Synopsis

Tax today

July 2026

A monthly journal, published by PwC South Africa, that gives informed commentary on current developments in the tax arena, both locally and internationally.

Through analysis of and comment on new laws and judicial decisions of interest, Synopsis helps executives to identify developments and trends in tax law and revenue practice that may affect their business.

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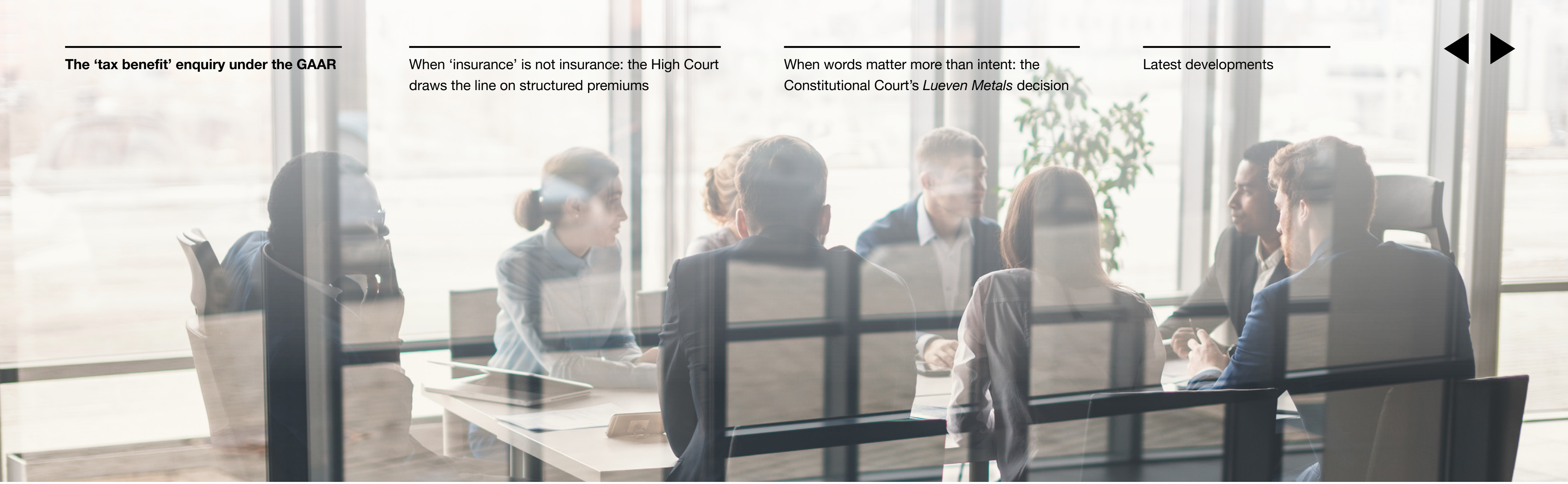

The ‘tax benefit’ enquiry under the GAAR

Observations on *Company AF (Pty) Ltd and Others v CSARS*

The Tax Court’s decision in *Company AF (Pty) Ltd and Others v Commissioner for the South African Revenue Service*[1] (‘*Company AF*’) will likely attract most attention for its treatment of ‘sole or main purpose’. But the judgment is also important at an earlier and analytically distinct stage of the general anti-avoidance rule (‘GAAR’) enquiry: the identification of the tax benefit.

For a reader, that aspect of the case matters for at least two reasons. First, the judgment affirms the sequential structure of the GAAR and insists that the tax-benefit enquiry is not to be collapsed into purpose or tainted-element analysis. Second, it gives content to the comparator exercise after *Absa Bank Ltd v Commissioner for the South African Revenue Service*[2] (‘*Absa Bank*’), by measuring the actual structure against the tax consequences of a straightforward share sale that would have achieved the same commercial end.

Statutory setting

The judgment records the GAAR sequence in orthodox terms. Section 80A[3] defines an ‘impermissible avoidance arrangement’ as an ‘avoidance arrangement’ whose sole or main purpose was to obtain a tax benefit and which exhibits one of the tainted elements in section 80A(a)–(c). Section 80L defines an ‘avoidance arrangement’ as any arrangement that, but for the GAAR, results in a tax

1 (IT 76725; IT 76750; IT 76751; IT 76752; IT 76753; IT 76754; IT 76755) [2026] ZATC 6 (3 July 2026).

2 (CCT 72/24) [2026] ZACC 15.

3 Income Tax Act 58 of 1962.

benefit. Section 80B then empowers SARS to determine the tax consequences of an impermissible avoidance arrangement by, among other things, disregarding, combining, or recharacterising steps, or treating the arrangement as not having been entered into.

The court expressly emphasised that the enquiry was sequential and that the four requirements were 'cumulative and distinct'. SARS bears the onus on the existence of the arrangement, the tax benefit, and the tainted elements. Only once those elements are established does section 80G(1) trigger the rebuttable presumption that the sole or main purpose was to obtain the tax benefit. That structure is important. It means that one cannot short-circuit the analysis by inferring a tax benefit merely from apparent tax motivation, nor infer purpose simply because a tax benefit is obvious.

The court also reaffirmed that the GAAR was a remedial regime, not a penal one, and not a charging provision operating by its own force. It is directed at the treatment of an arrangement otherwise effective at law once the statutory conditions are met. That formulation supports a purposive but disciplined approach: GAAR does not prohibit tax planning as such; it neutralises the fiscal advantage where the statutory conditions are satisfied.

Factual matrix and the alleged benefit

The taxpayers were seven corporate shareholders in RASS Investments (Pty) Ltd. They wished to exit their investment; the ANCIENT group, through its subsidiary SRIA Investments (Pty) Ltd, wished to acquire control. The commercial objective was therefore uncontroversial.

The issue lay in the implementation. The transaction was not structured as a direct disposal of the RASS shares for full value. Instead, the structure included:

1	A pre-closing dividend declared by RASS to the existing shareholders;
2	A subscription by SRIA for new shares in RASS;
3	The use of the subscription proceeds to fund payment of the dividend; and
4	A subsequent disposal by the original shareholders of their remaining shares for a nominal amount.

The taxpayers treated the pre-closing dividend as exempt under section 10(1)(*k*)(i). The consequence was that a substantial part of the exit value was received in exempt dividend form rather than as proceeds triggering capital gains tax ('CGT') on disposal of the original shareholding.

SARS' finalisation of audit letters stated that the revised structure introduced 'additional elements' — the subscription and the pre-sale dividend — that had no commercial effect other than avoiding CGT on the sale of the original shareholding, and that the structure incorporated a 'dividend stripping mechanism'. SARS therefore applied GAAR to the composite transaction and assessed the taxpayers on the basis that the arrangement should be treated as an ordinary sale of shares by the RASS shareholders to the ANCIENT group through SRIA.

That characterisation goes to the heart of the tax-benefit enquiry. SARS was not saying that the acquisition of control was itself artificial. Nor was SARS challenging the legal possibility that dividends between companies may be exempt. The allegation was narrower and more precise: the inserted steps changed the tax profile of the exit without changing its commercial outcome.

The tax benefit as a comparative exercise

The court's discussion is notable for treating tax benefit as a comparative enquiry. This follows the logic of section 80L, which asks whether the arrangement, but for the GAAR, 'results in' a tax benefit. A 'result' is necessarily relational. It requires identification of a benchmark against which the fiscal consequence of the arrangement can be measured.

The judgment indicates that the appellants sought to narrow the reach of *Absa Bank*, contending that some of the majority's observations on the tax-benefit comparator and the counterfactual were *obiter*. The court was not persuaded by attempts to minimise the significance of that guidance. The Tax Court accepted that the tax-benefit enquiry is not answered by looking at the arrangement in isolation. One must compare the fiscal consequences of the actual arrangement with those of an appropriate alternative benchmark. In that regard, the Tax Court held itself bound by *Absa Bank* on the tax-benefit counterfactual and applied that reading to the *Company AF* facts. The comparison is not with 'no transaction', nor with some different transaction the taxpayer says it would have preferred, but with the arrangement that was in fact implemented, shorn of the features whose only operation is fiscal.

In the present case, that benchmark was a straightforward sale of shares. The court later returned to this in the purpose analysis, but the same logic underpins the tax-benefit enquiry: the taxpayers' genuine commercial objective — to realise their investment with ANCIENT acquiring control — could have been achieved through an ordinary disposal. The pre-closing dividend funded by the purchaser's subscription "added nothing to the commercial result". What it did do was change the tax consequences.

This is an important analytical move. It rejects two common but unsatisfactory approaches to tax benefit:

- First, the idea that it must be determined with regard to a comparator of no transaction at all; and
- Second, the idea that the comparator is a different transaction.

Instead, the court asks a more disciplined question: relative to the ordinary transaction that would achieve the same commercial result, having regard to the economic substance of the arrangement that was actually undertaken, what fiscal advantage was produced by the chosen structure?

Identification of the benefit in this case

On that comparative approach, the tax benefit was the conversion of value that would ordinarily have been reflected in disposal proceeds into an exempt inter-company dividend.

Had the shareholders simply sold their shares for full value to SRIA, the value realised on exit would have been reflected in consideration for the disposal of the shares, with the attendant CGT consequences. Under the chosen structure, much of that value was instead extracted by way of a pre-closing dividend exempt under section 10(1)(*k*)(i), with the residual sale taking place for only a nominal amount.

The court therefore accepted SARS' formulation that the arrangement yielded a fiscal advantage because it transformed the tax character of the exit proceeds. That is the 'tax benefit' in a GAAR sense. It is not merely that tax was low; it is that the structure achieved lower tax than the ordinary share-sale comparator by inserting steps that rerouted value through an exempt dividend, but which steps had no effect on the economic substance of the arrangement.

For readers, this is best understood not as a broad anti-dividend principle, but as a specific conclusion about functional equivalence. The purchaser-funded dividend was treated as serving the same economic role as part of the acquisition consideration, while producing materially different tax consequences.

The role of section 10(1)(*k*)(i)

The judgment is also a reminder that the availability of a specific exemption does not foreclose GAAR scrutiny. Section 10(1)(*k*)(i) exempts certain dividends from normal tax. There is nothing inherently suspect in a taxpayer relying on that exemption. Nor is every pre-sale dividend vulnerable to GAAR. Much turns on the function of the distribution in the arrangement as a whole.

Here, the court accepted SARS' case that the dividend was not merely an ordinary distribution of accumulated profits preceding an independently structured disposal. It was integrated with the subscription by the purchaser and funded through that subscription. On SARS' case, accepted by the court, the circularity and dependency of the steps revealed that the dividend mechanism was inserted to extract acquisition value before the nominal share sale.

That is why the dividend exemption features in the tax-benefit analysis. The tax advantage did not arise simply because a dividend happened to be exempt. It arose because the structure exploited the exemption to alter the tax treatment of what, in the comparator transaction, would have been taxable sale proceeds.

This point is critical. The case does not stand for the proposition that exempt dividends proximate to share sales are, without more, tax benefits under GAAR. It stands for the narrower proposition that where the dividend is functionally part of the exit mechanics and substitutes for sale value, the exemption may form part of the fiscal advantage generated by the arrangement.

The relationship between tax benefit and later GAAR stages

Although this article focuses on tax benefit, one should note the court's insistence that the tax-benefit enquiry remains distinct from the later stages of the GAAR analysis. The same facts may bear on more than one element, but a finding on one is not a finding on another.

That is doctrinally important. In practice, facts such as circular funding, dependency between steps, and the absence of incremental commercial effect may:

- Establish the existence of a tax benefit by reference to an ordinary transaction comparator;
- Support the inference that obtaining that tax benefit was the sole or main purpose; and
- Support findings of abnormality, lack of commercial substance, or misuse/abuse.

But those are still separate statutory enquiries.

Implications for structuring and controversy

The case offers several practical lessons for advisers and litigators.

1. The comparator must be articulated early

In transactions vulnerable to GAAR, the central controversy may not be whether tax was reduced, but what the proper comparator is. Taxpayers who cannot explain why the actual structure should be compared with something other than a straightforward market transaction may face difficulty at the tax-benefit stage.

2. Commercial objective is not the comparator

It is not enough to say that the transaction served a real business objective. The relevant question is whether that objective could have been achieved through a simpler or more ordinary route with different tax consequences. If yes, the delta may constitute the tax benefit.

3. Pre-sale dividends require functional analysis

The legal status of a dividend as an exempt receipt is only the start of the enquiry. One must ask what the dividend is doing in the arrangement. If it is funded by the purchaser, is dependent on acquisition steps, and leaves only nominal sale consideration, SARS will likely characterise it as part of a value-extraction mechanism.

4. Tax benefit is often easiest for SARS to prove

In a structure of this kind, the tax benefit may be the least contentious element of the GAAR enquiry. The real battleground often moves to purpose and tainted elements. But the judgment shows that SARS' success on later stages depends on first framing the tax benefit coherently through an appropriate counterfactual.

The takeaway

Company AF is significant not only for what it says about purpose, commercial substance, and abuse, but also for its disciplined treatment of the tax benefit requirement under the GAAR. It gives practical guidance on how to apply the principle set out in *Absa Bank* that the existence of a tax benefit is to be determined with reference to the transaction stripped of its avoidance features.
The judgment supports a structured, comparative enquiry: identify the actual arrangement and identify the ordinary transaction that would have produced the same commercial result, then determine what fiscal advantage the chosen structure generated relative to that benchmark.

On the facts, that advantage was clear. The taxpayers achieved an exit in which value that would ordinarily have been reflected in taxable share-sale proceeds was instead received as an exempt inter-company dividend under section 10(1)(*k*)(i), through a pre-closing dividend funded by the purchaser's subscription and followed by a nominal share sale. That was sufficient to establish the tax benefit limb of GAAR.

The harder question is whether obtaining that benefit was the sole or main purpose of the impugned structure. How that aspect was dealt with in *Company AF* is arguably far more controversial and troubling and is the subject of a follow-up article.

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When 'insurance' is not insurance: the High Court draws the line on structured premiums

A recent judgment of the Western Cape High Court in *CSARS v Meiring Citrus (Pty) Ltd*[1] ('the *Meiring Citrus* judgment') provides a significant analysis of 'structured insurance' products, the deductibility of expenditure under section 11(*a*) of the Income Tax Act[2] as amended ('the Act'), and SARS' ability to reopen an otherwise prescribed assessment under section 99 of the Tax Administration Act[3] as amended ('the TAA'). The judgment is especially important because the High Court overturned the Tax Court's decision in *IT 46080*[4], where the taxpayer had succeeded on prescription and, subject to the Tax Court's reasoning on section 23L, substantially on the deductibility analysis.

The central question was deceptively simple: when a taxpayer pays an amount labelled as an 'insurance premium', does that label determine the tax treatment? The High Court's answer was emphatic: no. The court held that the taxpayer's R9.6 million payment was not a deductible insurance premium but a deposit into a self-insurance investment account, because the economic substance of the arrangement did not involve genuine risk transfer or risk pooling.

The judgment therefore sits at the intersection of insurance law, income tax deductibility, substance-over-form analysis, and tax administration. It is likely to be relied upon in disputes involving captive-type arrangements, structured risk-funding products, experience-account policies, and other financial products where a deduction is claimed on the basis of contractual form rather than commercial substance.

1 (A161/2025; IT 46080) [2026] ZAWCHC (26 June 2026).
2 58 of 1962.
3 28 of 2011.
4 WCTC, 5 December 2024

Background facts

Meiring Citrus carried on a citrus farming business in the Sundays River Valley in the Eastern Cape and produced fruit for export markets, including Europe, the Middle East, and Canada. Its farming operations were exposed to material agricultural risks, including Citrus Black Spot and False Codling Moth, either of which could lead to export consignments being rejected and destroyed, with a consequent loss of revenue.

Before entering into the Santam arrangement, Meiring Citrus used its own reserves to absorb losses arising from these risks and did not insure externally against them. During the preparation of the company's provisional tax calculations for the 2017 year of assessment, the company was 'looking for expenses' of approximately R10 million to bring into that tax year. Its accountant, Mr van Zyl, recommended a Santam product described as a 'structured self-insurance product', which had been marketed to accountants as carrying tax-deductible premiums and as capable of being taken out at year-end for a short period.

Meiring Citrus ultimately entered into a Santam structured insurance contract under which it paid R10 million, excluding VAT, and obtained a stated indemnity limit of R12 million, excluding VAT. Of the R10 million paid, R400 000 was an underwriting charge payable to Santam, while the remaining R9.6 million was credited to an 'experience account' operated by Santam on behalf of Meiring Citrus. The experience account earned notional interest for the benefit of Meiring Citrus, and the positive balance, together with interest, was refundable to Meiring Citrus on expiry or cancellation of the policy.

This feature was decisive. Santam would debit claims from the experience account, and if the policy were cancelled on 30 days' notice, any positive balance in the account would be paid back to Meiring Citrus. In June 2021, Meiring Citrus cancelled the policy because it was experiencing a smaller crop and lower prices due to the exchange rate and needed the funds. It received R11.3 million from the experience account in July 2021, which it included in its taxable income for the 2022 year of assessment, although no tax was payable because it was in an assessed-loss position.

In its 2017 income tax return, Meiring Citrus claimed the R10 million payment as a deduction, reducing its taxable income from R13.6 million to R3.6 million and resulting in tax payable of R1 million. SARS flagged the substantial increase in insurance expenses from R221 000 in the 2016 year to R10.3 million in the 2017 year and requested an explanation, schedule, and supporting documents. Mr van Zyl responded by stating that the increase arose from 'self-insurance' taken out from Santam to the value of R10 million, but he provided only the application form and debit order authority rather than the complete Santam contract and experience account statements.

SARS initially finalised the verification without adjustment, while expressly reserving the right to conduct a further verification or audit in future. In December 2020, SARS notified Meiring Citrus that it would conduct an audit for the 2017 to 2019 years of assessment and requested the relevant insurance contracts and experience account statements. The complete Santam contract and experience account statements were provided to SARS for the first time in January 2021.

SARS then issued additional assessments, disallowed the R9.6 million deduction, included the notional interest credited to the experience account in gross income, and imposed a 10 per cent understatement penalty. SARS allowed the R400 000 underwriting fee as deductible, because that amount related to the genuine R2.4 million risk component.

The Tax Court's decision in *IT 46080*

The Tax Court identified four issues: prescription, deductibility of the alleged insurance premium under section 11(*a*), inclusion of notional interest in gross income, and the 10 per cent understatement penalty. The court treated prescription as the threshold issue, because if section 99(1) of the TAA applied, the additional assessment could not stand, regardless of the merits.

On prescription, the Tax Court adopted a narrow 'per item' approach to section 99(2). It held that SARS had to show a causal link between the alleged misrepresentation or non-disclosure and the non-assessment of the particular item or amount sought to be reassessed. The Tax Court rejected SARS' argument that one instance of misrepresentation or non-disclosure could operate as an 'open sesame' permitting SARS to revisit the entire assessment.

The Tax Court found that the return did not contain a misrepresentation of fact in relation to the R10 million payment, because the taxpayer had in fact paid that amount and had disclosed it under 'insurance'. It regarded the question whether the amount was deductible as a question of law rather than fact, and therefore held that an incorrect legal characterisation did not amount to a factual misrepresentation for purposes of section 99(2). It also held that the non-disclosure of R1 197.52 of notional interest was not material, given the small amount involved.

The Tax Court further held that SARS had failed to prove causation, because it had not led evidence explaining how the alleged misrepresentation or non-disclosure caused the failure to assess the full amount of tax within the three-year period. The court considered it significant that SARS had already been alerted to the unusual increase in insurance expenses, had asked for supporting documentation, had received a response describing the product as 'self-insurance', and nevertheless finalised verification without adjustment.

Although the Tax Court upheld the appeal on prescription, it went on to consider the merits. It held that the notional interest had accrued to Meiring Citrus because the taxpayer would ultimately have received that amount either as part of a claim or as part of the expiry or cancellation proceeds. On the premium deduction, however, the Tax Court held that the payment had been 'actually incurred', because there was a shift in assets: the money ceased to belong to Meiring Citrus and vested in Santam, subject to Meiring Citrus' contractual rights.

The Tax Court also considered section 23L, which disallows a deduction for certain short-term insurance premiums to the extent that the premium is not taken into account as an expense for IFRS financial reporting purposes. It held that the taxpayer bore the overall onus of establishing deductibility and, because neither party led expert evidence on the correct IFRS treatment, the taxpayer would have failed on section 23L if SARS had been entitled to reopen the assessment. Nevertheless, because the additional assessment was held to be prescribed, the Tax Court directed SARS to allow the full deduction and exclude the notional interest component.

The High Court's approach

The High Court took a materially different approach. Rather than beginning with the assumption that the Santam arrangement was an unconventional insurance contract, it first asked whether the contract was insurance in law at all. That framing proved decisive.

The High Court held that interpretation of the Santam contract required a unitary exercise involving text, context, and purpose. It also stressed that insurance contracts must be construed with regard to their language, context, and purpose, and that a commercially sensible meaning must be preferred to one that is insensible or inconsistent with the purpose of the contract. The court found that the Tax Court had erred by conflating the question whether the contract was a sham with the anterior question whether the agreement, properly characterised, was an insurance contract.

The High Court identified the essential characteristics of insurance as including an insurable interest, a risk of loss, the insurer's assumption of that risk, the distribution of actual losses across a larger group of persons bearing similar risks, and the insured's contribution to a general insurance fund by way of a premium. It emphasised that the core of insurance is the transfer of the consequences of risk from the insured to the insurer and the spreading of that risk among a pool of insureds. By contrast, where the insured's own resources are used to compensate its loss, the arrangement is self-insurance, which the court described as the antithesis of insurance because there is no transfer or spreading of risk.

Why the Santam product was not insurance

The High Court concluded that the Santam structured insurance product did not amount to an insurance contract. It described the arrangement as an investment transaction disguised as an insurance contract, even though it also accepted that the contract was not a sham in the sense that the parties did not intend to perform something different from the written terms. The decisive point was that the labels 'insurance' and 'premium' could not change the real nature of the transaction.

Several features led the High Court to that conclusion.

First, the so-called premium was not determined in the ordinary manner by the insurer after a risk assessment; rather, the policy allowed the insured to review, increase, or decrease the premium at each policy anniversary. The court regarded this as inconsistent with ordinary insurance practice, because insureds are ordinarily price takers rather than price makers.

Second, claims below the experience account balance were payable within 72 hours without the same investigation mechanism that applied to claims exceeding the experience account balance. The court considered this to demonstrate that Santam bore no real prejudice or risk in respect of the amount in the experience account, because claims falling within that balance were simply paid out of Meiring Citrus' own funds.

Third, the cancellation clause allowed Meiring Citrus to cancel the policy on 30 days' notice and recover the positive balance of the experience account, together with interest. The court held that this was inconsistent with insurance principles because, despite the attachment of risk, the taxpayer could still demand repayment of the so-called premium. On cancellation, Meiring Citrus in fact recovered R11.3 million, an amount exceeding the original R10 million paid.

Fourth, the experience account earned notional interest for Meiring Citrus' benefit, and that interest was payable on expiry or cancellation. The court regarded this as strongly inconsistent with the notion that the R9.6 million was an expense, observing that expenses do not earn interest.

Fifth, the policy could be pledged as surety, which the court held showed that the funds in the experience account were an asset in Meiring Citrus' hands. If the experience account were not an asset of the taxpayer, it could not sensibly have been used as security.

Sixth, the policy recorded that no risk analysis had been conducted at inception, which the High Court considered inconsistent with the business of insurance. The court reasoned that no risk analysis was required because, under the structure, the bulk of any payment was made from the insured's own funds and the risk remained with the insured.

These features meant that the R9.6 million was not a premium for risk transfer. The High Court held that only R2.4 million of the R12 million indemnity limit represented genuine risk transferred to Santam, for which Santam received the R400 000 underwriting fee. The balance of R9.6 million was self-insured risk and constituted a deposit into a self-insurance investment account.

Section 11(*a*): why the R9.6 million was not deductible

Section 11(*a*) permits a taxpayer carrying on a trade to deduct expenditure and losses actually incurred in the production of income, provided that the expenditure and losses are not of a capital nature. The taxpayer bears the burden of proving that an amount is deductible or may be set off. The High Court therefore held that Meiring Citrus had to prove every element of section 11(*a*), including that the R9.6 million was expenditure, that it was actually incurred, that it was incurred in the production of income, that it was incurred for trade purposes, and that it was not capital in nature.

The High Court's primary finding was that the R9.6 million was not 'expenditure actually incurred'. Relying on *Labat*[5], the court stated that expenditure requires the spending, disbursement, or consumption of funds and involves a

diminution, even if temporary, or at least a movement of assets by way of expenditure. However, the court also stressed that not every movement of money constitutes expenditure.

The court compared the experience account to a deposit or loan-like arrangement. A taxpayer who places R10 million in an interest-bearing account from which it is entitled to recover the equivalent sum has not expended the money; it has merely changed the form in which it holds an asset of unchanged value.

That, according to the High Court, was what happened here: Meiring Citrus exchanged cash for a recoverable R9.6 million credit, interest rights, and contractual rights to recover the balance on 30 days' notice.

On that basis, the taxpayer's net asset position was unchanged, except for the R400 000 underwriting fee that SARS had allowed. The R9.6 million did not involve a parting with value; it was a change in the form in which value was held. The court therefore held that the deduction failed at the threshold, because the amount was not expenditure actually incurred.

The High Court also held, in the alternative, that even if the R9.6 million were expenditure actually incurred, it would be capital in nature. The court applied the distinction between expenditure incurred as part of income-producing operations and expenditure incurred to acquire a capital

5 *Commissioner for the South African Revenue Service v Labat Africa Ltd* (669/10) [2011] ZASCA 157.

asset or strengthen the income-producing structure. What Meiring Citrus acquired was not merely cover against a peril but an enduring, interest-bearing asset: a credit in the experience account, the right to interest, the right to recover the balance, and the ability to pledge the policy as security.

The High Court applied the classic 'tree and fruit' distinction from *Visser*[6], holding that the funds in the experience account were the tree, while the interest generated by those funds was the fruit. Amounts laid out to acquire such an income-producing asset are capital in nature. Accordingly, even if the R9.6 million had been expenditure, it would still not have been deductible under section 11(*a*).

The court also observed that, on its alternative analysis, the R9.6 million was not laid out in the production of Meiring Citrus' income or for the purposes of its trade, because it secured an enduring, recoverable, interest-bearing asset rather than forming part of the cost of the taxpayer's income-earning farming operations. The High Court therefore concluded that SARS had correctly disallowed the deduction.

Prescription under section 99 of the TAA

Section 99(1) of the TAA generally prevents SARS from making an assessment more than three years after the date of an original assessment by SARS. Section 99(2), however, provides that the three-year limitation does not apply to the extent that the fact that the full amount of tax chargeable was not assessed was due to fraud, misrepresentation, or non-disclosure of material facts. The High Court accepted that SARS bore the onus of establishing both the relevant conduct and the causal link between that conduct and the failure to assess the full amount of tax within the three-year period.

The High Court disagreed with the Tax Court's conclusion that there had been no relevant misrepresentation or material non-disclosure. It held that the characterisation of the R10 million payment as a deductible insurance premium depended on facts found in the Santam contract and experience account statements, and those facts were not disclosed in the original return or during the initial verification process. SARS could only determine whether the contract was truly one of insurance by analysing the actual contract and its peculiar features.

The High Court also rejected the view that the non-disclosed notional interest was immaterial merely because the amount for 2017 was small. The relevant question was the materiality of the fact that interest accrued on the alleged premium, not simply the rand amount of that interest. The court held that the interest feature was material because it revealed that the 'premium' earned income for the taxpayer's benefit, which was inconsistent with the proposition that the amount was an insurance expense.

The High Court further held that the non-disclosure of the interest and the mischaracterisation of the premium were 'inextricably linked'. Once SARS was entitled to reopen the assessment because a misrepresentation or non-disclosure resulted in an under-assessment of one item, SARS was authorised to correct the under-assessment of all components so as to ensure that the full amount of tax due for the year was assessed. This is an important departure from the Tax Court's narrower 'per item' approach.

On causation, the High Court held that SARS did not need to lead oral evidence from a SARS official in the particular circumstances of this case. It found that the documentary record and the evidence led in the taxpayer's case were sufficient to show, on a balance of probabilities, that SARS' failure to assess timeously was caused by the misrepresentations and non-disclosures. The court regarded it as obvious that SARS could only scrutinise facts that were revealed to it, and that the complete Santam contract and experience account statements had been withheld during the verification stage.

The High Court therefore held that section 99 did not bar SARS from issuing the additional assessment for the 2017 year.

Understatement penalties

The High Court reinstated the 10 per cent understatement penalty. Under section 221 of the TAA, an understatement includes prejudice to SARS or the fiscus arising from an omission from a return or an incorrect statement in a return. Section 222 provides that, in the event of an understatement involving a behaviour listed in the section 223 table, the taxpayer must pay an understatement penalty in addition to the tax payable for the relevant period.

6 *Commissioner for Inland Revenue v Visser* 1937 TPD 77 (8 SATC 271).

A ‘substantial understatement’ attracts a 10 per cent penalty in the standard case. The High Court noted that a substantial understatement does not depend on culpable conduct and is triggered where the prejudice to SARS or the fiscus exceeds the greater of 5 per cent of the amount of tax properly chargeable or R1 million. It held that the threshold was plainly met because the disallowance of the premium gave rise to tax in dispute exceeding R1 million and it was common cause that this was more than 5 per cent of the tax properly chargeable for 2017. The 10 per cent penalty therefore stood.

Comparison between the Tax Court and the High Court

Issue	Tax Court in *IT 46080*	High Court in *Meiring Citrus*
Character of the Santam arrangement	The Tax Court proceeded on the basis that the arrangement was an insurance policy, albeit unconventional, and focused mainly on whether the payment had been incurred.	The High Court first asked whether the agreement was insurance in law and held that it was not, because the R9.6 million represented self-insured risk and a deposit into a self-insurance investment account.
Risk transfer	The Tax Court accepted that the policy gave Meiring Citrus insurance rights in exchange for the payment and distinguished the arrangement from a simple bank deposit.	The High Court held that the risk was not transferred to Santam because claims were paid from Meiring Citrus’ own experience account and the structure lacked genuine risk pooling.
Expenditure actually incurred	The Tax Court held that there had been a shift in assets because the money ceased to belong to Meiring Citrus and vested in Santam, subject to contractual rights.	The High Court held that there was no expenditure because Meiring Citrus exchanged cash for an unconditional recoverable credit and interest rights, leaving its net asset position unchanged except for the R400 000 underwriting fee.
Capital or revenue	The Tax Court considered the expenditure not to be capital in nature and viewed the policy as protecting the taxpayer’s income-earning operations.	The High Court held, in the alternative, that the expenditure was capital because the experience account was an enduring, interest-bearing asset capable of being pledged.
Prescription	The Tax Court adopted a ‘per item’ approach and held that SARS had not established the necessary causal link between the alleged conduct and the non-assessment of the disputed items.	The High Court held that the non-disclosed interest and the mischaracterised premium were inextricably linked, and that SARS was entitled to reopen the assessment to correct the full tax due for 2017.
Penalties	The Tax Court held that, because the additional assessment could not stand, the understatement penalty also fell away.	The High Court held that the substantial understatement threshold was met and confirmed the 10 per cent understatement penalty.

Why the judgment matters

The judgment is important as it confirms that a court will not treat a payment as an insurance premium merely because the parties have labelled it as such.
The substance of the arrangement must demonstrate genuine insurance features, including risk transfer and risk pooling.

It also confirms that a recoverable, interest-bearing ‘premium’ is vulnerable to being characterised as an asset or deposit rather than expenditure. Where the taxpayer retains an enforceable right to recover the amount, and where the amount can earn interest and be pledged as security, the payment may fail the ‘actually incurred’ requirement under section 11(*a*).

The judgment is also significant for capital-versus-revenue disputes. Even if a payment is connected to commercial risk management, it may still be capital if the taxpayer has acquired an enduring income-producing asset rather than incurred an operational expense.

For tax administration, the case provides a strong warning about incomplete disclosures during verification and audit processes. A taxpayer cannot assume that prescription will protect an assessment where material contractual features have not been disclosed and where those features are necessary for SARS to evaluate the true tax character of the transaction.

The judgment also demonstrates that materiality is qualitative as well as quantitative. The non-disclosure of R1 197.52 of notional interest mattered not because of its amount, but because it revealed that the alleged premium produced income for the taxpayer and therefore exposed the true nature of the arrangement.

A measured critique of the judgment

The High Court's conclusion is commercially compelling, but parts of the reasoning invite debate. The strongest aspect of the judgment is its insistence that the court must examine the real operation of the Santam product rather than accept the contractual labels of 'insurance' and 'premium'. However, the statement that the arrangement was 'not insurance' may be too broad if read without the court's later qualification that R2.4 million of the indemnity limit involved genuine risk transfer, for which Santam received the R400 000 underwriting fee. A more precise formulation may be that the arrangement was a composite product: genuine insurance in respect of the underwriting-fee-funded risk layer, but self-insurance or an investment deposit in respect of the R9.6 million experience-account component.

The High Court's treatment of 'expenditure actually incurred' warrants careful attention and it marks a stricter approach than that adopted by the Tax Court. The Tax Court regarded the payment as actually incurred because the money ceased to belong to Meiring Citrus and vested in Santam, subject to the taxpayer's contractual rights. The High Court, by contrast, held that Meiring Citrus had not parted with value because it had exchanged cash for a recoverable credit balance and interest rights. That reasoning is persuasive on these facts, particularly because no claims were made and the taxpayer ultimately recovered more than it paid, but it may require careful application in future cases where refund rights are more genuinely contingent or where the insurer assumes a materially greater layer of risk.

The alternative capital finding is similarly open to nuanced debate. The High Court's focus on what Meiring Citrus acquired, namely an enduring, interest-bearing, and pledgeable asset, is consistent with its substance-based approach. At the same time, the Tax Court's revenue-character analysis was not without force, because the policy was said to protect the taxpayer against losses in fruit sales and to fill a hole in the taxpayer's income-earning stream if an insured event occurred. The High Court accepted that crop protection was a purpose of the transaction, but held that this purpose could not be decisive where the substance of the payment was the acquisition of an enduring asset. The judgment therefore usefully clarifies that purpose alone will not rescue a deduction where the taxpayer's chosen structure creates a capital asset, but it also means that risk-management products with collateral, reserve, or investment features will need careful line-drawing.

The most consequential and potentially contentious aspect of the judgment is its approach to prescription. The Tax Court's 'per item' approach gave weight to the finality purpose of section 99 and required SARS to connect each reassessed item to the relevant misrepresentation or material non-disclosure. The High Court instead treated the undisclosed interest and the mischaracterised premium as inextricably linked and held that, once the assessment was reopened, SARS could correct the under-assessment of all components for the 2017 year. That approach is understandable on these facts because the interest feature exposed the true nature of the experience account, but it may generate future disputes about how closely connected an undisclosed fact must be to other items SARS seeks to reassess after prescription.

In summary, the judgment should be understood as a firmly substance-driven decision rather than a wholesale rejection of structured insurance or risk-financing arrangements. The decision's persuasive force derives from the particular confluence of features present in the Santam product: a refundable experience account that remained substantially within the taxpayer's control; interest accruing for the taxpayer's benefit; limited genuine risk transfer to the insurer; an absence of meaningful actuarial or risk analysis; and incomplete disclosure to SARS in the returns. The judgment does not establish a blanket rule that experience-account or self-retention structures are inherently non-deductible. Instead, it demands close scrutiny of the precise contractual mechanics of each product under review, emphasising that substance must prevail over form in determining whether a payment constitutes a deductible premium or an inadmissible capital outlay.

Practical takeaways

Taxpayers should not assume that a product marketed as 'insurance' will be treated as insurance for tax purposes. The decisive enquiry is whether the arrangement transfers risk to an insurer and spreads that risk across a pool of insureds.

A payment is unlikely to qualify as expenditure actually incurred where the taxpayer retains an unconditional right to recover the amount, together with interest. This is especially so where the amount can be pledged as security or otherwise functions as an asset in the taxpayer's hands.

Experience-account arrangements require careful scrutiny. If claims are paid out of the taxpayer's own ring-fenced funds and the remaining balance is refundable, the arrangement may be treated as self-insurance rather than insurance.

Full disclosure is critical. Where SARS asks for supporting documents, taxpayers and advisers should provide the complete contract and all schedules, statements, and related account records necessary to understand the transaction.

Advisory opinions and tax return positions should be based on the complete factual matrix. The TAA recognises the relevance of an independent registered tax practitioner's opinion for substantial-understatement remittance only where the opinion is based on full disclosure of the specific facts and circumstances of the arrangement.

The judgment also reinforces that penalties can arise even where SARS does not allege gross negligence or intentional tax evasion. A standard-case substantial understatement attracts a 10 per cent penalty, and the High Court confirmed that this category does not require culpable conduct.

Conclusion

The *Meiring Citrus* judgment is a robust reminder that tax law is concerned with the real legal and commercial character of a transaction, not merely the terminology chosen by the parties. The High Court held that the Santam arrangement was not genuine insurance in respect of the R9.6 million experience account component because there was no true transfer or spreading of risk.

For section 11(*a*), the judgment confirms that the phrase 'expenditure actually incurred' requires more than a movement of money. Where the taxpayer merely swaps cash for a recoverable, interest-bearing asset, there is no deductible expenditure. In any event, the acquisition of an enduring income-producing asset will generally be capital in nature.

For prescription, the judgment is equally consequential. It confirms that incomplete disclosure of material contractual features can permit SARS to reopen an otherwise prescribed assessment where the non-disclosure or misrepresentation caused the full amount of tax not to be assessed. The case therefore carries a clear message for taxpayers and advisers: structured products must be defensible in substance, not merely in form, and disclosures to SARS must be complete enough to allow SARS to understand the transaction as it truly operates.

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When words matter more than intent: the Constitutional Court's *Lueven Metals* decision

The Constitutional Court recently handed down judgment in *Lueven Metals (Pty) Ltd v SARS* ('the *Lueven Metals* case'), a case dealing with the VAT treatment of supplies of gold under section 11(1)(*f*) of the VAT Act. While the dispute concerned a very specific section of the VAT Act, the judgment's significance extends beyond the gold industry. In particular, the Court provided a useful illustration of how South African courts approach the interpretation of tax legislation through the lenses of text, context, and purpose.

Although the case ultimately concerned whether 'second-hand gold' qualifies for zero-rating, the more enduring contribution of the judgment may be its reaffirmation that clear statutory language remains the starting point of any interpretative enquiry.

The Court's analysis serves as a reminder that explanatory memoranda, SARS practice, and broader policy considerations cannot be relied upon to overcome wording enacted by Parliament, where that wording is clear and unambiguous.

In brief

The recent decision of the Constitutional Court ('Court') in *Lueven Metals*[1] provides important clarity on the scope of the zero-rating provisions applicable to gold.

The Court confirmed that gold derived from second-hand or recycled sources does not qualify for zero-rating under section 11(1)(*f*) of the VAT Act[2], even where it is subsequently refined into qualifying forms.

1 [2026] ZACC 24.
2 No 89 of 1991, as amended.

More broadly, the judgment illustrates that where the statutory wording is clear, contextual materials and purposive considerations — however commercially compelling — cannot displace the ordinary meaning of the text.

The judgment is particularly noteworthy for its discussion of the relationship between text, context, and purpose in statutory interpretation, and the extent to which contextual materials can influence the interpretation of legislation where the statutory wording is clear.

For taxpayers, the decision serves as a reminder that reliance on commercial logic, industry practice, or prior SARS rulings may not be sufficient where the statutory wording points in a different direction.

Background

Lueven Metals is engaged in the business of trading and refining precious metals, including gold. Its business model involves acquiring second-hand gold (such as scrap jewellery), refining that gold to a high level of purity, and supplying gold bars to qualifying purchasers such as commercial banks.

Historically, Lueven Metals treated these supplies as zero-rated for VAT purposes under section 11(1)(*f*), on the basis that the gold was ultimately supplied in one of the prescribed forms to a prescribed purchaser.

Following an audit, SARS challenged this treatment. SARS argued that the gold supplied did not qualify for zero-rating because it had previously undergone manufacturing processes (for example, being made into jewellery), which disqualified it under the clear wording of section 11(1)(*f*).

The dispute ultimately reached the Constitutional Court, which was required to determine the proper interpretation of the zero-rating provision.

The dispute arose against the backdrop of a broader practical challenge within the gold industry. Gold deposited with refiners and other sources is frequently co-mingled, making it difficult to distinguish between newly mined gold and recycled gold once the refining process has been completed. This practical reality formed an important part of Lueven Metal's argument, and also features in more recent policy discussions surrounding the future of section 11(1)(*f*).

The key issue

The central question before the Court was whether section 11(1)(*f*) permits the zero-rating of gold that is:

- supplied to a prescribed purchaser, and
- in one of the prescribed forms at the point of supply,

but

- has previously been manufactured into a different (non-prescribed) form before being refined.

In essence, the dispute turned on whether the VAT treatment should be determined by the final form of the gold or whether its prior manufacturing history is also relevant.

Legislative framework

Section 11(1)(*f*) of the VAT Act provides for the zero-rating of certain supplies of gold to prescribed purchasers, including the South African Reserve Bank and registered banks.

However, the gold must be supplied "in the form of bars, blank coins, ingots, buttons, wire, plate or granules or in solution, which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of such [forms]".

The above wording formed the crux of the dispute in this case, specifically whether it requires consideration of the historical manufacturing processes applied to the gold, or merely its form at the point of supply.

The dispute therefore centred on whether the phrase "which has not undergone any manufacturing process" introduces a substantive requirement relating to the history of the gold, or merely describes the form in which the gold must ultimately be supplied.

The dispute before the courts

The dispute followed an unusual procedural path, ultimately culminating in a Constitutional Court judgment.

Lueven Metals approached the High Court[3] on an urgent basis for a declaratory order on the interpretation of section 11(1)(*f*), before SARS had issued an assessment. The High Court entertained the application but dismissed it on the merits, finding that the provision excludes gold that had undergone prior manufacturing processes.

On appeal, the Supreme Court of Appeal ('SCA') did not consider the substantive issue.[4] Instead, it focused on whether declaratory relief was an appropriate mechanism through which to resolve the dispute. The SCA was critical of Lueven Metal's decision to approach the High Court before an assessment had been issued and held that the matter should have been pursued through the dispute resolution mechanisms contained in the Tax Administration Act ('TAA')[5].

This procedural approach was subsequently overturned by the Constitutional Court in the related '*Five Tax Cases*'[6], which confirmed that the High Court was entitled to entertain the application and determine the interpretive issue. The Constitutional Court then proceeded to consider the merits and ultimately agreed with the High Court's interpretation of section 11(1)(*f*).

3 [2022] ZAGPPHC 325 (19 May 2022)
4 [2023] ZASCA 144.
5 Act 28 of 2011, as amended.
6 *United Manganese of Kalahari v Commissioner, South African Revenue Service and Four Similar Cases* [2025] ZACC 2; 2025 (5) BCLR 530 (CC); 2026 (2) SA 227 (CC)

The competing interpretations

At the heart of the case were fundamentally different approaches to how section 11(1)(*f*) should be interpreted.

Lueven Metal's position

Lueven Metals argued that the requirement "which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of such form" should be determined on the nature of the gold at the point of supply. On this basis, as long as the gold was supplied:

to a prescribed purchaser, and

in one of the prescribed forms,

it should qualify for zero-rating.

Lueven Metals contended that:

- Refining effectively 'resets' the gold by removing its previous form;
- The phrase "which has not undergone any manufacturing process" should not be interpreted as requiring an investigation into the historical origin of the gold;
- The provision is concerned primarily with the nature and form of the gold at the point of supply;
- Practical considerations (such as commingling at refineries) make it impossible to trace the origin of individual quantities of gold; and
- SARS had historically accepted this treatment through class rulings.

SARS' position

SARS adopted a stricter, text-based interpretation, contending that the provision imposes a separate requirement that the gold must not have undergone any manufacturing process other than refining or manufacturing into the prescribed forms.

SARS argued that:

- This requirement clearly refers to historical manufacturing processes;
- Gold that had previously been manufactured into jewellery or other non-prescribed forms is therefore excluded;
- Lueven Metal's interpretation would render part of the provision meaningless or redundant; and
- The phrase beginning with "which has not undergone" means that it is not sufficient for the gold merely to be supplied in a prescribed form. The gold must also not have undergone any disqualifying manufacturing process before the supply takes place. This operates as a substantive limitation on the availability of the zero-rating.

The Constitutional Court's approach

Before turning to the detailed interpretive analysis, the Constitutional Court framed the dispute in relatively narrow terms. The question was not whether Lueven's interpretation was commercially sensible, but whether it was supported by the wording of the statute when read in light of its context and purpose.

The Court expressly cautioned against approaching the provision from a starting point of assumed policy outcomes or practical considerations. Instead, it emphasised that interpretation must remain an objective exercise grounded in the language used, even where the result may appear commercially unattractive.

In this respect, the Court signalled early on that the case would turn primarily on the proper construction of the statutory language rather than on broader considerations such as industry practice, administrative convenience, or perceived policy intent.

The Constitutional Court applied the now well-established interpretive framework articulated in *Endumeni*[7], requiring legislation to be interpreted through consideration of its text, context, and purpose. Importantly, the Court emphasised that these considerations form part of a single interpretive exercise and cannot be considered in isolation.

Text remained the starting point

The Court identified three requirements that must be satisfied before the zero-rating can apply:

- The supply must be to a prescribed purchaser;
- The gold must be supplied in one of the prescribed forms; and
- The gold must not have undergone any manufacturing process other than refining or manufacturing into one of the prescribed forms.

According to the Court, the wording of the third requirement was clear. The phrase "which has not undergone any manufacturing process" requires consideration of the historical manufacturing processes to which the gold has been subjected. Gold that was previously manufactured into jewellery or other non-prescribed forms had therefore undergone a disqualifying manufacturing process.

The Court further rejected Lueven Metal's argument that refining effectively 'resets' the gold. Although the refining process may eliminate the previous physical form of the gold, it does not alter the fact that the gold had previously undergone a manufacturing process falling outside those contemplated by the section.

Context could not override the wording

The Court then considered a range of contextual considerations advanced by Lueven Metals, including explanatory materials, SARS class rulings, the broader VAT scheme, and the treatment of gold under other legislation.

However, the Court found that none of these considerations displaced the ordinary meaning of the statutory text. Of particular significance was the Court's observation that the SARS class rulings relied upon by Lueven Metals primarily addressed documentary and administrative requirements and did not constitute authoritative guidance on the substantive interpretation of section 11(1)(*f*).

Purpose was not decisive

The Court also considered competing submissions regarding the purpose of the provision.

Lueven Metals argued that the provision was intended to ensure the continued availability and supply of investment-grade gold to prescribed purchasers, while SARS argued that the provision formed part of a favourable tax regime aimed at supporting the domestic mining industry.

The Court concluded that neither purpose was clearly supported by the wording of the legislation or the admissible materials before it. As a result, the purposive analysis did not favour either interpretation.

A text-led conclusion

The most important observation appears in the Court's ultimate synthesis of the interpretive exercise. The Court noted that the textual analysis strongly favoured SARS, the contextual considerations did not materially assist Lueven Metals, and the purposive analysis was ultimately inconclusive. Accordingly, the text prevailed.

7 *Natal Joint Municipal Pension Fund v Endumeni Municipality* [2012] ZASCA 13; 2012 (4) SA 593 (SCA).

This aspect of the judgment may prove to be its most enduring legacy. The decision reinforces that while context and purpose remain important interpretive tools, they cannot be used to avoid the ordinary meaning of legislation where that meaning is clear.

Broader implications for statutory interpretation

While the case concerns a highly specialised VAT provision, the Constitutional Court's observations regarding statutory interpretation have broader significance. Across the tax system, taxpayers, SARS, and advisers rely on explanatory memoranda, SARS guides, policy statements, and administrative practice when interpreting legislation. The judgment reinforces that these materials remain secondary to the wording enacted by Parliament and cannot be used to create a meaning inconsistent with the clear wording of the legislation.

The decision may therefore be relevant in other interpretive disputes where reliance is placed on explanatory materials or policy documents to support a meaning that is not readily apparent from the legislation itself.

Looking ahead

Although the taxpayer lost on the merits in this case, it was ultimately successful in establishing its right to seek declaratory relief. This raises an interesting practical consideration for taxpayers. Declaratory proceedings are often pursued to obtain certainty on important interpretative issues, yet in this instance the dispute traversed multiple courts over several years before that certainty was obtained.

The case therefore serves as a reminder that procedural disputes can become as significant as the substantive tax issue itself, and that taxpayers should carefully consider the most effective and appropriate route to obtaining certainty where alternative remedies are available.

Interestingly, the judgment arrives at a time when National Treasury has proposed the repeal of section 11(1)(*f*). According to the 2026 Budget Review, this proposal is motivated, in part, by the practical difficulties associated with determining whether gold satisfies the statutory requirements for zero-rating, particularly where gold from different sources is co-mingled during the refining process.

These practical challenges mirror many of the issues that featured prominently in the litigation itself.

If repealed, transactions that currently rely on section 11(1)(*f*) will become subject to VAT at the standard rate. Depending on the nature of the transaction and the parties involved, the VAT may be accounted for by the supplier either under the Domestic Reverse Charge Regulations or in the ordinary manner.

In this regard, taxpayers should assess the impact of any legislative changes holistically, taking into account the interaction between the repeal of section 11(1)(*f*), the Domestic Reverse Charge Regulations, potential cash flow implications, and their entitlement to recover input tax.

More fundamentally, the proposed repeal raises the question of whether the VAT treatment of gold should be reconsidered holistically. The *Lueven Metals* case exposed the difficulties associated with tracing the historical origins of gold and applying the current zero-rating provisions in practice, while National Treasury has similarly identified these challenges as a basis for repeal. As the legislative process unfolds, there may be value in considering whether a more comprehensive review of the VAT framework applicable to gold is warranted.

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Latest developments

Latest developments 26 June 2026 – 24 July 2026

PwC thought leadership		
Various weekly	PwC thought leadership	Global Tax Talk: A PwC on-demand video series that quickly and concisely brings you the global tax policy news you need to know in a format that you can access on the go. Every Monday, the Global Tax Policy leader, Will Morris, provides a 60-second roundup of key perspectives to prepare for the upcoming week. PwC releases news briefings and short interviews with PwC subject matter specialists and global leaders around the world on the issues they see affecting the business community.
9 July 2026	Global Tax Policy Alert	European Commission publishes Tax Omnibus proposal – Key potential impacts for the financial sector: The European Commission has published a Tax Omnibus proposal to amend six EU direct tax directives as part of efforts to simplify the EU direct tax framework, reduce compliance burdens, improve legal certainty, and support EU competitiveness. This Alert considers the potential implications of the proposed changes for financial services groups, including amendments to withholding tax relief procedures, anti-avoidance rules, and the ATAD framework.

22 July 2026	Global Tax Policy Alert	European Commission publishes its first review report on the Foreign Subsidies Regulation: This Alert discusses the European Commission's first review of the Foreign Subsidies Regulation (FSR), which assesses the implementation and enforcement of the regime since its introduction in 2023. The review confirms that the FSR remains fit for purpose while signalling potential procedural simplifications aimed at reducing compliance burdens associated with reporting foreign financial contributions.
Interpretation		
17 July 2026	Interpretation Note 31 (Issue 5) – Documentary proof required for the zero-rating of goods or services	IN 31 has been made available, effectively replacing Issue 4 (dated 9 March 2016), which has been archived.
Customs and excise		
26 June 2026	Rules amendments notice R.7622	Publication details for rules amendments notice R.7622, as published in Government Gazette 54900 of 26 June 2026, relating to the electronic South African traveller management system (DAR275) (with effect from 1 July 2026), have been made available.
7 July 2026	Rules amendments notice R.7656	Publication details for rules amendments notice R.7656, as published in Government Gazette 54939 of 3 July 2026, relating to invoice data and customs worksheet data (with effect from 3 July 2026), have been made available.
10 July 2026	Tariff amendments	Publication details for tariff amendments notice R7690, as published in Government Gazette 54974 of 10 July 2026, have been made available. The notice deals with the imposition of provisional payment in the form of an anti-dumping duty against the alleged dumping of ceramic and porcelain wall and floor tiles, excluding finishing ceramics, mosaic cubes, and the like, classifiable in tariff subheadings 6904.90, 6907.21, 6907.22 and 6907.40, originating in or imported from the Republic of India (India), the Republic of Mozambique (Mozambique), the Republic of Zambia (Zambia), and the Republic of Zimbabwe (Zimbabwe) (ITAC Report 782).
23 July 2026	Tariff amendments	Publication details for the following tariff amendments notices have been made available: • With effect from 24 July 2026 up to and including 23 July 2027, R7734 of Government Gazette 55063. • With effect from 24 July 2027 up to and including 23 July 2028, R7735 of Government Gazette 55062. • With effect from 24 July 2028 up to and including 23 July 2029, R7733 of Government Gazette 55061.
24 July 2026	Tariff amendments	Publication details for tariff amendments notices, R7739, R7740, and R7741, as published in Government Gazette 55065 of 24 July 2026, have been made available.

Rulings

30 June 2026	Draft Binding General Ruling – Filing date of a return in case of a company's change in financial year and year of assessment	Comments are due to SARS by Friday, 31 July 2026.
30 June 2026	Binding General Ruling 75 – VAT Treatment of Ambulance Services	SARS has released BGR 75, clarifying the VAT treatment of the provision of ambulance services and whether section 12(g) of the Value-Added Tax Act 89 of 1991 applies to these services.

SARS guides

29 June 2026	Updated guides for filing season 2026	The following guides have been updated for the personal income tax filing season 2026: • Comprehensive guide to the ITR12 income tax return for individuals • Guide to the individual ITR12 return for deceased and insolvent estates • Guide to submit your individual income tax return via eFiling • Guide to submit request for reduced assessment RRA01 via eFiling for individuals • Guide for provisional tax • Guide to SARS mobile tax services • Services offered via the SARS MobiApp • Guide on how to submit your individual income tax return via the SARS MobiApp
1 July 2026	Draft guide to the taxation of crypto assets	Comments are due to SARS by Monday, 31 August 2026.

Case law

In accordance with the date of judgment

30 June 2026	*WCF Hardware Distributors (Pty) Ltd v Commissioner for the South African Revenue Service* (leave to appeal) (2024-051127) [2026] ZAGPPHC 724 (30 June 2026)	Whether the Court erred in its interpretation of rebate item 315.06, the applicability of section 102 of the Customs and Excise Act, the Notes to Schedule 3, and the General Rules for Interpretation, such that leave to appeal should be granted under section 17(1)(*a*) of the Superior Courts Act.
1 July 2026	*CSARS v Meiring Citrus (Pty) Ltd* (A161/2025; IT 46080) [2026] ZAWCHC (26 June 2026)	Whether the taxpayer's claimed insurance premium deduction under section 11(a) of the Income Tax Act 58 of 1962 was allowable, having regard to whether the Santam structured self-insurance policy was a genuine insurance contract or a simulated arrangement. Whether SARS' additional assessment was time-barred under section 99 of the Tax Administration Act 28 of 201, and whether the understatement penalty was correctly imposed.

3 July 2026	*QI Logistics (Pty) Ltd v Commissioner for SARS* (180 2025) [2026] ZASCA 96 (3 July 2026)	Whether a licensed clearing agent was liable for import duties and levies under Customs and Excise Act 91 of 1964 for allegedly unacquitted goods removed in transit and in bond. Whether SARS rationally assessed the proof of export submitted by the clearing agent, and whether the demand for an amount in lieu of forfeiture under section 88(2) was lawfully exercised.
6 July 2026	*Ocean Ark Shipping Ltd and Another v CSARS* (leave to appeal) (2025/209746)	Application for leave to appeal the refusal of an enforcement order in terms of section 18(1) and (3) of Superior Court Act 10 of 2013. Whether such order is appealable and whether in the interests of justice to grant leave to appeal.
7 July 2026	*Company AF (Pty) Ltd and Others v Commissioner for the South African Revenue Service* (IT 76725; IT 76750; IT 76751; IT 76752; IT 76753; IT 76754; IT 76755) [2026] ZATC 6 (3 July 2026)	Whether the composite transaction, comprising a pre-closing dividend, a subscription for shares, and the sale of the remaining shares at nominal value, constituted an impermissible avoidance arrangement under the GAAR, such that the dividend and subscription steps could be disregarded and the amounts received treated as proceeds on the disposal of shares for CGT purposes. Whether the understatement penalties, provisional tax penalties, and interest were correctly imposed.
23 July 2026	*Reload Aquarius Shipping International (Pty) Ltd v CSARS* (149944/26) [2026] ZAGPPHC (21 July 2026)	Whether the Commissioner lawfully exercised the powers conferred by sections 61(2), 88(1)(*a*), and 107(2)(a)(i) of the Customs and Excise Act, 1964, by requiring additional security and detaining the Applicant's goods to protect the fiscus. Whether these actions constituted the lawful exercise of statutory powers under the Act or administrative action that is unlawful and reviewable under the Promotion of Administrative Justice Act, 2000, as alleged by the applicant.
Notices		
3 July 2026	Tax Administration Act, 2011: public notices in Government Gazette 54941 of 3 July 2026	The following public notices have been made available: • Notice 7664, specifying the addresses at which any notice under section 11(4) of the Act or any processes by which legal proceedings are instituted against the Commissioner must be served. • Notice 7663, prescribing the addresses at which a document or notice must be delivered or a request must be made for purposes of rule 2(1)(c)(ii) and rule 3(1), read together with rule 2(1)(c)(iii) of the rules.
28 May 2026	OECD	The OECD Report (Inclusive Framework on BEPS) on Tax Challenges Arising from the Digitalisation of the Economy – Consolidated Commentary to the Global Anti-Base Erosion Model Rules (2026) has been made available.
Other publications		
2 July 2026	OECD	Tax Inspectors Without Borders strengthening tax systems through new South-South co-operation: The OECD and the United Nations Development Programme (UNDP) released the Tax Inspectors Without Borders (TIWB) Annual Report 2026, highlighting continued progress in supporting developing countries to strengthen their tax systems and mobilise domestic resources to fund essential public services and economic development.

8 July 2026	ATAF	Domestic revenue mobilisation must take centre stage in Africa's development agenda: The ATAF has called for domestic revenue mobilisation to be prioritised as a key pillar of Africa's development agenda, emphasising its role in strengthening fiscal sustainability, financing development, and enhancing economic resilience. The article highlights ATAF's recommendations to strengthen revenue strategies, review tax incentives and exemptions, improve tax administration and tax transparency, and support African-led initiatives aimed at increasing revenue collection and combating illicit financial flows.
9 July 2026	OECD	Tax Co-operation for Development 2025 Report: The OECD's 2025 Tax and Development Report highlights continued support for developing countries in strengthening tax systems, improving revenue mobilisation, combating tax evasion and avoidance, and advancing tax administration reforms.
10 July 2026	SARS	Media statement: SARS welcomed the sentencing of a taxpayer to 25 years' direct imprisonment following his guilty plea to fraud and money-laundering charges arising from a R62 million VAT fraud scheme involving fraudulent VAT refund claims submitted over a 12-year period. The case was finalised through a section 105A plea agreement and is regarded by SARS as a significant enforcement success in combating tax crime. The media statement highlighted SARS' commitment to protecting the integrity of the tax system through data-driven investigations, advanced risk-detection capabilities, and collaboration with law-enforcement authorities, while reinforcing that deliberate tax fraud and related financial crimes will be prosecuted.
15 July 2026	OECD	MNE Responses to the Global Minimum Tax: The report provides an early assessment of how multinational enterprises (MNEs) have responded to the introduction of the global minimum tax (GMT) in 2024, examining its impact on effective tax rates, investment, and employment. The analysis explores how businesses adjusted to the new rules, identifies which sectors and company types were most affected, and estimates the additional tax revenues generated by the reform in its first year of implementation.
21 July 2026	OECD	Corporate Tax Statistics 2026 – The OECD's latest Corporate Tax Statistics publication provides comprehensive data on corporate income taxation, multinational enterprise (MNE) activity, and base erosion and profit-shifting (BEPS) risks. The report includes corporate tax revenue and rate data, effective tax rate indicators, and information on tax incentives for research and development (R&D) and innovation.
23 July 2026	OECD	Announcement: BEPS Action 5: Jurisdictions make further progress in addressing harmful tax practices under new review methodology – The latest OECD peer review results on preferential tax regimes highlighting jurisdictions' continued efforts to address harmful tax practices through the implementation of BEPS Action 5 minimum standard have been made available.