instruments reflected commercial and funding considerations and not a tax avoidance purpose.

'tainted elements'

3. The taxpayer maintained that the arrangements were entered into and carried out in a manner that would normally be employed for *bona fide* business purposes, as the multi layered corporate structures and dividend flows were presented as being typical of structured finance and tax credit transactions where:
    a. risk is managed via special purpose entities,
    b. rights are allocated via notes and share instruments, and
    c. returns are linked to specific project outcomes.
4. Therefore, the use of this architecture was claimed to be commercially justifiable and not primarily about obtaining tax benefits.
5. Mr G further contended that the arrangements did not lack commercial substance in that the schemes involved real legal and economic transactions, including genuine share subscriptions and acquisitions, actual dividend declarations, and real contractual obligations between Teea and its customers and Mr G.
6. It was argued that the arrangements materially affected the economic positions of the parties, and the income streams and risks borne by Mr G were consistent with his role as a promoter and financier.
7. Lastly, Mr G argued that the arrangements did not create rights or obligations that would not normally be created between persons dealing at arm's length, on the basis that the instruments, note structures, and compensation arrangements were, in his view, consistent with what might be agreed between unrelated parties in sophisticated transactions.

Accordingly, Mr G contended that the statutory indicators of an impermissible avoidance arrangement, particularly the 'abnormal rights and obligations' test, were not met.

Court's finding based on purpose test and tainted elements

The court ultimately found in favour of SARS, holding that the arrangements, insofar as they related to Mr G, were impermissible avoidance arrangements under the GAAR. The appeal was dismissed, although no order was made regarding costs.

It was clear that the Moonsun, Amazonite, and Amber schemes, and the steps comprising them, collectively constituted 'arrangements' within the meaning of section 80L.

With respect to the central GAAR requirement of the 'purpose' of the arrangements, the court held that:

1. The sole or at least main purpose of the arrangements, insofar as they involved Mr G, was to obtain a tax benefit for him in the form of tax exempt receipts rather than taxable income.
2. While the arrangements also delivered STC credits to third party corporate clients, this did not negate the purpose element in relation to Mr G's personal position.
3. The court analysed the design features of the schemes and noted that:
    a. Mr G's economic participation was deliberately structured via dividends and note rights rather than conventional remuneration.

    b. No persuasive non tax rationale was advanced for why his compensation had to take that precise form.

The court was not convinced by the appellant's assertion that his participation was purely entrepreneurial and that the tax outcome was incidental. Instead, it concluded that tax considerations were central in determining how he would be remunerated.

With respect to the various 'tainted elements', the court held that:

1. The arrangements were entered into and carried out in a manner that would not normally be employed for *bona fide* business purposes other than obtaining a tax benefit. Instead of straightforward, arm's length remuneration structures (such as fees, profit sharing or carry interests), the schemes used multiple interposed entities, sequenced dividend flows, and note based rights to channel value to the taxpayer. The court viewed this architecture as overly contrived, with no convincing commercial rationale beyond the tax outcome, and, therefore, as 'abnormal' for purposes of section 80A.

2. Closely related, the court found that the rights and obligations created, including the allocation of dividend and note linked entitlements to the taxpayer through nominee holdings and layered share structures, were not typical of arm's length dealings.
3. While each instrument might be acceptable in isolation, the combined pattern was sufficiently out of the ordinary to trigger the GAAR. In relation to the Moonsun and Amazonite schemes specifically, the court further held that the arrangements lacked commercial substance on the basis that, in legal form, the taxpayer received dividends and note returns, but in substance he was being remunerated for his structuring and implementation services, with no meaningful non tax change in economic risk or cash flows.

As noted above, the purpose of this article, as the first part in this series, is to consider the tax benefit requirement as it was analysed by the court. In what follows, we focus on how the court identified the existence of a tax benefit in relation to the taxpayer, how it framed the appropriate 'but for' comparison, and why the court concluded that the structuring of the taxpayer's remuneration as dividend linked, tax exempt receipts fell squarely within the concept of a tax benefit for GAAR purposes. Subsequent parts in the series will address the other GAAR elements, including the purpose requirement and tainted elements, in more detail.

Contentious application of the 'but for' test in meeting the tax benefit requirement

Section 80L defines an 'avoidance arrangement' as any arrangement that, but for the GAAR, results in a 'tax benefit'. The term 'tax benefit' is defined in section 1 as including 'any avoidance, postponement or reduction of any liability for tax'.

Given the limited number of cases that have been decided under the 'new GAAR' since its introduction into the Act, reference is typically made to case law decided under the predecessor to Part IIA, namely the (now repealed) section 103(1).[2] These tests generally interpret the words 'avoiding liability for a tax on income' (which appeared in section 103(1)) as meaning to 'get out of the way of, escape or prevent an anticipated liability',[3] noting that 'such a liability may vary from an imminent certain prospect to some vague, remote possibility'.[4] Notably, the phrase is confined to 'anticipated' tax liabilities, as opposed to existing tax liabilities that are already owing by the taxpayer to SARS.[5]

2 See in particular *Smith v Commissioner for Inland Revenue* 26 SATC 1 at 12 and Hicklin v Secretary for Inland Revenue 41 SATC 179 at 193.

3 See the *Smith* case supra.

4 See the *Hicklin* case supra.

5 See *Commissioner for Inland Revenue v King* 14 SATC 184 at 190. Although the decision related to an older version of the GAAR (i.e., the provision in effect prior to section 103(1)), the court's comments apply equally in interpreting the current definition of a 'tax benefit' in section 1.

Apart from the meanings ascribed to the tax benefit requirement in these cases, a further test for determining whether a tax benefit exists appears to have been developed judicially in the form of a '*but for*' test. The test postulates a consideration of whether the taxpayer would have suffered tax 'but for' the arrangement entered into.

The 'but for' test in a GAAR context has been considered and applied in a number of cases. The court in the *Smith*[6] case reasoned that had it not been for the transactions or operations concluded by the taxpayer, the dividend in question would have been received by the appellant and subject to tax in his hands.[7] In the more recent decision in the *Sasol Oil* case,[8] the SCA seemingly considered whether Sasol would have derived a tax benefit had the parties not entered into the transactions in question,[9] implicitly applying the 'but for' test.

Even more recently, the court in the *Absa Bank* case[10] confirmed the application of the 'but for' test by stating that '*Whether or not a tax liability was evaded is determined by the 'but for' test applied to a future anticipated tax liability*'.[11]

However, despite the growing application of the 'but for' test, various practical issues may arise when applying the test, particularly with respect to the identification of a hypothetical alternative scenario or counterfactual against which to compare the impugned transaction.

6 Supra.

7 While what in effect amounts to the 'but for' test appears to have been applied in the court's reasoning, no express reference is made in the case to the test itself. In *Commissioner for Inland Revenue v Louw* 45 SATC 113, Corbett JA applied the 'but for' test in determining whether the advancing of the loans in question enabled the respondent to escape an anticipated liability for tax. In doing so, Corbet JA stated that '*one must, I think, ask oneself the question whether, but for the loans, equivalent or even lesser amounts would probably have been received by respondent in a taxable form, i.e. as salary or dividend*'.

8 *Sasol Oil Proprietary Limited v Commissioner for the South African Revenue Service* [2018] ZASCA 153.

9 At paragraph 88. It is, however, unclear from the contents of this paragraph whether the entire paragraph was a citation of Sasol's argument or whether the citation was included in the first sentence only, with the court providing its own comments in the remainder of the paragraph.

10 ABSA Bank *Limited and Another v Commissioner for the South African Revenue Service* [2021] ZAGPPHC 127. This decision was overturned on appeal to the SCA (see *Commissioner for the South African Revenue Service v Absa Bank Limited and Another* (596/2021) [2023] ZASCA 125), but on the basis that the review application brought by the taxpayer to the High Court was not competent. The SCA judgment did not deal with the merits of the application of the GAAR, save for the administrative provisions of section 80J.

11 At paragraph 42. See also Teresa Pidduck and Sumarie Swanepoel 'The Absa Case: A Critical Analysis of the Tax Benefit Requirement in the Application of the General Anti-Avoidance Rule', *South African Mercantile Law Journal* 33, no. 3 (2021): 202-224 at 490. On appeal to the SCA (*ibid*), the SCA made the following comments by way of obiter dictum at paragraph 31: '*Whether Absa and United Towers obtained a tax benefit by avoiding an anticipated tax liability that might otherwise have accrued from the transactions, is a question of fact*'. The SCA does not explicitly cite the 'but for' test, although the words 'might otherwise have accrued' could be construed as a reference to the test. This is, however, unclear, as the phrase may also have been a reference to the words 'but for this Part' which appear in the definition of an 'avoidance arrangement'.

In particular, it is unclear whether the counterfactual ought to be a different transaction altogether or simply the scenario in which the taxpayer had not entered into the transaction in question. If the former, the application of the test would require SARS to predict how the taxpayer would have acted or what the position would have been had the taxpayer not entered into the arrangement in question. Given the subjective nature of this inquiry and the (often) limited facts at SARS' disposal, it may be difficult for SARS to accurately predict what course of action a taxpayer may otherwise have pursued.

For example, a scenario could arise in which the taxpayer could have concluded a number of different transactions to achieve the same result, with each transaction giving rise to different tax benefits, and it may be difficult to establish on a balance of probabilities which transaction the taxpayer would have chosen. Given that SARS bears the onus of proving the existence of a tax benefit, SARS must both (i) allege that a tax benefit has in fact been obtained by the taxpayer, and (ii) prove the existence of such benefit. Should SARS prove the existence of the tax benefit by applying the 'but for' test, SARS would need to prove the hypothetical alternative or counterfactual scenario. However, exactly what would be required of SARS in such a case is not entirely clear and would depend on the facts and circumstances in question.

Where, however, more than one hypothetical alternative is possible on the facts and SARS chooses to postulate an alternative transaction that would have been undertaken by the taxpayer, further questions may arise, such as: Can SARS select any benchmark for the alternative course of action that it deems appropriate in applying the test? Can SARS substitute the taxpayer's actions for an arrangement that would have given rise to the highest tax liability in the circumstances? The answer to these questions is not entirely clear from the cases in which the test has been applied.

First school of thought: no counterfactual is required

Many commentators argue that the alternative course of action that a taxpayer may have adopted ought not to be the focus of the 'but for' inquiry. Rather, the hypothetical alternative should be limited to simply excising the impugned arrangement and considering whether a tax liability would have resulted.

This school of thought postulates that the cases decided under the previous GAAR in relation to the tax benefit requirement establish that the particular arrangement upon which SARS relies must have had the effect of the relevant taxpayer getting out of the way of, escaping, or preventing an anticipated liability for tax (i.e., the taxpayer must have had an anticipated liability for tax which it avoided by entering into or carrying out the specified transaction, operation, or scheme). The question is, therefore, whether, but for the arrangement in question, the taxpayer would have incurred a liability for tax which it avoided by entering into or carrying out that arrangement.

Stated differently, in evaluating the tax benefit requirement the test is not 'if the taxpayer had structured its transactions differently, would it have incurred a liability for tax?' Rather, the test is 'if the taxpayer had not entered into or carried out the arrangement in question, would it have incurred a liability for tax?' This distinction is critical, as the court in the Mr G case did not adopt this line of reasoning (see below).

Based on this reasoning, an argument can potentially be made that, even if the current parties contemplated achieving their commercial objectives in a different manner which, if implemented, would have resulted in a tax liability, this does not mean that the taxpayers had an 'anticipated liability for tax' as contemplated in the tax benefit requirement.

Second school of thought: a counterfactual is required

The Tax Court in the Mr G case took a different approach to that set out above. Similarly to the above, the appellant argued that a tax benefit exists only if an anticipated tax liability before a transaction **(which will not be affected if the transaction is not implemented)** is postponed, reduced, or avoided by the transaction in question.

The appellant argued, relying on the *Sasol Oil* case, that since the Moonsun and Amazonite schemes were offered to Teea on a 'take it or leave it' basis, he could not anticipate, and did not face, a tax liability before the transactions were entered into. Furthermore, these schemes did not give rise to a tax benefit once executed.

As summarised by the court, '*the test the appellant, therefore, champions in the present instance is one where the transaction which took place is compared to no transaction at all*'.[12] The Court did not, however, endorse this interpretation.

The court distinguished the *Sasol Oil* case as follows:[13]

> 'If this test is compared to Sasol Oil, one sees that Sasol Oil is not authority for the appellant's proposition. The context to the above quoted extract from paragraph [88] of the judgment is provided by what went before it and what came after it…
>
> Sasol Oil is authority for the proposition that, when a taxpayer is faced with a choice between changing its modus operandi in achieving its aim, or continuing on its present course to achieve its aim, and none of these choices leads to any anticipated avoidance, postponement or reduction of any liability for tax, then the taxpayer can say that there was no tax benefit.
>
> Contrary to what appears from the above extract from Sasol Oil, where no course adopted to achieve Sasol Oil's aims would have resulted in an anticipated tax liability for Sasol Oil, in the present instance **the appellant does not postulate two ways of achieving his aim to derive compensation from the implementation of the scheme he had created**.' (emphasis added)

The court further went on to state as follows:[14]

> 'What the appellant postulates is that he would rather have shelved the scheme and not have been compensated for his efforts at all, than considering an alternative to the present method of him deriving compensation for his time, expertise, and efforts in the form of tax-exempt dividends. Not only do I find this inherently improbable, but if one were to compare the impugned transaction to the comparator of no transaction at all, as the appellant contends, most tax avoidance transactions would escape the reach of the GAAR. This would not only lead to an incorrect, but also an absurd result.
>
> **I, therefore, agree with counsel for the respondent that this extreme 'but for' test the appellant postulates is the wrong test to determine, for purposes of the GAAR, whether or not an impugned transaction results in the avoidance of tax.**
>
> **The correct question to ask when considering whether a taxpayer has had a tax benefit, in my view, is that: But for the transaction being structured in a way which avoids the imposition of tax, would the taxpayer have incurred a tax liability? If the taxpayer would have incurred a tax liability, then, quite clearly, it achieved a tax benefit as a result of the transaction.**' (emphasis added)

Finally, the court summed up its understanding of the correct application of the 'but for' test as follows:

> 'In the present case, therefore, the '**tax benefit' enquiry requires a comparison, on the one hand of the tax liability that the appellant would have faced if the amounts were paid to him directly as a fee, commission, or sale price and, on the other hand, of the tax liability the appellant faced under the present arrangement in terms of which he received tax-exempt dividends** (and subsequent tax-exempt payments in terms of the aforementioned 2008 and 2011 Agreements).'

Summing up both views

The essential difference between these two schools of thought lies in their approach to the hypothetical scenario against which the impugned transaction is measured. The first school asserts that the inquiry should be limited to a simple removal of the arrangement in question, asking whether a tax liability would have arisen if the taxpayer had not entered into the transaction at all.

This view avoids speculation about what alternative actions the taxpayer might have taken and focuses strictly on the direct effect of the impugned arrangement. It prioritises certainty and objectivity, ensuring that the analysis does not unfairly penalise taxpayers for hypothetical choices they did not make.

12 At para 90.
13 At paras 91 to 93.
14 At paras 94 – 96.

In contrast, the second school, as articulated in the Mr G case, advocates for a broader counterfactual analysis that considers not only the absence of the transaction but also plausible alternative arrangements the taxpayer might have adopted to achieve the same commercial outcome. This approach allows SARS and the courts to examine whether, but for the manner in which the transaction was structured to avoid tax, the taxpayer would have incurred a tax liability through a different, but commercially equivalent, arrangement.

This distinction is significant, because it broadens the scope of the GAAR and can potentially capture more sophisticated avoidance strategies. Furthermore, it introduces a degree of subjectivity and complexity by requiring predictions about the taxpayer's likely behaviour in the absence of the impugned transaction.

We are aware of certain practitioners that do not agree with the latter view as adopted by the Court in this case, but ultimately, it remains to be seen whether future binding authority will provide definitive guidance on the appropriate application of the 'but for' test in this context.

Our two cents

It is submitted, having regard to the potential for the 'but for' test to prejudice the taxpayer by placing undue focus on what other transactions the taxpayer would have entered into as opposed to simply considering whether a tax benefit would arise if the impugned transaction was not entered into, that the test should turn on whether, had the taxpayer not entered into the arrangement in question, a tax benefit would have resulted. In other words, it is submitted that SARS ought not to focus on whether the taxpayer would have incurred a tax liability had it entered into some other arrangement.

Further, SARS ought to be precluded from prescribing the manner in which it believes the taxpayer should have concluded the arrangement to achieve its overall purpose, as the tax benefit requirement should focus on the effect of the actual transaction, as opposed to whether it would have been possible to trigger tax by concluding a different transaction.

It is worth noting that, in the present case, the factual matrix arguably made it relatively straightforward to identify what the alternative transaction would have been. The evidence suggested that had Mr G not received tax-exempt dividends he would, in all likelihood, have been paid fees or commissions, reflecting standard practice in the relevant market. Consequently, the court's approach (considering the counterfactual scenario where taxable fees or commissions were earned) may have been more feasible than in instances where the appropriate comparator is ambiguous or could plausibly take several different forms. This emphasised the importance of the underlying facts in determining the suitability and fairness of the 'but for' test in any given context.

Nevertheless, we are unfortunately left in a position of uncertainty as to the correct application of the 'but for' test. Given this uncertainty, practitioners must exercise caution and ensure that any advice given is carefully qualified, with reference to both schools of thought and the prevailing judicial interpretations. At a minimum, taxpayers should document their reasoning thoroughly when navigating transactions potentially subject to the GAAR.

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SARS Watch

SARS Watch 26 November 2025–25 January 2026

Legislation

22 January 2026	Table 1 – Interest rates on outstanding taxes and interest rates payable on certain refunds of tax	The prescribed rate will decrease to 10.25% (currently 10.50%) from 1 March 2026.
22 January 2026	Table 2 – Interest rates payable on credit amounts	The prescribed rate will decrease to 6.25% (currently 6.50%) from 1 March 2026.
5 January 2026	Revenue Laws Amendment Act 6 of 2025	The Amendment Act was promulgated on 24 December 2025 in Government Gazette No. 53916.
30 December 2025	Practice Note 31 of 1994 – Income Tax: Interest paid on moneys borrowed	Practice Note 31 has been replaced by section 11G of the Income Tax Act, for years of assessment commencing on or after 1 January 2026.

10 December 2025	Draft Notice – Setting the requirements and conditions that must be met by a company for purposes of paragraph (b) of the definition of 'REIT' in section 1(1) of the Income Tax Act, 1962	Comments are due to SARS by Saturday, 31 January 2026.
5 December 2025	Table A – A list of the average exchange rates of selected currencies for a year of assessment as from December 2003 Table B – A list of the monthly average exchange rates to assist a person whose year of assessment is shorter or longer than 12 months	Average exchange rates updated up to November 2025.
3 December 2025	Draft Notice – Incidences of non-compliance by a person in terms of section 210(2) of the Tax Administration Act, 2011 (Act No. 28 of 2011) that are subject to a fixed amount penalty in accordance with sections 210 and 211 of the Act	Comments were due to SARS by Wednesday, 28 January 2026.
1 December 2025	Final Response Document	National Treasury and SARS' response to the comments received on the following draft tax bills: • 2024 Draft Revenue Laws Amendment Bill • 2024 Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill • 2024 Draft Taxation Laws Amendment Bill • 2024 Draft Tax Administration Laws Amendment Bill • Draft Global Minimum Tax Bill • Draft Global Minimum Tax Administration Bill – January 2025
28 November 2025	Notice R.6887 – Regulations for purposes of paragraph (c) of the definition of 'international tax standard' in section 1 of the Tax Administration Act, 2011, promulgated under section 257 of the Act, specifying the changes to the OECD Crypto-Asset Reporting Framework International Standard for the Exchange of Tax-Related Information between Countries	Published in Government Gazette No. 53735, with a commencement date of 1 March 2026.
28 November 2025	Notice R.6886 – Regulations for purposes of paragraph (a) of the definition of 'international tax standard' in section 1 of the Tax Administration Act, 2011, promulgated under section 257 of the Act, specifying the changes to the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters	Published in Government Gazette No. 53735, with a commencement date of 1 March 2026.

Interpretation

13 January 2026	Interpretation Note 143 – Income tax exemption: Registered political party	This Note provides guidance on the interpretation and application of the exemption from income tax under section 10(1)(cE) of the receipts and accruals of any political party registered under section 15 of the Electoral Commission Act.

30 December 2025	Interpretation Note 91 (Issue 3) – Concession or compromise of a debt	This Note provides guidance on the interpretation and application of section 19 and paragraph 12A, which deal with the concession or compromise of debt. The information in this Note is based on the income tax and tax administration legislation as at the time of publishing. This Note takes into account legislative amendments introduced by the Taxation Laws Amendment Act 17 of 2023, effective from 1 January 2024. The Note does not address section 22 of the VAT Act dealing with irrecoverable debt.
30 December 2025	Interpretation Note 64 (Issue 5) – Income tax exemption: Bodies corporate, share block companies, and associations of persons managing the collective interests common to all members	This Note provides guidance on the interpretation and application of section 10(1)(e).
30 December 2025	Interpretation Note 22 (Issue 6) – Transfer duty exemption: Public benefit organisations ('PBOs') and institutions, boards, or bodies	This Note provides guidance on the interpretation and application of – • section 9(1)(c), which exempts from the payment of transfer duty a PBO or any institution, board, or body, provided the whole or substantially the whole of the property acquired is used for carrying on one or more PBAs; and • section 9(1A), which exempts from the payment of transfer duty the transfer of property by a PBO to any other entity controlled by that PBO. For purposes of this Note, the transactions do not constitute taxable supplies of fixed property.
12 December 2025	Interpretation Note 142 – Meaning of 'similar finance charges'	This Note considers the meaning of 'similar finance charges' and, by way of example, considers the application of that meaning in assessing whether raising fees in respect of a financial arrangement falls within the ambit of 'similar finance charges'. The meaning of 'similar finance charges' is considered from the perspective of the borrower. However, the same principles apply when considering the term from the perspective of the lender.
26 November 2025	Draft Interpretation Note – Loan, advance, or credit granted to a trust by a connected natural person	Comments were due to SARS by Friday, 16 January 2026.

Binding rulings

9 January 2026	VAT Ruling 014 – Apportionment	This VAT ruling approves the methods of apportionment which are applied by a vendor in the retail industry, namely the page-space method and the varied turnover-based method.
4 December 2025	Binding Private Ruling 423 – Amount paid by a company to the sole beneficiary of its shareholder constitutes a dividend	This ruling determines that the payment of an amount by a resident company to the sole beneficiary of a trust that is the sole shareholder of the resident company constitutes a dividend and not a donation.

26 November 2025	Binding Private Ruling 422 – Lump sum from a foreign fund	This ruling determines the tax consequences in relation to the accrual of a lump sum payment to a resident from a foreign pension fund in respect of services rendered outside South Africa.
26 November 2025	Binding Private Ruling 421 – Withdrawal from a superannuation fund situated outside South Africa	This ruling determines the tax consequences of a lump sum benefit paid to a resident from a superannuation fund situated outside South Africa.

Customs and excise

23 January 2026	Notice R.7019 – Amendment to Part 1 of Schedule No. 1 by the deletion of tariff subheadings 0307.39.20, 0307.39.30, and 0307.39.40, and the insertion of tariff subheadings 0307.32.20, 0307.32.30, and 0307.32.40, in order to provide for frozen mussels	Published in Government Gazette No. 53984, with an implementation date of 23 January 2026.
23 January 2026	Notice R.7018 – Imposition of provisional payments in relation to anti-dumping duties against the alleged dumping of 3 mm, 4 mm, 5 mm, and 6mm clear float glass classifiable under tariff subheadings 7005.29.17, 7005.29.23, 7005.29.25, and 7005.29.35, originating in or imported from Tanzania (ITAC Report No. 762)	Published in Government Gazette No. 53984, with an implementation date of 23 January 2026, up to and including 22 July 2026.
20 January 2026	13th deferment payment at the end of the 2025/2026 financial year	This letter serves as a reminder to all Customs deferment account holders to adhere to the 13th deferment payment requirements, which becomes due by 31 March 2026.
16 January 2026	Draft amendments to rules under sections 40, 41, and 120 – Insertion of rules under sections 40 and 41 relating to the manner in which bills of entry may be adjusted where customs value declared is affected by transfer pricing adjustments	Comments are due to SARS by Friday, 30 January 2026.
16 January 2026	Customs Value Adjustment Calculation spreadsheet	Comments are due to SARS by Friday, 30 January 2026.
19 December 2025	Notice R.6966 – Amendment to Part 4 of Schedule No. 6 by the substitution of Note 4 in order to delete the reference to 317.03, as this item has become redundant	Published in Government Gazette No. 53874, with an implementation date of 19 December 2025.
19 December 2025	Notice R.6965 – Amendment to Part 3 of Schedule No. 5 by the substitution of rebate item 538.00 in order to include electric vehicles and associated components under APDP 2 (ITAC Minute M15/2024 and Addendum)	Published in Government Gazette No. 53874, with an implementation date of 19 December 2025.

19 December 2025	Notice R.6964 – Amendment to Part 2 of Schedule No. 4 by the substitution of rebate item 460.17 in order to include electric vehicles and associated components under APDP 2 (ITAC Minute M15/2024 and Addendum)	Published in Government Gazette No. 53874, with an implementation date of 19 December 2025.
19 December 2025	Notice R.6963 – Amendment to Part 1 of Schedule No. 4 by the substitution of rebate item 410.03/87.00/01.02 to delete the reference to 317.03, as this item has become redundant	Published in Government Gazette No. 53874, with an implementation date of 19 December 2025.
19 December 2025	Notice R.6962 – Amendment to Part 1 of Schedule No. 3 by the substitution of rebate items 317.04 and 317.07 in order to include electric vehicles and associated components under APDP 2 (ITAC Minute M15/2024 and Addendum)	Published in Government Gazette No. 53874, with an implementation date of 19 December 2025.
19 December 2025	Notice R.6961 – Amendment to Part 1 of Schedule No. 1 by the substitution of Notes 5(b) and 8 and the insertion of Note 5(c) and tariff subheading 9801.00.03 in Chapter 98 in order to include electric vehicles and associated components under APDP 2 (ITAC Minute M15/2024 and Addendum)	Published in Government Gazette No. 53874, with an implementation date of 19 December 2025.
12 December 2025	Notice R.6934 – Amendment to Part 1 of Schedule No. 2 by the insertion of item 213.03/7007.29/02.06 in order to impose anti-dumping duty on imports of laminated safety glass classifiable in tariff subheading 7007.29, originating in or imported from Malaysia (ITAC Report 736 and Minute M06/2025)	Published in Government Gazette No. 53822, with an implementation date of 12 December 2025.
11 December 2025	Updated Facilities Code List	The facility codes used in Box 30 on the Customs Clearance Declaration ('CCD') have been updated to include details of the container depot for Fusion Dispatch Center (Pty) Ltd, located in Johannesburg. This addition enables Customs to transmit electronic messages communicating the status of the consignment to these facilities.
5 December 2025	Notice R.6910 – Amendment to Part 1 of Schedule No. 1 by the substitution of tariff subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 to increase the rate of customs duty on sugar from 364.68c/kg to 436.38c/kg in terms of the existing variable tariff formula (ITAC Minute 08/2025)	Published in Government Gazette No. 53796, with an implementation date of 5 December 2025.
4 December 2025	Updated Prohibited and Restricted Imports and Exports list	Tariff code 9018.50 does not need a letter of authority from NRCS.
26 November 2025	Updated Prohibited and Restricted Imports and Exports list	Tariff code 4909 is exempt from ITAC import permit control.

Case law
In accordance with the date of judgment

16 January 2026	Tholo Energy Services CC v Commissioner for the South African Revenue Service (CCT 252/24) [2026] ZACC 1	Whether SARS may rely on additional grounds (not raised in the original determination) to oppose a statutory appeal against a refused fuel levy refund claim under the Customs and Excise Act, and whether the applicant satisfied the statutory requirements to obtain fuel from a licensed manufacturing warehouse and hold the requisite export permits.
30 December 2025	Ver-Bolt (Pty) Ltd v Commissioner for South African Revenue Service (005878/2024) [2025] ZAGPJHC 1322	Whether imported mining equipment parts (Camlock Safety Prop components) should be classified under tariff heading 7308.40.10 as 'mining appliances' (equipment for propping) or under the residual tariff heading 7308.90.99, with the key question being whether parts of propping equipment qualify as propping equipment in their own right.
22 December 2025	Kaj Pipes Fittings CC v Commissioner for South African Revenue Service (57062/2019) [2025] ZAGPPHC 1380	Whether imported seamless steel pipes (certified to API 5L standards) should be classified under tariff heading 7304.19 as 'line pipes of a kind used for oil or gas pipelines' or under alternative tariff headings, regardless of their actual intended use by the importer.
11 December 2025	Adidas International Trading AG (Switzerland) and Another v Commissioner for the South African Revenue Service (28878/2019) [2025] ZAGPPHC 1392	Whether the proceedings should be transferred from the Gauteng Division to the Western Cape Division of the High Court, based on considerations of convenience (witness location, costs, and trial dates). The underlying dispute concerns SARS' customs value determination for imported Adidas-branded goods and whether related-party pricing should be used as the customs value.
1 December 2025	Ntayiya v South African Revenue Service (848/2023) [2025] ZASCA 183	Whether submission of nil returns by taxpayer triggers imposition of penalties under section 222 of the Tax Administration Act and whether penalties were justified in the circumstances.
19 November 2025	SLGGM v Commissioner for the South African Revenue Service (VAT 1543) [2025] ZATC	Whether payments made by the GDE to the appellant constituted 'grant funding', thus subject to zero-rating, or were payments for 'actual services rendered' by the appellant to the Department, thus attracting VAT at standard rate.
14 October 2025	Commissioner for the South African Revenue Service v Taxpayer TAT (IT 46233) [2025] ZATC	Applications to amend Rule 31 statement of grounds of assessment and opposing appeal. The court was called upon to determine the following issues: • Whether the proposed amendment amounts to a new case. • Whether the amendment is permissible under Rule 31(3). • Whether the granting of the amendment would prejudice the appellant and/or the other 408 taxpayers who elected not to participate based on the pleadings as they stood and, finally, whether it is appropriate for the court to allow the amendment in light of the designation of this matter as a 'test case'.

Guides and forms

16 January 2026	Frequently Asked Questions ('FAQs'): Turnover Tax	The FAQs in this document have been compiled to address salient questions that the public had regarding the application of various provisions related to turnover tax payable by microbusinesses, as outlined in the Sixth Schedule to the Income Tax Act.
16 January 2026	Tax Guide for Micro Businesses (Issue 3)	This guide provides general guidance about a simplified tax system that is available for micro businesses (businesses with a qualifying turnover of R1 million or less).
24 December 2025	Draft Forms – Automotive Production Development Programme (APDP) Phase 2 Quarterly Account	Comments were due to SARS by Friday, 16 January 2026.
11 December 2025	Updated policy documents: • Valuation of Imports – External Policy • Valuation of Exports – External Policy • Tariff Classification – External Policy • Staged Consignment – External Policy • Administration of Trade Agreements – External Policy	The policies governing tariff, valuation, origin, and staged consignment have been revised to include specified turnaround times for the finalisation of the determination application submitted to Customs and Excise offices.
10 December 2025	Guide to Complete the Lump Sum Tax Directive Application Forms	Updated to: • Clarify when an inactive tax reference number will be accepted on a tax directive application • Emphasise the Fund's duty to take into account the potential double tax agreement implications for non-resident clients • Clarify the process for applying for a tax directive where there is insufficient taxpayer information
10 December 2025	Reporting Unprofessional Conduct – External Guide	The purpose of this guide is to provide information regarding reporting unprofessional conduct of: • tax practitioners, i.e., individuals who have registered with a recognised controlling body ('RCB') and with SARS as a tax practitioner • professionals who provide tax assistance • unregistered individuals practising as tax practitioners
8 December 2025	Deferral of Payment Arrangements on eFiling – External Guide	The purpose of this document is to assist taxpayers to initiate a payment arrangement request on eFiling for outstanding debt.
8 December 2025	Guide for Transfer Duty via eFiling – External Guide	This guide is designed to assist taxpayers in the activation of their transfer duty account on eFiling, the completion of the TDC01 declaration, and registration for the allocation of a conveyancer registration number on eFiling.

Other publications

22 January 2026	OECD: OECD published the fourth batch of updated transfer pricing country profiles	The country profiles focus on countries' domestic legislation regarding key transfer pricing principles, including the arm's length principle, transfer pricing methods, comparability analysis, intangible property, intra-group services, cost contribution agreements, transfer pricing documentation, administrative approaches to avoiding and resolving disputes, safe harbours, and other implementation measures.
21 January 2026	OECD: Global Forum on Transparency and Exchange of Information for Tax Purposes	Peer review reports which analyse the implementation of the standard on transparency and the exchange of information on request have been published for various jurisdictions.
16 January 2026	OECD: African countries advance transfer pricing simplification as ATAF and OECD deliver joint capacity-building workshops on Amount B	ATAF and the OECD recently concluded a series of joint workshops on advancing transfer pricing simplification across the African region. A key component of the discussions was the OECD's simplified approach for baseline marketing and distribution activities, known as Amount B, which was incorporated into the OECD Transfer Pricing Guidelines in February 2024. The press release provides more details.
15 January 2026	OECD: Fiji joins as 152nd signatory to Multilateral Convention to tackle tax evasion and avoidance	At a signing ceremony held in Paris, Fiji's Minister for Finance, Commerce and Business Development signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, bringing the total number of jurisdictions participating in the Convention to 152.
15 January 2026	National Treasury media statement: Extension of Deadline for Public Comments in Respect of the Draft National Online Gambling Tax Discussion Paper	National Treasury published a draft national online gambling tax discussion paper on 25 November 2025 for public comment. The deadline for public comments on the discussion paper has been extended to close of business on 27 February 2026.
12 January 2026	OECD: Guatemala joins the Inclusive Framework on BEPS, a global platform for international tax collaboration	Guatemala became the 148th member to join the OECD/G20 Inclusive Framework on BEPS, a global initiative providing a platform for international tax collaboration.
12 January 2026	Tax Alert: OECD issues new Pillar Two Side-by-Side Package	On 5 January 2026, the OECD announced that 147 members of the Inclusive Framework ('IF') on BEPS have agreed to a new package of administrative guidance under the Pillar Two global minimum tax rules. The agreed 'Side-by-Side Package' ('the Package') will be incorporated into the Commentary to the GloBE Model Rules. The Package includes: • a one-year extension of the transitional country-by-country reporting ('CbCR') • safe harbour • a permanent simplified effective tax rate ('ETR') safe harbour • a substance-based tax incentive safe harbour • a side-by-side ('SbS') safe harbour • an ultimate parent entity ('UPE') safe harbour for eligible countries • a commitment to conduct future stocktakes of the SbS and UPE safe harbours

10 January 2026	OECD: Digital Continuous Transactional Reporting for Value-Added Tax ('VAT')	This report examines the design and operation aspects of digital continuous transactional reporting ('DCTR') regimes for VAT.
7 January 2026	Global Tax Policy Alert: Substance-based tax incentive safe harbour for Pillar Two groups	The agreed Side-by-Side Package includes a substance-based tax incentive safe harbour. The favourable treatment of qualifying tax incentives ('QTI's) applies for fiscal years starting on or after 1 January 2026. The Alert provides more details.
7 January 2026	Global Tax Policy Alert: Pillar Two Simplified ETR Safe Harbour	The Simplified ETR Safe Harbour is intended to provide multinational enterprise ('MNE') groups with a more practical way to demonstrate that no top-up tax is due in a jurisdiction. The measure is designed to reduce compliance and administrative burdens by allowing MNEs to use financial accounting data and simplified computations rather than the full GloBE rules. The Alert provides more details.
7 January 2026	Global Tax Policy Alert: OECD publishes Pillar Two Side-by-Side System ('SbS System')	The SbS System introduces two new Pillar Two safe harbours: (i) the Side-by-Side Safe Harbour ('SbS SH') for MNE Groups headquartered in jurisdictions with both eligible domestic and worldwide tax systems (ii) the Ultimate Parent Entity Safe Harbour ('UPE SH') for MNE Groups with a UPE located in a jurisdiction that has an eligible domestic tax system but not an eligible worldwide tax system The Alert provides more details.
5 January 2026	Global Tax Policy Alert: OECD announces agreement on a range of new Pillar Two safe harbours	On 5 January 2026, the OECD announced that 147 members of the IF on BEPS had agreed to a new package of administrative guidance under the Pillar Two global minimum tax rules. The Alert provides more details.
5 January 2026	OECD: International community agrees way forward on global minimum tax package	The 147 countries and jurisdictions working together within the OECD/G20 Inclusive Framework on BEPS have agreed on key elements of a package that charts a course forward for the co-ordinated operation of global minimum tax arrangements in the context of a digitalised and globalised economy. The press release provides more details.
31 December 2025	SARS media release: Trade Statistics for November 2025	South Africa recorded a preliminary trade balance surplus of R37.7 billion in November 2025. This surplus was attributable to exports of R188.0 billion and imports of R150.3 billion, inclusive of trade with Botswana, Eswatini, Lesotho, and Namibia ('BELN'). The media release provides more details.
19 December 2025	SARS: Global Minimum Tax ('GMT') – How to Register and Notify SARS	As part of South Africa's implementation of the Global Anti-Base Erosion ('GloBE') framework, SARS will soon launch the registration and notification functionality for the GMT via its eFiling platform. The launch has been rescheduled to 16 March 2026.
17 December 2025	OECD: Countering harmful tax practices – New peer review results show strong compliance with BEPS Action 5 minimum standard on the exchange of information on tax rulings	The Inclusive Framework on BEPS released the latest peer review results for 139 jurisdictions on the spontaneous exchange of information on tax rulings, highlighting continued progress and further enhancing transparency for tax administrations worldwide. The press release provides more details.

17 December 2025	Harmful Tax Practices – 2024 Peer Review Reports on the Exchange of Information on Tax Rulings	Under the BEPS Action 5 minimum standard, Members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) have committed to counter harmful tax practices with a focus on improving transparency. One part of the Action 5 minimum standard is the transparency framework for compulsory spontaneous exchange of information on certain tax rulings. Peer review reports have been published for various jurisdictions in this regard.
16 December 2025	OECD: New climate policy database maps mitigation policies across the 60 IFCMA countries	The Inclusive Forum on Carbon Mitigation Approaches ('IFCMA') has released the first edition of its climate policy database, providing unprecedented detail on how governments are tackling climate change through policy action.
16 December 2025	OECD: Tax policy reforms in low- and middle-income jurisdictions	This policy brief reviews the tax policy reforms introduced by the 31 low- and middle-income jurisdictions that responded to the OECD's annual tax policy reform questionnaire. They were also covered in Tax Policy Reforms 2025: OECD and Selected Partner Economies, which covered 86 jurisdictions.
15 December 2025	SARS media release: File Trust and Provisional Tax Returns by 19 January 2026	The deadline for trustees and provisional taxpayers to submit both ITR12T trust and provisional tax returns was 19 January 2026.
15 December 2025	OECD: San Marino deposits first ratification instrument for multilateral Convention implementing the Subject to Tax Rule, and Georgia expands its coverage under the BEPS Multilateral Convention	On 11 December, San Marino deposited its instrument of ratification for the Multilateral Convention to Facilitate the Implementation of the Pillar Two Subject to Tax Rule (the STTR Convention), becoming the first jurisdiction to do so.
12 December 2025	Global Tax Policy Alert: Second evaluation of the EU Directive on Administrative Cooperation in Taxation ('DAC')	The European Commission's second evaluation of the EU Directive on Administrative Cooperation (2018–2023) was published on 19 November 2025. The European Commission concludes that the DAC is an effective, agile framework that boosts tax transparency and cooperation, purporting to increase revenue collections by approximately EUR 6.8 billion annually. The Alert provides more details.
11 December 2025	SARB: Income transfers – guideline to Authorised Dealers	SARS and the Financial Surveillance Department of the South African Reserve Bank advise that, in the interim, authorised dealers may allow the transfer of income due to non-resident entities without a requirement to obtain a Manual Letter of Compliance – International Transfer or Tax Compliance Status (TCS) – AIT PIN from SARS. The guideline provides more details.
9 December 2025	SARS: Exempt Institutions system is going digital	SARS introduced an online registration system for Income Tax Exempt Institutions. The pilot commenced on 8 December 2025 and ends on 26 February 2026. The full system is expected to launch on 27 February 2026.
9 December 2025	SARS: Enhanced VAT registration process	SARS is improving the transparency of the VAT registration process. Applicants will now receive clarity on any additional supporting documents required and specific reasons for an application being rejected. See the Register for VAT webpage for more information.

9 December 2025	SARS: Debt Management Enhancement for Trust Entities	SARS has implemented enhancements to enable taxpayers to initiate payment arrangements on eFiling for Trust Assessed Tax.
9 December 2025	OECD: Labour taxes drive OECD tax revenues to record high in 2024	Higher revenues from labour taxes drove tax revenues among OECD countries to their highest ever level in 2024, according to a new OECD report. The press release provides more details.
9 December 2025	OECD: Revenue Statistics 2025	This edition of Revenue Statistics provides final data on tax revenues in OECD countries for 2023 and preliminary data for 2024, a year in which short- and long-term spending pressures prompted several OECD countries to introduce measures to increase revenues.
8 December 2025	SARS: Enhancements to Transfer Duty Declaration	The Transfer Duty Declaration ('TDC01') on eFiling has been enhanced to address registration issues and ensure compliance during property transactions. These enhancements include, among others: • The tax reference number will now be required for both sellers and purchasers. For individuals, this will only apply to transactions above R2 million. • Removal of annual income field: The field will no longer be applicable or visible on the form. • Inclusion of 'Divorced' option under the marital status field. • Introduction of a new field titled 'Not registered for income tax'. The field applies only to individuals who purchase property and will be a radio button. Once selected, a drop-down menu will need to be populated to select the reason. • Enhanced validations will be introduced to reduce the submission of inaccurate information to SARS.
5 December 2025	SARS media release: Joint media statement National Treasury and the South African Revenue Service on the release of the 18th annual edition of Tax Statistics	National Treasury and SARS have jointly published the 18th annual edition of the Tax Statistics bulletin. The 2025 edition reviews tax revenue collection and tax return information for the 2021 to 2024 tax years as well as for the 2020/21 to 2024/25 fiscal years. The media release provides more details.
4 December 2025	OECD: Asia leads global confidence in tax fairness, but trust gaps persist elsewhere in the world	Public trust in tax remains strongest in Asia — particularly South-East Asia — and the Anglophone Pacific (Australia, Canada, New Zealand), driven by digital access and transparency. In contrast, Europe and Latin America show less confidence in the fiscal contract between citizens and the state, according to the new survey findings. The report provides more details.
4 December 2025	OECD: OECD welcomes pledge by 26 jurisdictions to implement new international tax transparency framework for offshore real estate	The OECD welcomes the announcement that 26 countries and jurisdictions intend to implement the new international framework for the automatic exchange of information on offshore real estate.
4 December 2025	SARS media release: Collective engagement to exchange readily available information on immovable property	A coalition of 25 jurisdictions has welcomed the OECD's new Multilateral Competent Authority Agreement on Automatic Exchange of Readily Available Information on Immovable Property ('IPI MCAA'), which aims to close the transparency gap for non-financial – particularly cross-border – real estate holdings, and the signatories have committed to joining the framework by 2029 or 2030, encouraging other jurisdictions to follow suit.

3 December 2025	OECD: Revenue Statistics in Africa 2025	This annual publication compiles comparable tax revenue and non-tax revenue statistics between 1990 and 2023 for 38 countries in Africa.
2 December 2025	OECD: Enhanced Monitoring Report on the Implementation of the Standard on Transparency and Exchange of Information on Request 2025	The Global Forum monitors and peer-reviews the implementation of the international standards of Exchange of Information on Request (‘EOIR’) and Automatic Exchange of Information (‘AEOI’). The EOIR standard requires that jurisdictions provide to their partners all information that is foreseeably relevant for the administration of their domestic direct tax laws or for their fight against tax fraud. This first enhanced monitoring report presents the findings for a first set of 25 jurisdictions. It reports the jurisdictions’ progress in addressing their recommendations, evaluates their experience with their EOI partners, and indicates further actions expected from them.
2 December 2025	OECD: Peer Review of the Automatic Exchange of Financial Account Information 2025 Update	On 2 December 2025, updated reports were published for various jurisdictions regarding the legal frameworks put in place to implement AEOI on financial accounts and of the effectiveness of their implementation in practice.
29 November 2025	SARS media release: SARS sets the record straight on jet fuel licensing allegations	SARS refutes claims of a licensing crisis affecting jet fuel supplies at South African airports. It clarifies that it has proactively granted special permissions and expedited licensing applications to ensure security of supply, while maintaining that compliance with customs and excise regulations remains non-negotiable and that delays are attributable to industry participants’ failure to timeously apply for or renew storage facility licences. The media release provides more details.
28 November 2025	SARS media release: Trade Statistics for October 2025	South Africa recorded a preliminary trade balance surplus of R15.6 billion in October 2025. This surplus was attributable to exports of R192.2 billion and imports of R176.6 billion, inclusive of trade with BELN. The media release provides more details.

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