Synopsis

Tax today

July 2025

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
Simangaliso Manyumwa

Farewell JIBAR: Unravelling the tax impact

In brief

As the financial markets in South Africa (‘SA’) anticipate the shift from the Johannesburg Interbank Average Rate (‘JIBAR’) to the SA Rand Overnight Index Average (‘ZARONIA’), market participants must prepare themselves for notable operational and tax implications. This change is a segment of the global initiative aimed at improving the reliability and resilience of financial benchmarks while addressing the prevalent worries over the dependability of conventional interbank rates. The tax industry has been exploring the related tax consequences that taxpayers will need to address during this transition.

Background

In the evolving landscape of global finance, reference rates serve as the backbone of countless financial instruments that range from corporate loans to complex derivatives. These benchmark interest rates – such as JIBAR and the London Interbank Offered Rate (‘LIBOR’), Euro Overnight Index Average (‘Eonia’), and Euro Interbank Offered Rate (‘Euribor’) – are critical in determining the cost of borrowing and the valuation of financial contracts. However, in the wake of manipulation scandals and declining market relevance, the global financial community has embarked on a sweeping transition toward more transparent and transaction-based alternatives.

The transition to alternative reference rates marks a pivotal development in global finance, addressing the significant vulnerabilities that plagued traditional benchmarks. Key reference rates like LIBOR, JIBAR, and Eonia faced intense criticism for their susceptibility to manipulation, which cast doubts on their credibility and reliability.

At the heart of these challenges was the methodology used to determine these rates. Traditionally, benchmarks were often based on estimates rather than actual transaction data, opening the door to potential manipulation. Banks could potentially influence their submissions to reflect more favourable borrowing rates, distorting the true cost of borrowing and lending. This manipulation was most evident during the early 2000s and became glaring during the global financial crisis, when banks reported borrowing at misleadingly lower rates, thereby masking their financial instability.

This prompted a shift towards more robust and transparent alternatives. The United States moved from LIBOR to the Secured Overnight Financing Rate (‘SOFR’), the UK adopted the Sterling Overnight Index Average (‘SONIA’), and Europe shifted from Eonia to the Euro Short-Term Rate (‘ESTR’). The alternative rates are all underpinned by similar principles of transparency and resilience. These alternative rates make use of extensive actual transaction data from the financial market, thereby reducing the scope for artificial influence. In addition to the ESTR, however, Europe has maintained the use of Euribor, with enhanced methodologies to boost its credibility and transparency, in line with modern standards. This highlights the importance of reference rates aligning with contemporary benchmarks.

Collectively, these reforms signal a transformative era in financial markets, fostering increased confidence through more reliable and transparent reference rates. By prioritising actual market transactions, these new benchmarks guard against manipulation and enhance the financial system’s integrity – essential foundations for future financial stability and investor trust.

SA has also made momentous strides in aligning to contemporary benchmarks and has shown a proactive embrace of a more credible and stable reference rate environment. The Financial Stability Board (‘FSB’) recommended improvements in 2014, prompting SA to evaluate its own benchmarks under the guidance of the SA Reserve Bank (‘SARB’) and the Market Practitioners Group (‘MPG’). Their recommendation to adopt ZARONIA, an overnight risk-free rate, will see JIBAR being phased out by 2026, and we see key market players already taking steps in this regard, as evidenced by Standard Bank’s issuance of SA’s first ZARONIA-linked bond.

As a money market term reference rate used in SA, JIBAR is constructed using quoted rates for Negotiable Certificates of Deposits by JIBAR-contributing banks. It was introduced in 1999 and has since been used in the calculations of interest and other payments under many loans, derivatives, bonds, and financial transactions. The calculations are published daily across a range of maturities by the SARB based on submissions from the JIBAR-contributing banks.

The move from JIBAR, a term rate incorporating a risk premium, to ZARONIA necessitates modifications to existing financial instruments. These changes, while anticipated to be minor and to maintain the original economic substance of transactions, raise related tax questions. The transition affects both issuers and holders of JIBAR-referenced financial instruments across various industries, impacting both corporate and individual taxpayers.

ZARONIA, unlike JIBAR, is a near-risk-free rate, lacking the built-in credit and term premium components that JIBAR has, resulting in a generally lower rate compared to JIBAR. As a result, transitioning from JIBAR to ZARONIA necessitates a credit adjustment spread (‘CAS’) to compensate for the additional yield that investors might require due to credit risk in order to ensure that economic equivalence is maintained. Since this adjustment aims to maintain economic equivalence, no substantial modification or derecognition of contracts is expected due to the

transition. New contracts are typically exempt from credit adjustments, as the terms can be negotiated by both parties at inception.

Tax and exchange control considerations

The tax implications are still being debated within the tax industry and will hinge on various factors which we will briefly explore in this article. Unless otherwise indicated, references to sections in this article are to sections of the Income Tax Act No. 58 of 1962 as amended ('the Act') and references to paragraphs are to the paragraphs of the Eighth Schedule to the Act.

Disposal of an asset

The definition of an 'asset' in the Eighth Schedule is broad, encompassing any right or interest in property, whether movable, immovable, corporeal, or incorporeal. In the context of loan instruments, a lender's right to receive interest is considered an asset for Capital Gains Tax ('CGT') purposes. Courts have established that rights or interests with monetary value, such as contractual rights, qualify as assets.

When amendments to financial instruments occur, especially in the context of rate reform, it becomes important to determine if such changes result in a 'disposal' of an asset under the Eighth Schedule, which could trigger tax implications. A disposal, under paragraph 11(1) of the Eighth Schedule, encompasses events leading to the creation, variation, transfer, discharge, or extinction of an asset. The transition from JIBAR to ZARONIA raises questions about whether such changes represent a 'variation' or 'discharge' under the Eighth Schedule.

The SARS[1] Comprehensive Guide to CGT (Issue 9) suggests that variations should involve a change in ownership or the property's base cost to constitute a disposal. Therefore, modifications driven solely by rate reform, without substantial changes to the economic characteristics or rights, should not generally constitute a 'disposal' for CGT purposes. Conversely, substantial changes beyond rate reform requirements may result in a disposal if they significantly alter the asset's economic characteristics.

Taxpayers are advised to document their intentions when varying contracts, demonstrating compliance with market standard practices to merely reflect rate reform adjustments. This approach aligns with ensuring that economic equivalence is maintained, mitigating the risk of tax implications related to asset disposals under the Act.

Section 24J interest

Section 24J covers interest-bearing arrangements and the tax principles of incurral and accrual of interest, providing a framework for how interest should be treated for tax purposes. The section, in simple words, spreads interest, including any premium or discount, over the term of a financial instrument using the 'yield to maturity' or accrual method. Changes like rate reforms may necessitate redetermination of the yield to maturity, with the effect that the new interest amounts are spread going forward over the remaining term of the instrument. Under section 24J, an alternative calculation method is permitted, aligning with IFRS standards, provided it substantially mirrors the yield to maturity outcomes, defined as achieving approximately a 90 per cent correlation.

Changes in benchmark interest rates, such as JIBAR to ZARONIA, will therefore require a recalculation of the section 24J interest to be taxed or deducted going forward, reflected in its effective interest rate.

Other considerations would include an assessment of the impact on interest rate swap and preference share agreements which references JIBAR in the yield, as well as the possible impact on the interest limitation and hybrid interest rules provided for in the Act.

Transfer pricing

The pending change from JIBAR to ZARONIA has transfer pricing implications for multinational enterprises ('MNEs') that have intercompany financing arrangements tied to JIBAR. As such, MNEs would have to evaluate the impact on existing transactions and policies and prepare a transition plan that addresses the anticipated impact from JIBAR's discontinuation.

1 South African Revenue Service.

MNEs that price intercompany financing transactions or have financing structures, e.g., inhouse banks, cash pools (although cash pools are not that common in SA), and back-to-back lending arrangements based on JIBAR, will be impacted by the move to ZARONIA. While many of the aspects of these changes will depend on how capital markets adopt and adapt to these changes, we discuss below some of the key transfer pricing items that require attention before JIBAR is discontinued.

Intercompany agreements

Parties to existing intercompany loans with JIBAR as a base rate and that mature after 2026 (when JIBAR is set to be discontinued) should consider amending their intercompany agreements to include alternative reference rates, with agreed actions and timeline by the parties to adjust the pricing in order to determine the equivalent interest rate based on ZARONIA.

Parties to new intercompany loans issued between now and 2026 should consider including alternative interest rates as well.

Transfer pricing policy

Under SA's transfer pricing rules, intercompany loans should be priced contemporaneously and on an arm's length basis. The differences in information contained in JIBAR and ZARONIA – e.g., historical vs future, overnight vs terms quoted, and near-risk-free vs bank-credit-risk-inclusive – may create comparability differences with the benchmarks applied to price intercompany loans that still apply JIBAR as the reference/base rate. MNEs should, therefore, reassess their transfer pricing policies to evaluate consistency with, and to produce, arm's length results.

i) Debt capacity and interest rate

In the event that MNEs make amendments to the pricing or terms of the agreements, they should reassess whether the amount of the loan and the cost of debt are at arm's length.

Even if this issue may have been evaluated at the time when the original loans were issued, if the change in pricing could be considered to be a significant modification to the original agreement and a new debt instrument, MNEs should document that prior conclusions remain applicable in the current market environment.

ii) Hedging

MNEs with in-house banks or treasury companies often enter into hedging contracts to mitigate foreign currency risk on behalf of other affiliates or as part of managing the risk they bear through their funding functions. Given the common use of JIBAR as a reference rate, hedging contracts are also often tied to this rate. Treasury companies and inhouse banks should thus plan for the discontinuance of JIBAR and the resulting impact on their existing intercompany funding and hedging structures.

iii) Systems and processes

The aforementioned change in transfer pricing policies that is required once JIBAR is replaced will impact the systems and processes for calculating intercompany interest rates. Depending on the degree of automation, this may include reprogramming enterprise resource planning systems, updating process manuals, and training finance or tax individuals involved in transfer pricing execution.

In addition, MNEs that rely on a labour-intensive process to manage intercompany financing and liquidity will need to re-evaluate existing models, define the sources from which market information will be retrieved, and identify the corresponding adjustments that may be needed to convert to rates that will be consistent with new arm's length policies. This process will require coordination among Treasury, Tax, Transfer Pricing, Legal, Finance, and Technology.

Other considerations

From a VAT perspective, the change in rate from JIBAR to ZARIONIA will have an impact on the standard turnover-based apportionment method as set out in Binding General Ruling 16 ('BGR 16'). This method currently applies the margin between the Prime Interest Rate and JIBAR to determine the proxy to be used for the inclusion of dividend and interest income (with certain specific adjustments and formulas). The ZARONIA rate is generally lower than the current JIBAR rate and will therefore negatively impact the expected proxy inclusion in the formula such that the percentage inclusion in the method will be higher than what it currently is. As much as it is not expected to result in a drastic difference, it will impact the ratio obtained. The ZARONIA rate does not adjust for the credit component, which raises the question as to whether this remains the most appropriate proxy to use in the method.

Finally, SA's Exchange Control Regulations may require additional SARB approvals once material changes have been made to contractual terms approved by the SARB. To be clear, intercompany financing agreements/arrangements which were priced and approved with express reference to JIBAR may need to be resubmitted for evaluation by the SARB.

Takeaway

The transition from JIBAR to ZARONIA requires careful consideration of the practical tax implications. Taxpayers should assess their specific circumstances, including the classification and nature of their financial instruments as well as the extent of contract modifications, to navigate the transition effectively from a legal, accounting, and tax perspective.

Additionally, the transfer pricing impact of the discontinuance of JIBAR will require analysis and planning on how to adapt to that change. To allow for a smooth transition, MNEs should start identifying the impacted transactions and structures and develop a transition plan before JIBAR is no longer available. This article provides a general overview, and specific advice should be sought for individual facts and circumstances.

Emmanuel Otoo
Associate Director
+27 (0) 78 251 5642

Stephen Boakye
Director
+27 (0) 79 949 4590

Kathryn Steel
Manager
+27 (0) 72 286 8809

Joandri Fourie
Senior Manager
+27 (0) 82 660 6321

Michael Butler
Director
+27 (0) 83 457 0534

We gratefully acknowledge the contributions of Jos Smit, Matthew Besanko, Osman Mollagee, Corneli Espost, and Motheo Makwana to this article.

SARS Tightens the Screws: The 2024 Ownership Requirement in Section 8EA

On 22 December 2023, section 8EA(3) of the Income Tax Act 58 of 1962 was amended by the Taxation Laws Amendment Act 17 of 2023 through the insertion of an ownership requirement in respect of equity shares acquired for a ‘qualifying purpose’ using preference share proceeds.

The August 2024 Synopsis edition considered some potential unintended consequences of the amendment in the context of group reorganisations that may affect commercially legitimate transactions which do not prejudice the fiscus.

This article builds on the initial analysis by examining how SARS has been interpreting and applying the ownership requirement in practice, with reference to Binding Private Rulings 413 and 414, and Binding Class Ruling 092. These rulings reflect for the most part a strict and literal approach to the requirement, offering little to no flexibility for intra-group transfers, restructurings, or partial disposals and raising important considerations for taxpayers seeking to maintain compliance under the amended regime.

Sections 8E and 8EA

Preference shares have long been a well-established commercial financing mechanism in South Africa, subject, however, to the anti-avoidance provisions of sections 8E and 8EA of the Act.[1]

1 Income Tax Act 58 of 1962 as amended.

Section 8E of the Act is aimed at preference shares that qualify as 'hybrid equity instruments' at any point during the tax year in which they are held by a taxpayer, with the result that any dividends received or accrued in respect of such shares are deemed to be an amount of income accrued to that taxpayer (without any corresponding deduction for the issuer). Section 8EA of the Act provides that any foreign or other dividends received by or that accrue to a taxpayer in respect of a 'third-party-backed share' are similarly deemed to be income in the taxpayer's hands. In broad terms, a 'third-party-backed share' is defined as any preference share in respect of which the holder is entitled to exercise an 'enforcement right'[2] as a result of any specified dividend, foreign dividend, return of capital, or foreign return of capital that has not been received by the holder.[3]

2 An 'enforcement right' is defined in section 8EA(1) of the Act as any right (in relation to the share or equity instrument), including a fixed or contingent right, of the holder or any person that is a connected person in relation to the holder, to require any person other than the issuer of that share or equity instrument to acquire that share or equity instrument from the holder or to make any payment in respect of the share or equity instrument in terms of a guarantee or similar arrangement, or to assist or facilitate with the foregoing.

3 Section 8EA(1) of the Act.

The 'qualifying purpose' carve-out

Both sections 8E and 8EA contain carve-outs from the dividend recharacterisation triggers where preference shares were issued for a 'qualifying purpose' as defined in section 8EA(1). The definition of a 'qualifying purpose' contains various categories of transactions, most notably the direct or indirect acquisition of an equity share by any person in a company that is an 'operating company'[4] at the time of the receipt or accrual of any foreign or other dividend in respect of that preference share.

When section 8EA was first introduced into the Act during 2012, the 2012 Explanatory Memorandum[5] described the rationale behind the 'qualifying purpose' exclusion as follows:[6]

> 'Both provisions also contain an exception for preference share schemes where the funding received for the preference share issue is ultimately applied to directly or indirectly acquire a pure equity stake in an active operating company (i.e. a qualifying purpose as defined). These exceptions mean that preference share funding can continue as a means for acquiring the shares of active operating companies (including black economic empowerment transactions)… This exception recognises the need for preference share financing in respect of share acquisitions because South African tax law does not generally allow for deductible interest when debt is employed to finance a share acquisition.'

4 Being (i) companies engaged in ongoing business operations where their business activities include providing goods or services in exchange for payment or engaging in the exploration of natural resources, (ii) controlling group companies (i.e., typically companies which are the controlling entities for companies that fall under the first category), and (iii) listed companies.

5 Explanatory Memorandum on the Taxation Laws Amendment Bill, 2012, dated 10 December 2012

6 At 22-23

The essence of the 'qualifying purpose' exception to these anti-avoidance rules is that the funds raised from the issue of preference shares should not be subject to recharacterisation where they are applied for certain commercially legitimate purposes, in particular the purchase of equity shares (whether directly or indirectly) in a company that is actively conducting business.

Introduction of the 2023 'ownership requirement'

New proviso to section 8EA(3)

Previously, there was no requirement under sections 8E and 8EA, in circumstances where funds generated from the issue of preference shares were applied towards the acquisition of equity shares in an operating company, for the acquiring company to still own those equity shares at the time of receipt or accrual by the holder of a dividend in respect of those preference shares. Provided the underlying company qualified as an 'operating company' at the date of receipt or accrual of the relevant dividend, the anti-avoidance rule would not apply.

However, this position changed following the introduction in terms of the 2023 TLAA[7] of a new requirement that has been incorporated into section 8EA, effective from 1 January 2024, by way of a proviso to sub-section (3)[8], which reads as follows:

> 'Provided that where an equity share in an operating company is acquired by any person as contemplated in paragraph (a) or (b) of the definition of "qualifying purpose" and the **share so acquired is no longer held** directly or indirectly by that person at the time of the receipt or accrual of that dividend or foreign dividend in respect of the preference share, this **subsection** must not apply…' (our emphasis)

The sub-section referenced above is sub-section 3 of section 8EA, which in certain instances switches off the enforcement right provisions contained in the preference share terms, provided that the preference shares were issued for a qualifying purpose and the enforcement right is exercisable against certain persons mentioned in paragraph (b) of sub-section 3.

7 Taxation Laws Amendment Act 17 of 2023.

8 Section 8EA(3) of the Act provides an exception that where the funds derived from the issue of the preference shares were applied for a 'qualifying purpose', in determining whether an enforcement right is exercisable in respect of that share, no regard must be had to an enforceable right against certain specified persons. Section 8EA(3) of the Act was amended by the TLAA which was promulgated on 22 December 2023.

The effect of the above proviso is that the company which initially acquired the equity shares in the operating company must retain ownership of these shares at the time when the holder of the preference shares which were issued for purposes of acquiring the target company shares receives, or has accrued to it, any dividends thereon. Further, and critically, it would appear that the shares in the operating company in question must be directly or indirectly held by the *original purchaser* of those shares.

Rationale for the amendment

The 2023 Explanatory Memorandum[9] explains the inclusion of the ownership requirement as follows:

> 'At issue are the tax consequences of a dividend declared by the issuer of a preference share, which was issued for the specified qualifying purpose, after the shares in an operating company financed by the preference share funding were disposed of by the shareholder in the operating company. The qualifying purpose definition has been amended several times since its inception after engagement with taxpayers and financial sector participants. However, these targeted amendments over a period and especially the legislative wording and structure used to achieve certain results has [sic] unintentionally narrowed deviated [sic] from the qualifying purpose test by not emphasising all aspects of the policy rationale…
>
> This may lead to a scenario where the qualifying purpose test is considered without the requirement of the ownership of the equity shares in an operating company that underpins the qualifying purpose exemption.
>
> The current wording of the Act could result in certain dividends or foreign dividends received by or accrued in respect of a third-party-backed share not being deemed as income **when the shares in that operating company are no longer held by the person who initially acquired them**. It is proposed that the legislation be amended to specifically introduce an ownership requirement, of the equity shares in the targeted operational company by the person that acquired those equity shares, at the time of the receipt or accrual of any dividend or foreign dividend.' (our emphasis)

9 Explanatory Memorandum on the Taxation Laws Amendment Bill, 2023 at page 13.

The 2023 Explanatory Memorandum does, however, still recognise the importance of the 'qualifying purpose' exclusion, as National Treasury acknowledges[10] that this carve-out was introduced to alleviate negative tax implications that were impacting *bona fide* business acquisition deals. The 2023 Explanatory Memorandum further states that the 'qualifying purpose' exclusion recognises the importance of utilising preference share financing for the procurement of shares due to the fact that interest deductions are typically not permitted when debt is utilised to fund the purchase of shares.

Notwithstanding the introduction of the above ownership requirement, the 2023 Explanatory Memorandum states that the core rationale behind the establishment and subsequent modification of the 'qualifying purpose' exclusion was to ensure that preference share financing remained a viable option for obtaining an equity stake in companies that are either actively operating or in the startup phase.

10 At page 13.

Our views

We previously expressed the view that while the introduction of the new ownership requirement may be justified from a policy perspective, it appears that it could have unintended consequences in certain instances, such as group reorganisations under Part III of the Act.

Consider, for example, the scenario in terms of which an issuer utilises preference share funding for a qualifying purpose, specifically the acquisition of shares in a target operating company. Thereafter, the target company merges with another company in its corporate group, such that the other company becomes the resultant entity. In these circumstances, the 'shares so acquired' would no longer directly or indirectly be held by the issuer, as the issuer would now (as a result of actions outside of its control) hold shares in the resultant (merged) entity (prior to the transfer of those shares to its parent company). The economic substance of the target shares, in substance, still remains with the issuer until such transfer and, even after such transfer, remains within the group.

A similar scenario could arise where there is a reorganisation within the issuer group (such as a section 46 unbundling transaction or a section 47 liquidation distribution), such that the target operating company is no longer held by the issuer but by another entity within the same group of companies. In such a scenario, the target shares would no longer be held 'directly or indirectly by that person', and therefore seemingly would not be excluded from the qualifying purpose carve-out under the new amendment.

While further amendments to the proviso were effected to carve out two specific categories of transaction,[11] we expressed the view that these two exclusions still fail to take cognisance of the potential impact of the ownership requirement on group reorganisations.

SARS's interpretation of the proviso: A restrictive approach

SARS has issued two Binding Private Rulings (BPR 413 and BPR 414) and one Binding Class Ruling (BCR 092) that provide insight into its interpretation of the new proviso to section 8EA(3). These rulings reflect a strict and literal application of the ownership requirement, with limited flexibility for commercial realities such as intra-group restructurings or partial disposals, as advocated for in the August Synopsis edition.

11 Where either (1) the equity share in the operating company was disposed of and the funds derived from that disposal are used by the issuer of the preference share for the redemption of that preference share within 90 days of that disposal; or

(2) that equity share in the operating company was a listed share and substituted for a listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements or a corporate action as contemplated in the listings requirements of any other exchange, licensed under the Financial Markets Act, that are substantially the same as the requirements prescribed by the JSE Limited Listings Requirements, where that corporate action complies with the applicable requirements of that exchange.

BPR 413 – Partial Disposals and Intra-Group Transfers

Facts:

The applicant, an intermediary holding company, raised three tranches of preference share funding (Pref Shares 1, 2 and 3) through a subsidiary (Company A). The funds were then lent onwards within the group to acquire equity shares in various operating companies (Companies F, I, and J). Over time, some of these equity interests were transferred within the group or partially disposed of.

Key facts include:

- Company B, a group entity, disposed of the equity shares in question in Company F to its own wholly owned subsidiaries (Companies G and H), which were later

transferred within the group to the applicant and then liquidated, resulting in the equity shares reverting to the applicant.
- Company D transferred its equity shares in Company I to another group company wholly owned by the applicant.
- The applicant disposed of a portion of its equity shares in Company J, retaining the remainder.

SARS ruled that:

- **In relation to the equity shares in Company F:** As Company B will no longer directly or indirectly hold X portion of the equity shares in Company F at the time of the receipt by or accrual to the co-applicants of any dividend in respect of Pref Shares 1, the proviso to section 8EA(3) will apply, with the effect that section 8EA(3) will not apply to the X portion of the Pref Shares 1 on which the dividend was received or accrued, and, therefore, the X portion of any dividend in respect of those Pref Shares 1 must be deemed, in relation to each co-applicant, to be an amount of income received or accrued.
- **In relation to the equity shares in Company I:** SARS similarly ruled that as Company D will no longer directly or indirectly hold equity shares in Company I at the time of the receipt by or accrual to the co-applicants of any dividend in respect of Pref Shares 2, the proviso to section 8EA(3) will apply, with the effect that section 8EA(3) will not apply to Pref Shares 2.
- **In relation to the equity shares in Company J:** As the Applicant will no longer directly or indirectly hold X portion of the equity shares in Company J at the time of the receipt by or accrual to the co-applicants of any dividend in respect of Pref Shares 3, the proviso to section 8EA(3) will apply, with the effect that section 8EA(3) will not apply to the X portion of Pref Shares 3.

Observations:

- It can be assumed that the equity shares in Company J were disposed of to a third party, in which case we agree that such a disposal should attract the application of the proviso to section 8EA(3).
- However, the disposals of the equity shares in companies F and I constituted disposals to fellow wholly owned subsidiaries in the applicant group, including the liquidation of two group entities. In these instances, the equity shares remained within the same group of companies which, in our view, ought (from a policy perspective) not to be caught by the proviso.
- It is clear that in SARS' view, only the portion of preference shares that funded equity shares retained by the original **acquirer qualifies** for the exemption.

BPR 414 – Historical disposal and partial redemption

This ruling involved an investment holding company (the applicant) that had issued cumulative redeemable preference shares in 2015 to fund, among other things, the acquisition of a minority stake in Company E (a JSE-listed entity) and other operating companies. The proceeds from the issue of the preference shares were thus used for a qualifying purpose.

The applicant's equity shares in Company E were sold in 2023, prior to the proviso's effective date of 1 January 2024. Importantly, the proceeds from the disposal were not used at the time to redeem any preference shares.

Key facts included:

- The acquisition of Company E represented 6.97% of the total preference share funding.
- The applicant proposed to redeem 79 preference shares (6.97% of those still in issue) to align with the portion of the funding used to acquire Company E.

SARS ruled that:

- The proportionate number of preference shares linked to the disposal of the shares in Company E were 'tainted', notwithstanding that the disposal occurred prior to the effective date of the amendment (since the redemption dividend would be declared after the effective date).
- As such, any dividends received on these shares after 1 January 2024 would be subject to income tax under the proviso to section 8EA(3).
- Crucially, SARS emphasized that the timing of the dividend accrual, not the timing of the disposal, of the underlying equity, governs the application of the proviso.
- Only once the tainted preference shares are redeemed will the remaining preference shares fall outside the scope of the proviso, provided that the applicant continues to hold equity in other qualifying operating companies.

BCR 092 – Tracing preference share funding to underlying equity shares

Facts

The applicant was a trade association that applied on behalf of its members. The class members subscribe for preference shares in companies in circumstances where the issuer applied the subscription proceeds for a qualifying purpose as envisaged in section 8EA(3). As such, equity shares are acquired directly or indirectly in an 'operating company' as defined in section 8EA(1). However, the introduction of the proviso to section 8EA(3) impacted existing preference share arrangements of the class members where preference shares were issued for a 'qualifying purpose' but some, or all, of the operating company shares were disposed of by the acquiror thereof, and the proceeds from that disposal were not applied to redeem the outstanding preference shares or settle the outstanding dividends.

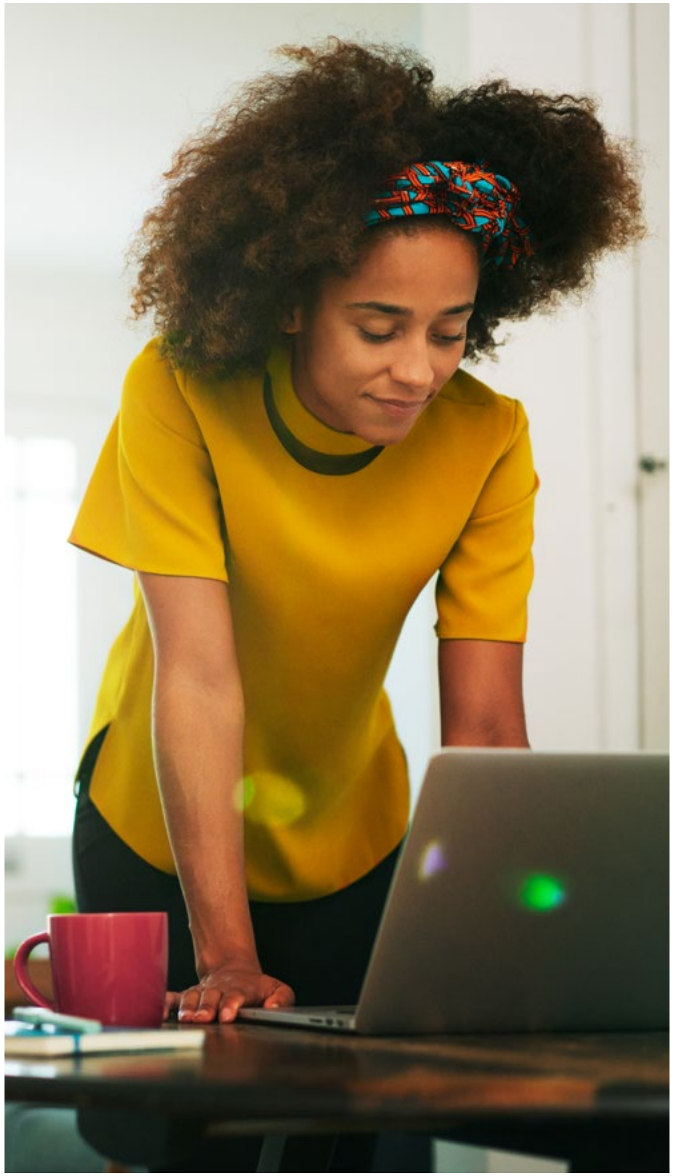
The disposal of the operating company shares in these circumstances would have been undertaken for commercial reasons. It can further be gathered from the ruling that it was practically difficult for the preference share funding to be traced to the underlying equity share acquisitions.

SARS ruled, amongst other things, that:

- If a share in an operating company that was acquired by any person referred to in the proviso to section 8EA(3) is no longer held, directly or indirectly, by that person at the time of the receipt or accrual of a dividend in respect of the preference share, the funds from the issue of which were applied in acquiring that share in the operating company, and the funds from the disposal of that share in the operating company are not used in redeeming that preference share in full, the settlement of an amount of dividends or foreign dividends, if any, in respect of that preference share within 90 days of the disposal section 8EA(3) will not apply.
- In applying the proviso to section 8EA(3), it is necessary to trace the share in the operating company to the preference share or shares, the funds from the issue of which were used to acquire that share in the operating company that is no longer held, directly or indirectly, as per the proviso to section 8EA(3). Depending on the facts, if direct tracing is not possible, a method that is appropriate to the facts may be used to perform the tracing in another manner.

Observations:

- BCR 092 reiterates the fact that historic preference share arrangements may be tainted as a result of the proviso even if the qualifying purposes test was met at the time. This results in the need for taxpayers to assess all of their current preference share arrangements in place to determine whether they could have become tainted with effect from 1 January 2024.
- Even where it may be practically difficult, taxpayers are still required to trace the application of the preference share funding to the underlying equity shares acquired and disposed of. As to what will qualify as an 'appropriate tracing mechanism' remains to be seen.



Takeaway

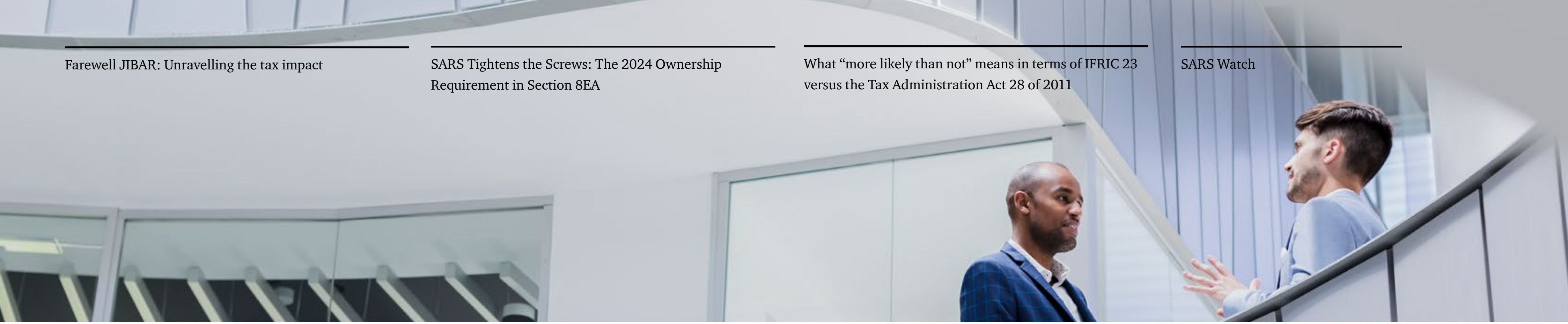
- The above rulings illustrate that SARS's interpretation of the proviso leaves little room for commercial flexibility, especially in the context of group restructurings where equity shares are transferred between group companies (but are no longer directly or indirectly held by the original acquiring entity), i.e., even where the economic substance of ownership remains within a group.
- This reinforces the need for careful structuring and ongoing monitoring of ownership throughout the life of the preference share arrangement, including in respect of historic preference share arrangements.
- Where the risk of tainted preference shares arises as a result of the potential application of the proviso, consideration should be given to possible structuring alternatives, such as possibly amending the security arrangement(s) to release the third party from the security in respect of the tainted preference shares, where commercially possible.

Taxpayers are advised to consult prior to restructuring any preference share arrangements, including restructuring that involves the underlying target shares.

Tali Ben-David
Senior Manager
+27 (0) 72 760 3525

Stephen Boakye
Director
+27 (0) 79 949 4590

Gaby Miles
Senior Associate
+27 (0) 81 573 1606



What "more likely than not" means in terms of IFRIC 23 versus the Tax Administration Act 28 of 2011

Introduction

When an entity identifies uncertainty in its tax treatment, it is required to assess whether the taxation authority will accept its treatment thereof.

The relevant tax accounting standards to consider generally include IFRIC23, read with IAS12 and IAS37, but the tax foundation to this assessment is the relevant underlying tax legislation.

The assessment threshold in IFRIC 23 hinges on the term "probable", which essentially refers to a "more likely than not" position. The term "more likely than not' also appears in the Tax Administration Act, No. 28 of 2011 ("the TAA"). Since the issuance of IFRIC 23, not much clarity has been provided regarding what "more likely than not" means in terms of IFRIC 23. Further, from a tax technical perspective, there is no definition of this term in the Income Tax Act, No. 58 of 1962 ("the Act") or the TAA.

This article compares the practical interpretation to the meaning of "more likely than not" in terms of IFRIC 23 versus the TAA and seeks to provide some further clarity on the context in which the assessment of this term applies.

The comments in this article are not aimed at providing an accounting interpretation, hence readers should seek appropriate accounting advice in case of uncertainty.

IFRIC23 analysis

Background

IFRIC 23, titled "Uncertainty over Income Tax Treatments", is an interpretation issued in July 2014 by the IFRS Interpretations Committee ("IFRS IC") to clarify how to apply the recognition and measurement requirements of IAS 12 – Income Taxes when there is uncertainty about how tax treatments will be assessed by tax authorities. The interpretation was issued in response to a submission related to a particular situation in which an entity was required to make a payment to a tax authority in respect of a disputed tax treatment that had not yet been resolved.

The IFRS IC noted that paragraph 12 of *IAS 12 Income Taxes* provides relevant guidance on the recognition of a current tax asset where, if the amount already paid exceeds the amount of tax due for current and prior periods, the excess shall be recognised as an asset. It is worth noting that IAS *37 Provisions, Contingent Liabilities and Contingent Assets* recognises an asset when it is virtually certain that the entity would receive a refund from the tax authorities and does not apply to the recognition and measurement of income taxes within the scope of IAS 12. Therefore, the IFRS IC observed that IAS 12 does not specify how uncertainty in tax treatments is reflected in the measurement of current and deferred tax assets and liabilities. As a result, this has led to diversity in practice. Accordingly, the IFRS IC developed *IFRIC 23 Uncertainty over Income Tax Treatments* (IFRIC 23, or the Interpretation) to address how to reflect uncertainty in the recognition and measurement of income taxes.

Assessment of uncertain tax position under IFRIC 23

Paragraph 9 of this interpretation provides that "an entity shall consider whether it is probable that a taxation authority will accept an uncertain tax treatment". Entities must assess whether it is probable that a tax authority will accept the treatment and should assume that the tax authority will examine the tax treatments and have full knowledge of all relevant information.

The threshold that IFRIC 23 therefore requires is "probable". The term "probable" is defined in *IAS 37 Provisions, Contingent Liabilities and Contingent Assets* as "more likely than not". In this regard, IAS 37 states that "For a liability to quality for recognition, there must not only be a present obligation but also the probability of an outflow of resources embodying economic benefits to settle that obligation. For purposes of this standard, the outflow of resources or other event is regarded as probable if the event is more likely than not to occur, i.e. the probability that the event will occur is greater than the probability that it will not. As a result, accounting and tax practitioners generally interpret 'more likely than not' to mean 'more than 50%'".

The above appears consistent with other principles in IAS 12 which require the recognition of deferred tax assets to the extent that it is probable that an entity will be able to use deductible temporary differences against future taxable profit. If it is not probable that the tax authority will accept the treatment, the entity must reflect the effect of the uncertainty using either i) the most likely amount, or ii) the expected value method, depending on which better predicts the outcome.

"More likely than not" in the context of an IFRIC23 assessment

Under the IFRIC23 interpretation, when a company files its tax return, it must first assess whether the tax treatment it used is "more likely than not" to be accepted by the tax authorities, which in practice may not be at the same threshold as that accepted by the court (see our further discussion on this aspect under the meaning in terms of the TAA).

It follows that if the entity determines that a treatment used in the tax return is more likely than not to be accepted by the taxation authorities, that treatment is applied for the measurement of income taxes. The probable threshold therefore treats all likelihoods beyond that threshold the same way. That is, any likelihood of acceptance by the taxation authority beyond the probable threshold is treated the same way as 100% likelihood of acceptance. If the likelihood of acceptance is determined to be probable, an entity would not reflect the effect of uncertainty in determining the applicable taxes. If the entity is unable to conclude that acceptance by the taxation authorities is probable, it reflects the uncertainty in the manner that better predicts the resolution of the uncertain tax treatment.

In other words, once the more likely than not threshold is met, any level of likelihood above it is treated the same – even if the chance of acceptance is 60% or 100%, the company treats it as if it will be accepted. In this case, the company does not need to adjust for uncertainty in its tax calculations. However, if the company cannot conclude that the tax authority is likely to accept the treatment on a "more likely than not" basis, it must account for the uncertainty. This means the company should estimate the tax amount in a way that best reflects how the issue is likely to be resolved. This appears to mean that the entity must therefore assess the "most likely" outcome of the uncertain tax position if challenged by the tax authority.

As IFRIC 23 does not define the term "more likely than not", an entity may need to apply judgement in concluding whether it is probable that a particular uncertain tax treatment will be acceptable to the taxation authority. In this regard, an entity may consider the following in applying its judgement:

- Past experience related to similar tax treatments
- Legal advice or case law related to other entities
- Practice guidelines published by the taxation authorities that are applicable to the specific case
- The entity obtains a pre-clearance from the taxation authority on an uncertain tax treatment

We highlight that IFRIC 23 applies only to an assessment of income tax and not to any other taxes.

TAA analysis

The term "more likely than not" is also not explicitly defined in the TAA. In addition, further clarity is not provided on the meaning of this term based on *The Standing Committee on Finance: Report-Back Hearings* dated 21 September 2011 in relation to the Tax Administration Bill, Bill No. 11 of 2011 or the South African Revenue Services' (SARS') Guide to Understatement Penalties (Issue 2).

Reference is, however, made to a "more likely than not" opinion in terms of section 223 of the TAA, which is relevant for purposes of the determination of the imposition of substantial understatement penalties by SARS.

In particular, a "more likely than not" opinion in the context of section 223 must meet the following requirements:

- It must be a formal opinion issued by a registered, independent tax practitioner. Practically, this implies that the opinion must be in writing and requires a detailed analysis and documentation of the facts of the relevant matter at hand, applicable case law, SARS practice, and a conclusion on the matter, based on this analysis.
  In addition, the opinion must be prepared by a registered, independent tax practitioner (and not merely by the taxpayer or someone in a different capacity).
- It must be obtained on or before the due date of the relevant tax return.
- Following from the first point, the taxpayer must have made a full and accurate disclosure of all relevant facts and circumstances to the practitioner.
- The opinion must confirm that the taxpayer's position is "more likely than not" to be upheld if the matter should proceed to court. In this regard, SARS' *Guide to Understatement Penalties* states, "In other words, the position must be sufficiently substantiated to support the expectation that, should it be challenged, a court could rule in favour of such a position being taken. It is evident that the mere existence of such an opinion does not establish compliance with these requirements; only the content does."

Therefore, the opinion must sufficiently substantiate a credible expectation that, if legally challenged, a court would rule in favour of the position taken by the taxpayer.

Similarities between the "more likely than not" standard under IFRIC 23 and the TAA

Based on the above, the similarities between the "more likely than not" standard under IFRIC 23 and the TAA can be summarised as follows:

Aspect	IFRIC 23 Perspective	TAA (section 223) Perspective
Definition	Not explicitly defined; interpreted as >50% likelihood of acceptance by tax authority.	Not defined in the Act or TAA; interpreted as >50% likelihood of success in court.
Threshold	"More likely than not" = >50% chance that tax treatment will be accepted by authorities.	"More likely than not" = >50% chance that the taxpayer's position will be upheld in court
Purpose	To determine whether to reflect uncertainty in income tax accounting.	To determine whether understatement penalties may apply to a tax filing position adopted by a taxpayer.
Application trigger	Applied when there is uncertainty in tax treatment.	Applied when taxpayer seeks to avoid potential penalties for substantial understatement.
Outcome if threshold met	No adjustment for uncertainty; treatment is accepted as filed.	SARS cannot impose substantial understatement penalties.
Outcome if threshold not met	Entity must reflect uncertainty in tax measurement.	Penalties may be imposed by SARS, unless other relief applies.
Supporting evidence	Based on judgement, past experience, legal advice, case law, or pre-clearance.	Requires a formal written opinion from an independent, registered tax practitioner.
Timing requirement	Assessment made at the time of preparing financial statements.	An opinion must be obtained on or before the due/filing date of the relevant tax return.
Disclosure requirement	Full consideration of relevant facts and guidance is expected.	Full and accurate disclosure to the practitioner is mandatory.
Legal weight	Used for financial reporting under IFRS.	Used for understatement penalty relief under South African tax law.

The similarities between the "more likely than not" standard under IFRIC 23 and the TAA have several important implications for both taxpayers and tax authorities, being:

1. **The encouragement of proactive compliance:** Both frameworks incentivise taxpayers and persons with a fiduciary duty over a financial position to seek appropriate professional advice before filing tax returns, to disclose all relevant facts transparently, to document the tax position thoroughly, and to foster a culture of early engagement and tax planning, reducing the likelihood of disputes and penalties.
2. **Placing reliance on professional judgement:** In both contexts, the term is not rigidly defined, requiring that judgement calls are likely to be made based on facts, law, and precedent; consideration of tax or accounting advice; case law; and regulatory guidance taken, thereby placing significant responsibility on tax practitioners to ensure their opinions are well reasoned and defensible, and on persons with a fiduciary duty in relation to the relevant financial position to evaluate uncertainty rigorously.

With this said, we highlight below a few clear distinctions between the application of IFRIC 23 and the TAA:

Aspect	IFRIC 23 Perspective	TAA (section 223) Perspective
Type of taxes	Relevant to an assessment of the income tax position only for financial statement purposes.	Relevant to an understatement penalty consideration for all taxes covered by the TAA.
Acceptance	Assess whether the tax treatment will "more likely than not" be accepted by the tax authorities.	Assess whether the tax treatment will "more likely than not" be accepted by the court.
Application jurisdiction	IFRIC 23 applies to all jurisdictions that apply IFRS.	The TAA only applies to South African tax positions.

Takeaway

A clear definition does not currently exist for the term "more likely than not' in either IFRIC 23 or the TAA, but some clarity on the term's meaning can be obtained from the IFRIC 23 interpretation standard.

With this said, it appears that the meaning of the term is similar from both an accounting and a tax compliance perspective, but the context in which it is applied is different.

Further, the analysis of the "more likely than not" standard under IFRIC 23 and the TAA reveals significant similarities that have important implications for taxpayers. Both frameworks encourage proactive compliance and reliance on professional judgement, and provide legal and financial protection. The harmonisation of standards promotes consistency and alignment between financial reporting and tax risk management. However, the lack of precise definitions in IFRIC 23 and the TAA poses a potential risk of misinterpretation and inconsistent treatment.

Taxpayers and advisors should ensure that their tax positions are well documented, transparent, and based on sound professional advice to meet the "more likely than not" threshold. If this threshold is not met, IFRIC 23 will require appropriate disclosure of the income tax exposure, and from a tax compliance perspective, SARS may impose an understatement penalty to the extent that it disagrees with the tax filing position taken by a taxpayer.

Stevie Coetzee
Director
+27 (0) 82 446 9224

Mphoti Chilwane
Senior Manager
+27 (0) 66 028 1882

SARS Watch:

SARS Watch 26 June 2025 – 25 July 2025

Legislation

7 July 25	Table 1 – Interest rates on outstanding taxes and interest rates payable on certain refunds of tax	The prescribed rate will decrease to 10.75% (currently 11.00%) from 1 September 2025.
7 July 25	Table 2 – Interest rates payable on credit amounts	The prescribed rate will decrease to 6.75% (currently 7.00%) from 1 September 2025.
4 July 25	Notice 6390 – Extension of date to request a reduced assessment or additional assessments in terms of section 95(6) of the Tax Administration Act 28 of 2011	Published in Government Gazette No. 52939 to extend the date by which a taxpayer, eligible for automatic assessment under paragraph 3(3) of the notice to submit returns, must submit an income tax return. The dates for submission of returns are specified in the notice.

Interpretation

4 July 25	Interpretation Note 33 (Issue 6) – Assessed losses: Companies: The “trade” and “income from trade” requirements	This Note clarifies when a company may forfeit its right to carry forward its assessed loss from the preceding year of assessment as a result of it – • not carrying on a trade during the current year of assessment, or • having carried on a trade during the current year of assessment but not deriving any income from trade during that year of assessment.

26 June 25	Interpretation Note 69 (Issue 4) – Game farming	This Note provides guidance on the application of selected sections of the Act and paragraphs of the First Schedule to persons carrying on game farming, with its primary focus being the provisions applicable to livestock. It is not intended to deal with farming in general.

Binding rulings

30 June 25	Binding General Ruling 4 (Issue 4) – Apportionment methodology to be applied by a municipality	This ruling prescribes the apportionment method that a municipality must use to determine the ratio contemplated in section 17(1) of the Value-Added Tax Act 89 of 1991 (the VAT Act) to calculate the amount of VAT that may be deducted as input tax on mixed expenses.

Customs and excise

27 June 25	Simplified claiming process for Diesel Refunds for Foodstuff Manufacturers Scheme	Refund claims for the Diesel Refund for Foodstuff Manufacturers Scheme (DRFMS) are now automated under the Customs and Excise Refunds and Drawbacks (CERD) system.
23 July 25	Updated Prohibited and Restricted Imports and Exports list	The below tariff headings do not require a Letter of Authority. • 8465.91 • 8465.92 • 8465.93 • 8465.94 • 8465.95 • 8465.96 • 8465.99
18 July 25	Notice R.6438 – Imposition of provisional payment in the form of anti-dumping on imports of fully automatic top load machines of a dry linen capacity exceeding 10 kg but less than 17 kg that are classifiable under tariff subheading 8450.20.20, originating in or imported from the Peoples Republic of China and Thailand (ITAC Report 752)	Published in Government Gazette No. 53020 with an implementation date of 18 July 2025 up to and including 17 January 2026.
11 July 25	Notice R.6410 – 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 increase the rate of customs duty on wheat and wheaten flour from 54.95c/kg and 82.42c/kg, respectively, to 85.15c/kg and 127.72c/kg, in terms of the existing variable tariff formula (ITAC Minute M05/2025)	Published in Government Gazette No. 52968 with an implementation date of 11 July 2025.

11 July 25	Notice R.6409 – Amendment to rules under sections 77H and 120 – Internal appeals (DAR261)	Published in Government Gazette No. 52968 with an implementation date of 11 July 2025.
11 July 25	Notice R.6408 – Amendments to rules under section 120 – Substitution of form DA 5 under item 202.00 of the Schedules to the rules (DAR262) • DA 5 – Declaration in respect of sealable goods on board ship	Published in Government Gazette No. 52968 with an implementation date of 11 July 2025.
9 July 25	Updated Facilities Code List	The facility codes used in Box 30 on the Customs Clearance Declaration have been updated to include details of Allport Cargo Services (Pty) Ltd, based at Cape Town International Airport, with code CG. This addition enables Customs to transmit electronic messages communicating the status of consignments to these facilities.
8 July 25	Updated Prohibited and Restricted Imports and Exports list	New subheadings inserted under Tariff heading 7210.70: • 7210.70.20 • 7210.70.30 • 7210.70.40 • 7210.70.50
4 July 25	Draft amendments to rules under sections 64E and 120 – Accreditation of clients	Comments were due to SARS by Thursday, 17 July 2025.
4 July 25	Notice R.6380 – Amendment to Part 1E of Schedule No. 6, due to the amendments in Part 2A of Schedule No. 1, to provide for a rebate of duty on locally manufactured goods as well as the substitution of Notes 1, 2 and 4 to include reference to the newly inserted rebate items 622.24, 622.25 and 622.26	Published in Government Gazette No. 52938 with an implementation date of 4 July 2025.
4 July 25	Notice R.6379 – Amendment to Part 2A of Schedule No. 1, due to the amendment of Part 1 of Schedule No. 1, in order to provide for vaping devices presented with vaping liquid and the insertion of Note 5 to clarify that the rate of duty specified in the rate of duty column is only applicable to liquid presented with the device	Published in Government Gazette No. 52938 with an implementation date of 4 July 2025.
4 July 25	Notice R.6378 – Amendment to Part 1 of Schedule No. 1 by the insertion of tariff subheadings under subheading 8543.40 in order to provide for vaping devices presented with vaping liquid	Published in Government Gazette No. 52938 with an implementation date of 4 July 2025.

2 July 25	SARS published the following draft schedules for public comment: • Draft amendment in Part 1 of Schedule No. 1 (updated 3 July 2025) • Draft amendment in Schedule No. 2	SARS published an explanatory memorandum explaining all the different proposed amendments. It notes that the amendments are technical in nature and will have no effect on the duty structure. Comments were due to SARS by Friday, 1 August 2025.
1 July 25	SARS published the following draft schedules and forms for public comment: • Draft amendment to Chapter 98 in Part 1 of Schedule No. 1 • Draft amendment to Part 1 of Schedule No. 3 • Draft amendment to Part 2 of Schedule No. 4 • Draft DA199 – Automotive Production Development Programme (APDP) Account (Note that the file contains 47 forms)	On 30 November 2023, Cabinet approved the Electric Vehicle (EV) White Paper, outlining South Africa's plan to transition to EV production and consumption by 2035 and to include EVs and their components in the Automotive Production Development Programme (APDP) Phase 2. These draft amendments aim to align with this. Comments were due to SARS by Tuesday, 29 July 2025.
1 July 25	Enhancements to the Traveller Management System	SARS introduced several updates to the South African Traveller Management System (SATMS) to improve efficiency and compliance. Changes include automated reminders for re-exporting temporarily imported goods, the possibility of TRD1 extensions with valid documents, continued use of Traveller Cards (TC-01) if SATMS is down, a requirement to declare commercial goods using a Customs Clearance Declaration (SAD 500), automated acquittal for temporary imports/exports, and updated currency declaration screens for company representatives. See SARS' website for more information.
27 June 25	Notice R.6340 – Imposition of provisional payment in relation to safeguard duties against the alleged increased imports of flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated, with aluminium-zinc alloys, of a thickness of less than 0.45 mm, classifiable under tariff subheadings 7210.61.20 and 7210.61.30 and flat-rolled products of other alloy steel, of a width of 600 mm or more, otherwise plated or coated with zinc, of a thickness of less than 0.45 mm, classifiable under tariff subheadings 7225.92.25 and 7225.92.35 (ITAC Report No. 750)	Published in Government Gazette No. 52903 with effect from 27 June 2025 up to and including 13 January 2026.
27 June 25	Notice R.6339 – Amendment to Part 1 of Schedule No. 1 by the substitution of tariff subheading 8504.90 and insertion of tariff subheadings 8504.90.10 and 8504.90.90 to increase the general rate of customs duty on transformer cores with a power handling capacity not exceeding 50 000 KVA, classifiable under tariff subheading 8504.90 from 5% to 15% (ITAC Report No. 744)	Published in Government Gazette No. 52903 with an implementation date of 27 June 2025.

Case law

In accordance with the date of judgment

11 July 25	Kerbyn Cape 2 (Pty) Ltd v CSARS (15899/2023) [2025] ZAWHC	Whether the High Court had jurisdiction to review SARS' refusal to condone late lodgement of an objection relating to VAT and corporate income tax, and whether the taxpayer was required to exhaust internal remedies under the Tax Administration Act before approaching the High Court.
3 July 25	Turners Shipping (Pty) Ltd v Commissioner for the South African Revenue Service (Leave to Appeal) (2022/059481) [2025] ZAGPPHC 677	This matter involved an application for leave to appeal concerning the legal basis for holding a party liable as an agent for payment of customs duties, the definition of "exporter", and the timing and nature of liability under section 76A of the Customs and Excise Act 91 of 1964.
8 July 25	CSARS v African Bank Limited (242/2024) [2025] ZASCA 101	The issue is the interpretation of section 32(1)(a)(iv) read with section 17(1) of the VAT Act. The question is whether a ratio determination made by the appellant, the Commissioner for the South African Revenue Service, under section 17(1) of the VAT Act constituted a refusal as contemplated in section 32(1)(a)(iv) of the VAT Act.
7 July 25	Royal AM Football Club (Pty) Ltd v National Soccer League and Others (2025/054266) [2025] ZAGPPHC 664	This case examines the lawfulness and procedural fairness of the PSL's decision to terminate a football club's membership, focusing on compliance with league rules regarding changes in ownership and directorship, disclosure obligations, and the impact of a SARS preservation order and curatorship on the club's ability to fulfil its obligations.
4 July 25	CSARS v Woolworths Holdings Limited (863/2023) [2025] ZASCA 99	Whether Woolworths Holdings is entitled to claim input tax on the fees charged to it by local service providers in relation to underwriting services, and whether Woolworths Holdings was obliged to declare and pay VAT on the fees it paid to the non-resident services suppliers.
2 July 25	Glencore Merafe Venture and Others v Commissioner for the South African Revenue Service (Leave to Appeal) (38144/22) [2025] ZAGPPHC 670	Application for leave to appeal November 2024 judgment.
1 July 25	Greyvensteyn v Commissioner for South African Revenue Service and Others (Application for Leave to Appeal) (B2495/2023) [2025] ZAGPPHC 707	Application for leave to appeal the February 2025 judgment regarding the constitutionality of sections 180 and 184(2) of the Tax Administration Act. Specifically, whether these provisions infringe the taxpayer's right of access to court under section 34 of the Constitution, and whether SARS' actions under these sections are administrative or adjudicative in nature.
24 June 25	Commissioner for the South African Revenue Service v Kajee and Others (D1514/2025) [2025] ZAKZDHC 39	The issues in the case centred on whether the court had jurisdiction to grant a preservation order against Plus0 and Dodo Africa, alleged irregularities in the execution of the preservation order, the admissibility of certain evidence, and whether SARS failed to disclose material information that could have influenced the granting of the order. Additionally, the case considered whether the preservation order was necessary to prevent the dissipation of assets potentially frustrating the collection of tax liabilities.

23 May 25	BCJ v Commissioner for the South African Revenue Service (2024/8) [2025] ZATC 7	Whether or not SARS provided the taxpayer with sufficient reasons why it believes that an arrangement entered into by the taxpayer occurred within a business context and amounts to an impermissible avoidance arrangement.
Guides and forms		
18 July 25	Air Passenger Tax Guide	New features designed to streamline online registration, return submission and overall management relating to the air passenger tax process were implemented on 30 June 2025. The guide has been updated accordingly.
4 July 25	SARS Online Query System – External Guide	The guide has been updated with two changes, namely: • The "What's My Directive Status" query has been enhanced to include the one-time password (OTP) step, providing an additional layer of security to protect against unauthorised access. • A new "Provisional Taxpayer Auto Assessment Request" service has been introduced. This service allows eligible provisional taxpayers who have received corresponding notifications from SARS to request inclusion in the auto assessment population for the 2025 year of assessment.
4 July 25	Guide on Income Tax and the Individual (2024/25)	The purpose of this guide is to inform individuals who are South African residents of their income tax commitments under the Income Tax Act 58 of 1962.
4 July 25	Guide on the Determination of Medical Tax Credits (Issue 17)	This guide provides general guidelines regarding the medical scheme fees tax credit and additional medical expenses tax credit for income tax purposes.
28 June 25	Updated guides for 2025 filing season	SARS published several guide updates for the 2025 filing season, and relevant changes. See SARS' website for the full list of updated guides.
26 June 25	Tax Exemption Guide for Recreational Clubs (Issue 5)	This guide provides general guidance on the approval by the Commissioner of a recreational club under section 30A and partial taxation of approved recreational clubs under section 10(1)(cO) of the Income Tax Act.
Other Publications		
24 July 25	OECD: OECD report outlines path to financing sustainable social protection in Thailand	An OECD report outlines policy options to gradually expand social protection coverage in Thailand. The report, *Financing Social Protection through General Tax Revenues, Social Security Contributions and Formalisation in Thailand*, emphasises that more spending, including on social protection, requires expanding the fiscal space, particularly through increased revenue from general taxes and social security contributions.

24 July 25	OECD: Financing Social Protection through General Tax Revenues, Social Security Contributions and Formalisation in Thailand	This report provides a comprehensive assessment of Thailand’s social protection system and examines strategies to enhance benefit levels and expand coverage in areas beyond healthcare. The report explores potential tax policy reforms to social security contributions, the value-added tax, corporate and personal income taxes, and health and environmentally related taxes, to mobilise additional tax revenue. The report also assesses measures to expand social insurance, including through the introduction of a presumptive tax regime.
23 July 25	National Treasury Media statement: 2026 Medium Term Expenditure Framework (MTEF) Technical Guidelines	National Treasury stated that South Africa’s current budget process has not kept pace with the country’s evolving fiscal, institutional, and political realities. The comprehensive reforms for the 2026 budget, as outlined in the MTEF guidelines, aim to clarify trade-offs, reduce waste, and prioritise high-impact programmes.
23 July 25	National Treasury: 2026 MTEF Guidelines	Section 27(3) of the Public Finance Management Act (PFMA) requires the annual budget to follow a format set by the National Treasury, and the 2026 MTEF Guidelines provide this framework, guiding government departments in preparing their medium-term budget estimates. The guidelines emphasize disciplined, transparent, and strategically aligned budgeting to support South Africa’s long-term fiscal goals, incorporating lessons from the 2025 budget cycle and calling for improved coordination, consultation, and spending efficiency. They also support ongoing budget reforms and have been formally approved by Cabinet, aiming to enhance service delivery, value for money, and fiscal sustainability.
22 July 25	OECD: OECD publishes second batch of updated transfer pricing country profiles with new insights on hard-to-value intangibles and simplified distribution rules	The OECD released a new batch of updated transfer pricing country profiles, reflecting the current transfer pricing legislation and practices of 12 jurisdictions, including Austria, Belgium, Canada, Ireland, Latvia, Lithuania, Mexico, the Netherlands, New Zealand, Singapore, South Africa and Spain.
22 July 25	Transfer Pricing Q2 Briefing	PwC’s quarterly transfer pricing briefing helps multinational organisations keep up with the continuous flow of relevant tax and transfer pricing developments.
21 July 25	Tax Policy Alert: European Commission unveils ‘own resources’ proposals	On 16 July the European Commission (Commission) presented a proposal for a EUR 2 trillion Multi-Annual Financial Framework (MFF) for 2028 to 2034. The proposal includes expanding existing own resources and a new own resource, CORE (Corporate Resource for Europe). The MFF needs to be adopted under a special legislative procedure which requires unanimity in the Council.
21 July 25	Tax Insights: International Insights from H.R. 1, the “One Big Beautiful Bill Act”	President Trump signed H.R.1, the One Big Beautiful Bill Act (the Act), into law on 4 July 2025. The Act permanently extends various individual, business, and international tax provisions enacted as part of the 2017 TCJA that were set to change at the end of this year. The Act also features certain individual and business tax relief proposals advanced by President Trump, and other new tax relief measures. This legislation comes at the same time as the announcement of a G7 agreement, in principle limiting the application and impact of the OECD's Pillar Two Global Minimum Tax to US multinational companies.

18 July 25	Tax Policy Alert: Belgian Constitutional Court refers case on validity of EU Global Minimum Tax provisions to CJEU	The Belgian Constitutional Court issued a decision on 17 July 2025 regarding the constitutionality of Articles 35 and 36 of the Belgian Act of 19 December 2023. These articles implement the Undertaxed Profits Rule (UTPR) as part of Belgium’s transposition of the EU’s Global Minimum Tax directive. In line with the directive, the UTPR would be imposed on the Belgian entity of a group if the top-up tax were not (fully) imposed under a QDMTT or IIR. The Court did not rule on the merits of the constitutional challenge but has instead referred the question of the validity of the UTPR provisions under the directive to the Court of Justice of the European Union (CJEU).
18 July 25	ATAF: AMTJ Volume 5 Launch Showcases Journal’s Growing Impact on African Tax Systems and Professional Growth	On 3 July 2025, the African Tax Administration Forum (ATAF), in partnership with Juta and Company, officially launched Volume 5 of the African Multidisciplinary Tax Journal (AMTJ), recently accredited by Scopus (Elsevier), one of the world’s leading indexing platforms for peer-reviewed literature. This media release provides more details.
18 July 25	National Treasury media statement: Third Meeting of G20 Finance Ministers and Central Bank Governors (FMCBG)	The Third Meeting of the G20 FMCBG took place on 17 and 18 July 2025 in Durban, KwaZulu-Natal, South Africa to advance the theme of Solidarity, Equality, and Sustainability. This media statement summarises details from the discussions.
18 July 25	National Treasury: Third G20 FMCBG Communiqué	This communiqué, following the July 2025 G20 FMCBG meeting, summarises the discussions and commitments on global economic challenges, international financial architecture, sustainable finance, infrastructure, financial sector issues, international taxation, health financing, and development cooperation. It emphasizes international cooperation to promote sustainable growth, address debt vulnerabilities, enhance financial inclusion, reform international institutions, and support the development objectives of developing countries.
18 July 25	OECD: Global Forum on Transparency and Exchange of Information for Tax Purposes: Peer Review Reports on the Exchange of Information on Request	The OECD published the 2025 Second Round Peer Review Report on the Exchange of Information on Request for Oman, Mongolia, Honduras, Madagascar, Trinidad, and Tobago.
18 July 25	SARS media release: Filing season 2025 gets under way from 21 July to 20 October	The Auto Assessment period, which ran from 7 to 20 July 2025, is followed by the tax filing period via eFiling and the SARS MobiApp for individual taxpayers from Monday, 21 July–20 October 2025. Provisional taxpayers can also file from 21 July 2025–19 January 2026. The media release provides more information on the 2025 filing season.
17 July 25	OECD: Taking Stock of Progress on Transparency and Exchange of Information for Tax Purposes: OECD and Global Forum Report to G20 Finance Ministers and Central Bank Governors	This report takes stock of progress on transparency and exchange of information (EOI) for tax purposes since the inception of the G20. Historically, the lack of effective EOI agreements, strict banking secrecy laws and other barriers have hindered international co-operation. The development of internationally agreed standards on tax transparency and EOI created a legal framework for closer cooperation between tax authorities. Today, more than 170 jurisdictions work closely together to ensure the effective implementation of the transparency and exchange of information on request (EOIR) standard and the automatic exchange of information on financial accounts under the Common Reporting Standard (CRS).

17 July 25	OECD: OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors (G20 South Africa, July 2025)	This report sets out recent developments in international tax co-operation, including the OECD's support of G20 priorities such as the implementation of the BEPS minimum standards, the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, and tax transparency, as well as updates regarding the April Inclusive Framework Plenary meeting and initiatives to find simplification and reduce compliance burdens.
15 July 25	Tax Alert: CSARS v Woolworths – VAT victory on deductibility of capital-raising costs for active investment holding companies	The Supreme Court of Appeal ("SCA") delivered its judgment on 4 July 2025, confirming Woolworths Holdings Limited's entitlement to deduct input tax on costs incurred for underwriting services relating to a rights offer to raise capital for the purpose of acquiring shares in David Jones Limited. In addition, the SCA ruled that the services from non-resident providers were not subject to VAT on imported services and set aside the understatement penalty imposed by SARS.
11 July 25	Tax Insights from Customs and International Trade: Trump administration announces new country-specific tariff rates, extends reciprocal tariff pause	President Trump signed an Executive Order extending the expiration of previously modified reciprocal tariffs from 9 July to 1 August 2025. He also notified 14 countries of updated tariff rates, effective 1 August. Additional letters were sent to eight more countries, including Brazil, which faces a proposed 50% tariff. The administration also announced a 50% tariff on copper imports and a 35% tariff on Canada, both effective 1 August. This Tax Insight provides more details.
10 July 25	ATAF: ATAF launches the Revenue Action for Development in Africa (RADA) initiative at the FFD4 conference in Seville, Spain	At the Fourth International Conference on Financing for Development (FfD4), the ATAF raised the curtain on Revenue Action for Development in Africa (RADA), a programme crafted to help Africa pay for its own development in the future. RADA has four main pillars: • Digital Tax Infrastructure • Agile Country Support • Capacity & Skills Acceleration • Inclusive & Collaborative Tax Governance
9 July 25	OECD: Review results highlight OECD's critical support to developing countries in international tax matters	Tax Co-operation for Development: Progress Report on 2024 provides an overview of the wide-ranging activities delivered last year by the OECD Centre for Tax Policy and Administration and the Global Forum on Transparency and Exchange of Information for Tax Purposes in supporting developing countries to improve their tax systems.
8 July 25	OECD: Revenue Statistics in Asia and the Pacific 2025	This annual publication compiles comparable tax revenue statistics for 37 economies. Additionally, it provides information on non-tax revenues for selected economies.
8 July 25	OECD: VAT drove up tax revenues in the Asia-Pacific region in 2023	Tax revenues increased on average across the Asia-Pacific region for the third consecutive year in 2023, driven by higher value-added tax (VAT) receipts, according to the OECD's Revenue Statistics in Asia and the Pacific 2025 report. This press release summarises the key findings.
8 July 25	SARS media release: Extension of due date for filing of EMP201 and payment	SARS extended the due date for the filing of EMP201 and payment to Monday, 14 July 2025.

3 July 25	SARS: Everything you need to know about auto assessments	Taxpayers who get an auto assessment will be notified of the outcome by SMS or email from 7 – 20 July 2025. SARS provides more information on the auto assessment process.
2 July 25	OECD: Tax Inspectors Without Borders present plans to expand international tax co-operation for sustainable development over the coming decade	The Organisation for Economic Co-operation and Development (OECD) and the United Nations Development Programme (UNDP) presented a new plan to expand the scope and global coverage of their shared Tax Inspectors Without Borders (TIWB) programme, marking a new phase in the flagship capacity-building initiative.
2 July 25	OECD: Tax Inspectors Without Borders Annual Report 2025	This report reflects on ten years of TIWB, a joint initiative of the OECD and UNDP. It charts the evolution of the initiative from its formal launch in 2015 to 2025, highlighting key milestones and its expansion in response to the rapidly evolving international taxation and development landscape.
2 July 25	SARS media release: South Africa deepens global trade ties through landmark AEO agreements with the USA, India and the UK	SARS signed three mutual recognition arrangements (MRAs) for its authorised economic operator (AEO) programme and also concluded a cooperation agreement with the Xiamen District of the General Administration of China Customs. In addition, SARS undertook a Memorandum of Understanding with the Customs & Excise department of Hong Kong, China, regarding cooperation and mutual administrative assistance in customs matters. This media release provides more details.
1 July 25	ATAF: ATAF and IISD sign MOU to strengthen domestic resource mobilisation	The ATAF and the International Institute for Sustainable Development (IISD) have signed a new cooperation agreement to support stronger tax policy and administration, especially in the mining sector. The new agreement sets out how ATAF and IISD will work together to enhance domestic resource mobilisation through policy development, research, capacity building, technical assistance, knowledge sharing and peer learning.
1 July 25	SARS media release: SARS Concludes Visionary WCO Chairmanship, Shapes Future of Global Customs	This media release outlines the key initiatives of the WCO's 2025–2028 Strategic Plan, discussed during the 145th/146th WCO Council Sessions. It also highlights outcomes from Commissioner Edward Kieswetter's chairmanship from 2023 to 2025.
1 July 25	OECD: African countries continued to strengthen domestic resource mobilisation through enhanced tax transparency in 2024	The Tax Transparency in Africa: Africa Initiative Progress Report highlights the progress in tax transparency achieved by the 39 African members of the Global Forum. In 2024, African countries sent 1 756 EOI requests – almost doubling the number of requests recorded in 2023 – and the number of African countries actively sending requests increased to 23. The report contains more information.
30 June 25	OECD: Tax Co-operation for Development: Progress Report on 2024	The OECD tax and development programme collaborates with developing countries to combat tax evasion, improve revenue mobilisation, and advance tax policy reforms while supporting participation in international tax initiatives and providing technical assistance. The 2024 report highlights record achievements in new programme launches and tax transparency support, summarises an independent evaluation of the programme and outlines priorities for 2025.

30 June 25	OECD: Intergovernmental fiscal transfers and fiscal equalisation in a time of consolidation	This working paper explores how selected countries adjust their fiscal equalisation systems during periods of fiscal consolidation, focusing on design features that uphold inter-regional fairness and efficiency despite tighter government budgets.
30 June 25	SARS media release: Trade Statistics for May 2025	South Africa recorded a preliminary trade balance surplus of R21.7 billion in May 2025. This surplus was attributable to exports of R175.7 billion and imports of R154.1 billion, inclusive of trade with Botswana, Eswatini, Lesotho and Namibia (BELN). The media release has more information.
28 June 25	OECD: Statement by the OECD Secretary-General on G7 Progress on International Tax Co-operation	The statement welcomes the G7's announcement of a proposed global minimum tax arrangement, highlighting it as a significant step toward fairer and more effective international tax systems, increased cooperation, and greater certainty for businesses and governments worldwide.
27 June 25	OECD: Financing the costs of disasters: Catastrophe bonds or taxation?	This working paper examines two disaster-cost financing tools: catastrophe bonds and taxation, based on a macroeconomic theoretical approach. The results suggest that as far as welfare is concerned, bond options are comparatively advantageous. The paper also discusses the importance of utilising catastrophe bonds and taxation appropriately within the context of disaster response policy.
26 June 25	OECD: Inclusive Framework on BEPS reports continuing progress towards making tax dispute resolution more effective	The OECD released 36 new peer review results under BEPS Action 14 on Mutual Agreement Procedures (MAP), highlighting continued progress by members of the Inclusive Framework on BEPS that have committed to implementing the Action 14 minimum standard, which seeks to improve the resolution of treaty-related disputes through the MAP. This media advisory shares key findings of the reports.
26 June 25	OECD: Making Dispute Resolution More Effective – June 2025 Reports	See the OECD website for reports outlining the outcomes of the peer reviews regarding the implementation of the BEPS Action 14 Minimum Standard for various jurisdictions.
26 June 25	SARS: Changes for 2025 Filing Season	SARS has made several key changes in relation to personal income tax this filing season, including allowing certain provisional taxpayers to opt into auto assessment, automatically carrying forward unused foreign tax credits, and requiring new reporting codes for employers. The learnership agreement incentive is extended, and there are updates to how residency status and trust income are handled on tax returns. See SARS' website for more information.

Thank you

At PwC, we help clients build trust and reinvent so they can turn complexity into competitive advantage. We're a tech-forward, people-empowered network with more than 370,000 people in 149 countries. Across audit and assurance, tax and legal, deals and consulting we help clients build, accelerate and sustain momentum. Find out more at www.pwc.com.