Carbon Tax 101 – Don't be left chocking on your carbon tax obligations

Interpreting legislation – Tax Court takes a narrow view on registration of a public benefit organisation

The Tax Director series

SARS Watch

Synopsis

Tax today

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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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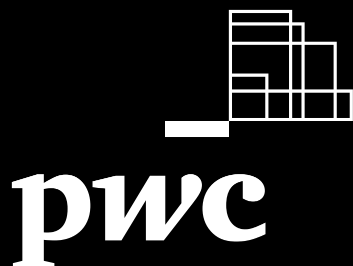

Carbon Tax 101 – Don't be left choking on your carbon tax obligations

With the recent promulgation of the Carbon Tax Act, 2019 (No. 15 of 2019) (the "Carbon Tax Act") it is time to consider your organisation's carbon tax readiness, including the key considerations surrounding the practicalities and difficulties around the implementation of carbon tax.

A brief overview

Carbon tax will be levied at a rate of R120/tCO2e. Tax-free allowances are available to reduce the carbon tax liability to a maximum of 95% of taxable emissions. Carbon tax must be levied in respect of the sum of the scope 1 greenhouse gas (GHG) emissions of a taxpayer resulting from fuel combustion, industrial processes and fugitive emissions. The foundation of the carbon tax has been laid down through the promulgation of the National Greenhouse Gas Emission Reporting (NGGER) Regulations in April 2017. The NGGER Regulations provide that companies that conduct so-called "listed activities" above the specified threshold are required to report GHG emissions. The intricate relationship between the Carbon Tax Act and the NGGER Regulations is such that the scope 1 GHG emissions reported to the Department of Environmental Affairs (DEA), as provided for in the NGGER Regulations, would in effect be the tax base for purposes of determining carbon tax – as determined using calculation methodologies captured in the *Technical Guidelines for Monitoring, Reporting and Verification of Greenhouse Gas Emissions by Industry* which were published simultaneously with the NGGER Regulations.

Persons subject to carbon tax

A taxpayer for purposes of the Carbon Tax Act is a person who conducts an activity in South Africa resulting in GHG emissions above the threshold, determined by matching the activity listed in the column "Activity/Sector" in schedule 2 of the Carbon Tax Act with the number in the corresponding line of the column "Threshold" of that table[1]. A person includes a partnership, a trust, a municipal entity and a public entity. It should be noted that the person who *conducts* the qualifying activities will be liable for carbon tax and it is not a requirement that the person who conducts the activities owns the emitting facility. "Conduct" is not defined in the Carbon Tax Act and therefore its ordinary dictionary meaning should be referred to. The word "conducts" means "the action or manner of conducting, directing or managing or carrying on (any business performance, process, course, etc.)"[2] .

Determining the person subject to carbon tax in cases of unincorporated joint venture arrangements and the use of contractors needs to be considered with care to ensure a taxpayer's emission activity data is complete for purposes of calculating its carbon tax liability.

1 Section 3 of the Carbon Tax Act
2 Oxford English Dictionary

Allowances

A number of tax-free allowances have been provided for in the Carbon Tax Act and will be administered as rebates, refunds or drawbacks as defined in the Customs and Excise Act, 1964.

The allowances are as follows:

- Basic allowance for fuel combustion emissions;
- Basis allowance for process emissions;
- Allowance for fugitive emissions;
- Allowance for trade-exposed sectors;
- Allowance for above-average performance in reducing carbon emissions;
- Carbon budget allowance; and
- Offset allowance.

The sum of the allowances may not exceed 95% of the GHG of the taxpayer.

The abovementioned allowances may be phased down in Phase 2 of carbon tax (i.e. post-2022) to strengthen the carbon price signal. Allowances may also become fixed instead of percentage based.

The trade exposure allowance is available to taxpayers who export goods and is an attempt to protect all trade-exposed taxpayers. The allowance is structured as graduated relief in accordance with trade intensity, which must be determined in a manner prescribed by the Minister by means of regulation that has not yet been finalised.

The performance allowance seeks to award taxpayers for efforts to reduce GHG emissions that were taken prior to the introduction of carbon tax. The Minister will set an intensity benchmark for each sector/ sub-sector by means of regulation which is still in the process of being finalised. Taxpayers operating within the sector/ sub-sector would compare their emissions intensity with the intensity benchmark in order to determine the performance allowance.

At the moment, participation in the carbon budget system of the DEA is voluntarily. It will only become mandatory after 2020. If a taxpayer participates in the carbon budget system, it will qualify for an allowance if it has obtained a letter from the DEA confirming its participation.

The carbon offset allowance is a measurable avoidance, reduction or sequestration of CO2 or other GHG emissions. The draft offset regulations were published on 12 November 2018.

Administration

Carbon tax is administered as if it is an environmental levy as provided for in section 54A of the Customs and Excise Act, 1964. The administration and collection of carbon tax is provided for in section 54AA of the Customs and Excise Act, 1964, which should be read with the published draft rules for the collection and administration of carbon tax.

Every person who operates emissions generation facilities at a combined capacity equal to or above the carbon tax threshold must license each emissions generation facility as a customs and excise manufacturing warehouse. This means that even if actual usage is below the threshold as provided for in the Carbon Tax Act, resulting in a zero carbon tax liability, a person would still be required to register. Where the threshold in Schedule 2 of the Carbon Tax Act is 'N/A' or the fossil fuel consumption allowance is 100%, no registration is required. This would typically include, but not be limited to, 'Agriculture, forestry and other land use 'sectors.

Furthermore, the use of the term "any premises" in Section 54AA of the Customs Amendment Act is indicative of the fact that the taxpayer will have to register each emission generation facility where emissions occur and will not be able to register all its locations under one overall license.

Important considerations for your business

All persons need to determine whether they are conducting activities that exceed thresholds as provided for in Schedule 2 of the Carbon Tax Act.

Even though a person's GHG emissions resulting from conducting the qualifying activities referred to above are not required to be independently assured by the provisions in the Carbon Tax Act, it is advisable that taxpayers get assurance on the completeness of their scope 1 GHG emissions for all the relevant activities conducted.

Many taxpayers may find that all the input required to calculate their carbon tax liability is available within their organisation

but that they need to implement processes and controls to collate all information, including source documents, in a manner which leaves a verifiable audit trail that allows external auditors (where scoped in as part of the statutory audit) and SARS to conduct assurance.

Should any of the allowances, other than the basic allowance provided for, be used by taxpayers to reduce their carbon tax liability, it is important to make sure that all the qualifying criteria are met. For example, to qualify for the carbon budget allowance of 5%, the DEA has to confirm in writing that the taxpayer is participating in the carbon budget system.

The indirect impact of carbon tax should also be assessed by taxpayers by considering the impact up and down the value chain, implications for new projects and the value of existing assets, reputational impact and the impact on business strategy.

For further details about carbon tax, refer to our PwC Tax Alerts here:

Get Ready for Carbon Tax:

Promulgation of the Carbon Tax Act:

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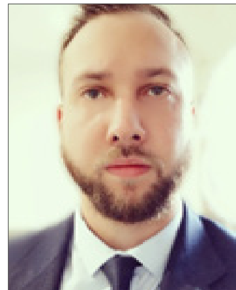
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Interpreting legislation – Tax Court takes a narrow view on registration of a public benefit organisation

Public benefit organisations qualify for tax exemption for their activities, principally in recognition of the fact that they may be able to deliver social benefits in a manner that may be more efficient than Government. Donations to these organisations also enjoy an exemption, subject to certain limitations. Exempt status is granted by the Commissioner subject to the proviso that the organisation complies with prescribed requirements.

In a recent decision (Case No. 14106, judgment given on 31 January 2019), the Tax Court considered an appeal by a non-profit organisation (NPO) against a decision of the Commissioner refusing its application for registration as a public benefit organisation (PBO) in terms of section 30 of the Income Tax Act ("the Act"), with effect from the 2013 year of assessment.

The process by which PBO status is conferred is by way of application to the Exemption Unit, whose principal responsibility is to ensure that the applicant has made due provision for all the prescribed requirements contained in section 30 of the Act. If it is so satisfied, the applicant is registered as a PBO and enjoys the exemption provided in terms of section 10(1)(*cN*) of the Act.

The issue

To qualify as a PBO, one of the requirements is that the sole or principal object of the applicant must be to carry on a "public benefit activity", which is defined as "any activity listed in Part I of the Ninth Schedule".

At the core of the dispute was whether the principal object of the NPO fell within the requirements of paragraph 3(a) of the Ninth Schedule to the Act. The memorandum of Incorporation stated the principal object as being:

> "3.1.1 the development, holding, letting or other disposal of affordable residential accommodation to and for the benefit of low to medium [income] households".

The public benefit activity described in paragraph 3(*a*) of the Ninth Schedule to the Act is:

> "The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly household income is equal to or less than R15 000 or any greater amount determined by the Minister of Finance by notice in the *Gazette* after consultation with the Minister of Housing."

The limitation of R15 000 was enacted in 2012 and was deemed to have come into effect on 1 March 2012, and applied in respect of years of assessment commencing on or after that date. No greater amount has subsequently been determined and gazetted.

The arguments

The NPO was an accredited institution under the Social Housing Act and the Housing Code. Its principal object was aligned with the requirements for accreditation under the Social Housing Act. As such, it argued (at paragraph [10] of the judgment of Windell J):

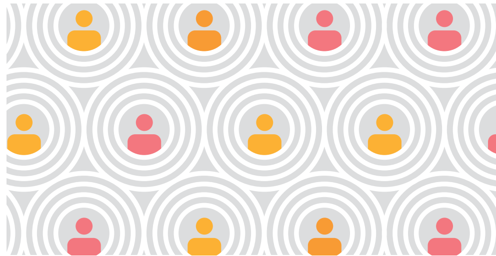
> "Social housing institutions that fulfil the requirements of the Social Housing Act and which are accredited therefore automatically qualify for PBO status."

The Commissioner's argument was that while there may be an overlap between the requirements of paragraph 3(a) of the Ninth Schedule and the requirements for accreditation under the Social Housing Act, the requirements were not identical. The Commissioner contended (paragraph [11] of the judgment):

> "In consequence, not all social housing institutions will qualify for PBO status. The Commissioner submits that although ABC in fact provides substantial housing within the meaning of paragraph 3(a), that is not always the case and is not required by ABC's Memorandum of Incorporation."

The judgment

Much of the judgment deals with the requirements of the Social Housing Act, the Housing Code and regulations issued under the Social Housing Act. Windell J tracked the history of the Social Housing Act and its regulations, and the Housing Code.



Windell J identified that the Social Housing Act originally provided for the provision of social housing to low- and middle-income families, and that it had, prior to 2009, stipulated that not less than 30% of properties should support levies or rentals for families whose monthly income was below R3 500 and that not more than 70% of the properties should support levies or rentals payable by families whose monthly income exceeded R3 500 but did not exceed R7 500.

The Housing Code, published in 2009, defined low-income persons as persons whose monthly household income did not exceed R7 500. This represented an increase in the maximum earnings for persons who qualified for social housing subsidies from its previous level of R3 500. The Housing Code furthermore stipulated that the amount of R7 500 per month would be increased annually by the consumer price index excluding mortgage costs (CPIX).

Accreditation of an entity as a social housing institution is made after consideration of a large amount of detailed information relating to its operations and governance. These institutions are required to submit annual reports to the regulatory authority.

The evidence adduced by the NPO was that it had maintained records and that the following percentages of its tenants fell within the limits determined for low-income persons as identified in the housing code in the years listed:

Year	Income limit	Percentage
2012	R 9 808	93%
2013	R10 715	87%
2015	R12 647	100%
2016	R13 971	99%

Although the limit for 2014 was not stated, the evidence was that 100% of occupants fell within the extended income limit for that year. It may safely be assumed that the limit fell between the amounts determined for 2013 and 2015 and did not exceed R15 000.

In her judgment, Windell J was dismissive of the evidence in this regard, stating (at paragraph [23]):

> "Exhibit B only provided a few numbers and two sets of bar graphs in a single chart. No source documentation or analysis of the spread of tenant household income was provided to substantiate the numbers. Ms V did not testify as to their accuracy nor by whom in ABC and how the numbers were compiled. The method of determination of household income of tenants was also not elaborated on."

It is unclear whether the Commissioner provided contradictory evidence or questioned the validity of the information, but it appears that the evidence was considered to be of low probative value.

The judgment then continued with a history of the evolution of paragraph 3(*a*) of the Ninth Schedule to the Act. This had undergone amendment from time to time, having first been enacted in the following form:

> "The development, construction, upgrading, conversion or procurement of housing units for the benefit of poor and needy persons".

The provision was immediately amended in 2003 and was stated as follows with effect from 1 January 2005:

> "The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly income falls within the housing subsidy eligibility requirements in the National Housing Code published pursuant to section 4 of the Housing Act, 1997".

Following an amendment in 2006, the provision stated:

> "The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly income is equal to or less than R3 500 or any greater amount determined by the Minister of Finance by notice in the *Gazette* after consultation with the Minister of Housing."

The Explanatory Memorandum to the Revenue Laws Amendment Bill, 2006, made it clear that the provision had in 2003 been aligned with the policies of the Housing Code to extend assistance to low-income households. This is evident from the following statement:

> "The proposed level of increase will not be stated in the legislation but instead left to the Ministerial discretion, taking into account the existing Housing Policy established by the Department of Housing."

The monthly income threshold was increased to R7 500 in 2008 and to R15 000 in 2012.

Against this background, the submission of the NPO was summarised as follows (at paragraph [30]):

> "Appellant's Counsel contends that paragraph 3(*a*) was plainly enacted, and subsequently developed, to give recognition to the public function undertaken by social housing institutions, and to afford them the tax exemptions that the housing scheme anticipated. It must be read in conjunction with – and not isolated from – the Social Housing Act. It is submitted that in law context is everything, and the constitutional context of the enactment of paragraph 3(*a*), in the full knowledge of the imperative need of giving effect to s 26(2) of the Constitution, makes it unthinkable that the drafter of paragraph 3(*a*) was unmindful of the link between s 26(2) of the Constitution and the Social Housing Act. Paragraph 3(*a*), he concluded, falls to be interpreted accordingly."

The argument was then made that the question whether a housing institution was in fact complying with the requirements for social housing to low- and middle-income groups was established by the social housing regulator to which social housing institutions report. In effect, compliance with the Social Housing Act confirmed compliance with the requirements of paragraph 3(*a*) of the Ninth Schedule and hence entitlement to registration as a PBO.

Windell J then outlined the arguments of the Commissioner, which, in essence, consisted of two principal submissions. The first was that the Social Housing Act deals with the ambit of social housing, whereas the Income Tax Act confers power on the Minister of Finance to determine the ambit of PBO status. Secondly, reliance could not be placed on accreditation by the Social Housing Regulatory Authority, because the facts showed that the NPO had not complied with the Social Housing Regulations.

The crux of the argument was that the amendment of paragraph 3(*a*) of the Ninth Schedule in 2012 fixed a cap and did not state that the PBO status would be granted to accredited social housing institutions.

The view of Windell J (at paragraph [35]) was that:

> "If ABC is correct in contending that its accreditation automatically qualified it as a PBO, it would confer on SRHA the power to decide whether an entity is a PBO when it accredits the institution under the Social Housing Act. It surely cannot be the intention to confer the power pursuant to tax legislation upon a body established under the housing legislation. The consequence would be, as correctly argued by Respondent's counsel, to deprive the Commissioner of its statutory power and duty under the Income Tax Act, and to confer that power on the SHRA – and then notably, only by inference. We conclude that there is no basis for such an interpretation."

It appears that the Court was swayed by the argument that the Minister of Human Development does not have the power to decide on behalf of the Minister of Finance which organisations qualify for PBO status. That argument was not advanced by the NPO. Its argument was that, if it complied with the Social Housing Regulations, it would be in compliance with the requirements of paragraph 3(*a*) of the Ninth Schedule.

The Court appeared also to consider evidence that did not in any way shake the submission that the upper limits set by the Social Housing Regulations were below R15 000. In paragraphs [41] and [42], reference is made to evidence concerning the number of households whose income fell below R3 500 and the fact that the NPO had not kept its upper limit in the years prior to 2013 below the cap of R7 500, as then required under paragraph 3(*a*). This, it was found, indicated that low- to medium-income households as contemplated in the memorandum of association did not mean the same as contemplated in paragraph 3(*a*).

In deciding the issue, Windell J stated (at paragraph [46]) that the law required that the principal object must be to carry on a public benefit activity and that the NPO must be able to demonstrate that it does principally carry on such an activity.

In relation to the object requirement, Windell J stated (at paragraph [49]:

> "The question requiring determination is whether the meaning of "*low and medium income households*" in clause 3.1.1 is the same as the meaning "*for the benefit of persons whose monthly income is equal to or less than R 15 000*" as provided for in paragraph 3(*a*), and/or does ABC's principal object fall wholly within the meaning of the public benefit activity described in paragraph 3(*a*)?"

The evidence of the NPO was that it targeted persons earning less than the amounts regarded in the Housing Code as low to medium income, and that at the relevant time that it applied for registration and in 2016, the monthly limit under the Housing Code was less than R15 000 per household. It therefore contended that, by necessary implication, its object was not in conflict with paragraph 3(*a*).

In paragraphs [53] to [57] Windell J addressed arguments whether "low to medium income" means the same as "less than R15 000". Despite the NPO having provided evidence of how it aligned its object with the requirements of the Housing Code, she concluded at paragraph [57]:

> "We agree with counsel for the Commissioner hat (sic.) the explanations which ABC gives as to how it arrives at its figures provide no basis at all for the determination of the meaning of "*low to medium income*". The phrase "*low to medium income households*" is inherently imprecise. That is why the phrase "*low and medium income*" in ABC's Memorandum of Incorporation cannot be equated with the fixed amount determined under the Income Tax Act. The two qualifications are fundamentally different in their nature: one is an amount of Rand per month, and the other is an imprecise and changing classification of sectors of the population."

In regard to the practices of the NPO, reliance was placed on evidence from customer service surveys with tenants of the NPO that indicated that, prior to its applying for exemption (i.e. in 2011), the NPO had provided accommodation to persons whose monthly household income exceeded R7 500. This was taken to indicate that the NPO did not comply with the requirements of paragraph 3(*a*) in those years. The following statement (at paragraph [62]) confirms that reliance was indeed placed on evidence relating to a year in which the NPO had not sought registration as a PBO:

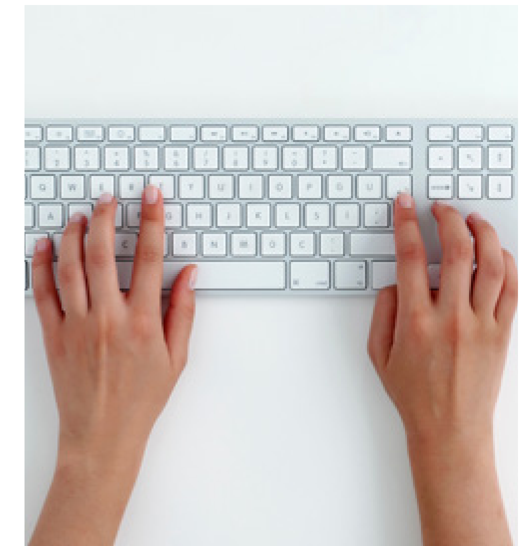
> "That year, ABC did not meet the qualifications set out by the Minister of Finance, <u>even though its activities fell within the Memorandum of Incorporation</u> (our emphasis)."

The conclusion was reached, at paragraph [64], that:

> "…the phrase "*low to medium income households*" in ABC's principal object does not have the same meaning as, and does not fall wholly within the meaning of, the public benefit activity described in paragraph 3(*a*). They may coincide sometimes, but as a matter of fact they have not always so coincided – and there is no reason to assume that they will coincide in the future."

The Court was also persuaded that the policy of cross-subsidisation, by which high rentals charged to persons earning more than the specified limit were utilised to subsidise the provision of housing to low-income families, was not in the spirit of the specified public benefit activity. It was hinted at that it might be a form of tax evasion if exemption was sought by an institution applying such a practice.

In the final analysis, Windell J held that the Commissioner was justified in rejecting an application for exemption, because the principal object did not meet the requirement of paragraph 3(*a*) of the Ninth Schedule to the Act by reason that it did not state expressly that the principal purpose was to provide assistance to persons whose monthly household income is not greater than R15 000.



The takeaway

There is much in the approach of the court that appears to ignore the principles of interpretation of words used in a statute. The judgment of Wallis JA in *Natal Joint Municipal Pension Fund v Esidumeni Municipality* 2012 (4) 593 (SCA) at paragraph [18] reads that:

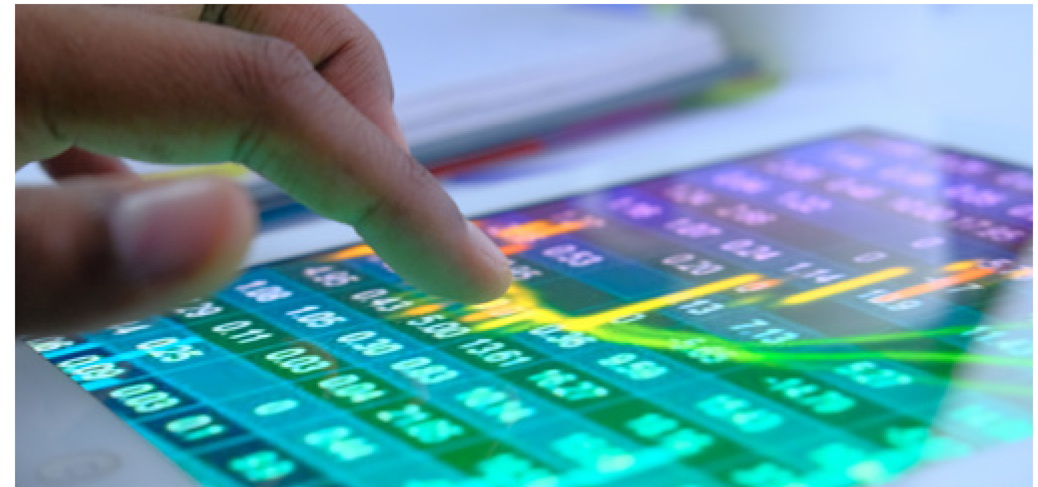
> "The present state of the law can be expressed as follows: Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be weighed in the light of all these factors. The process is objective, not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document."

While it is clear that Windell J took account of the ordinary rules of grammar and syntax, there is little to demonstrate that she considered the principles of context and purpose. The judgment quotes from the Explanatory Memorandum to the Revenue Laws Amendment Bill, 2006, which clearly indicates that the purpose of the amendment was to allow the Minister of Finance to establish a cap or limit, in his discretion, taking into account the existing Housing Policy. Yet, this did not appear to carry weight with the Court.

It is submitted that there is a clear indication that the purpose was to allow flexibility in accordance with the determinations under the existing Housing Policy. Furthermore, the adoption of a cap that was significantly higher than the amount specified in the Housing Code was intended to broaden the scope of the exemption and to ensure that accredited housing institutions would fall within the scope of the exemption.

The purpose of amending paragraph 3(a) by conferring power on the Minister to adjust the cap from time to time was stated to be to "take into account existing housing policy". It should follow that persons who comply with existing housing policy requirements should be regarded as meeting the requirement for exemption. Far from removing the power of the Commissioner to determine PBO status, accreditation as a social housing institution would assist the Commissioner in the exercise of that power.

This is an instance in which the purpose of a provision appears to have been overlooked and a literal interpretation of the legislation has resulted in a decision which took no account of existing housing policy.



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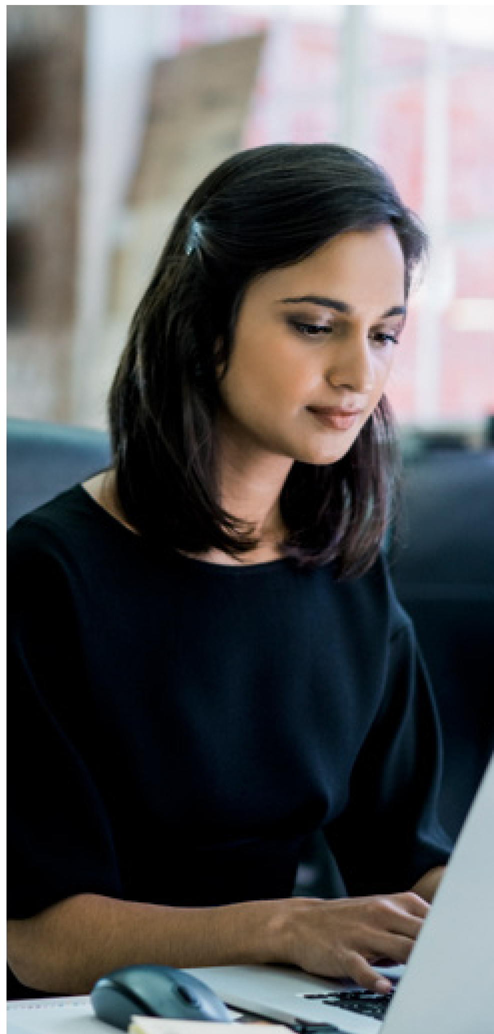
The Tax Director series (new): Article 5



Accelerate the impact of technology in delivering on my tax needs

The pace of global technological change and digital advancement across industries and governments is affecting how the tax function operates internally and in relation to external stakeholders. The dramatic effects thereof and the pressure to remain digitally relevant and competitive are being felt across the enterprise, including in the tax functions. Emerging solutions such as artificial intelligence, machine learning, robotics and blockchain are being increasingly implemented by other enterprise functions and tax jurisdictions, causing pressure for tax to reconsider its existing processes in order to keep up. Additionally, new tax legislation and increasing tax complexity reflect a growing trend towards transparency and the need for more detailed financial information.

A digital mindset

A digital mindset means being open to discovering digital technologies. You want to avoid quick judgments without a clear understanding of what it is that you need and want. In addition to openness, a digital mindset requires the willingness to test, fail and test again until you get to know the technology that best suits your business needs. Digitalisation calls on the board to update its processes as a management body and to rethink its role as an enabler of change. For a business to go digital, the board's involvement is not only desired but required. Having an overview of how data is manipulated, stored and issued is a key responsibility of the board[3].

Truth breeds trust

Tax functions are also being drawn into this new 'connected' era as more data is needed by both internal and external stakeholders. Advances in technology will improve the quality of information available for both preparers and users of tax disclosure, while digital technology eases access to information and the disclosure thereof. Information that is accurate, timely and secure strengthens how much internal and external stakeholders trust the business. The ideal environment is one that contains value-driven, validated and reliable tax processes characterised by transparency and truth. Where justified trust is attained, it leads to a decrease in compliance costs through less intense engagements and an avoidance of future reviews and audits.

3 https://blog.pwc.lu/five-reasons-management-board-digital-mindset/

Value creation through technology

Since their role as responsible taxpayers will impact their present and future business models, forward-thinking organisations are integrating reliable tax operating models into their business strategies to mitigate tax risks. Whether through the improvement of data quality or the automation of processes, technology is crucial for tax operating model optimisation. Through increased tax automation, better integrated data and more analytical capabilities, tax functions are transformed into modern, efficient business enablers that are able to create value for their organisations through a reduction in the cost of delivery and sustained bottom line improvements, while simultaneously reducing tax risk to the organisation.

The modern tax function will have a defined technology strategy which will be aligned, as far as possible, with related parts of the business. Defining and implementing an automation governance framework is pivotal to achieving returns over the long term. Processes must be supported and monitored – for example, leading organisations are creating cross-functional automation centres of excellence or technology committees.

Regulatory requirements must be considered, as must the documentation relating to new processes, IT security and access controls.

You will need to think about:

- Understanding the IT strategy of the business, specifically that of the wider finance function;
- Understanding the existing tools used in finance; and
- The current tax-specific technology offerings available externally.

The tax function can then integrate technology into its overall tax strategy, with a clear roadmap for delivery through either implementing new technology or leveraging existing technology.

While companies largely understand the importance of creating strategies around tax technology and pursuing related initiatives, most have yet to make appropriate investments in these areas. These investments play an integral role in transforming tax into a strategic business partner within the organisation. They allow the organisation to expand its perspective with trusted and actionable data-driven insights and to consider how it can best use digitisation in tax to set itself on the right path. As such, tax leadership should engage with the board and commit to the next steps in the evolution of the tax function.

The digital tax workforce

People are at the core of any digital transformation. Reskilling the tax workforce with its valuable tax and institutional knowledge is an important step; however, without a shift in mindsets and the nurturing of a culture that embraces and adapts to constant technological change, tax will not realise the full benefits that new solutions can afford.

Experienced 'tech-savvy' tax professionals with tax-technical knowledge and project management skills are hard to find, and this impacts the tax workforce as follows:

- Roles are being redefined to include technology aspects.
- Tax professionals are expected to navigate new smart self-service technologies for fast, small-scale automation.
- Streamlined processes create capacity for enhanced analytics and more strategic activities.
- Technology can facilitate collaboration across geographies easily, allowing for flexibility in strategic and operational location decisions.
- The ability to navigate robotics, digital labour and analytics tools could advance the careers of tax professionals, creating new opportunities for them across enterprise functions.

The ROI of technology in tax

While developing the business case for change and for purposes of subsequently measuring the success thereof, stakeholders will undoubtedly want to have a clearly articulated value proposition for investing in automation. Stakeholders need to know that automation drives benefits that resonate with larger enterprise-wide goals. As you consider your own tax automation journey and how to scale the impact beyond the tax function, what is top of mind for the C-suite should be built into the proposition for automation now. You should also consider all angles when developing the value proposition, going beyond the obvious financial metrics to include benefits which address critical aspects of operating in today's dynamic global business environment. Consider important benefits such as improved quality, better-managed risk and a higher level of employee engagement and retention, all of which have a trickle-down effect on the financial metrics of the organisation.

It is also important to note that the ROI in automation will change as you progress on your automation journey. It will most likely not be the same at the time of implementation as it will be once scaling occurs. As advances in automation begin to take effect your organisation, related variables will adjust accordingly.

- The time and cost associated with training employees will decrease as initial users develop the necessary skills.
- Costs to execute small automation projects decrease as internal capabilities expand, streamlined implementation methodologies and best practices are refined, and synergies across projects are developed.
- Risks with implementation will decrease as you develop best practices and a vetted governance structure to rely on for future implementation and scaling.
- Quality of work will increase.
- Strategic decision-making will be better supported as the time required to manipulate data decreases.
- Up-skilling will automatically increase, as employees will be able to dedicate more time to more strategic tasks (over performing routine reporting tasks).

For more information, view our *Tax Function of the Future* series here.

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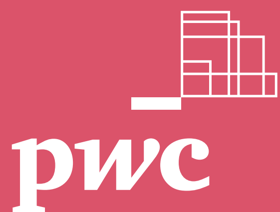
SARS Watch

SARS Watch 26 April 2019 – 25 May 2019

Legislation

24 May 2019	Amendment to Part 2B of Schedule No. 1 through the substitution of items 124.11.01, 124.11.05 and 124.11.09 to clarify the scope of computers that are subject to payment of ad valorem excise duties	Notice No. R. 753, published in Government Gazette No. 42475, with retrospective effect from 1 April 2019.
24 May 2019	Amendment to Part 1 of Schedule No. 1 by the substitution of items 8471.30.10, 8471.41.10 and 8471.49.10 to clarify the scope of computers that are subject to payment of ad valorem excise duties	Notice No. R.752, published in Government Gazette No. 42475, with retrospective effect from 1 April 2019.
24 May 2019	Amendment to Part 1 of Schedule No. 1 by the deletion of tariff subheading 6210.10.20 and the insertion of tariff subheading 6210.10.50 in order to change the description from “disposable panties” to “disposable underwear” as well as increase the rate of customs duty from free to 40% – ITAC Report No. 598	Notice No. R. 751, published in Government Gazette No. 42475, with an implementation date of 24 May 2019.
24 May 2019	Amendment to Part 3 of Schedule No. 2 in order to subject imports from Chinese Taipei (Taiwan) to the payment of safeguard duties on certain flat hot-rolled steel products – Extension on ITAC Report 551	Notice No. R.750, published in Government Gazette No. 42475, with effect from 24 May 2019 up to and including 10 August 2019.
24 May 2019	Amendment to Part 3 of Schedule No. 2 in order to subject imports from Chinese Taipei (Taiwan) to the payment of safeguard duties on certain flat hot-rolled steel products – Extension on ITAC Report 551	Notice No. R. 749, published in Government Gazette No. 42475, with effect from 11 August 2019 up to and including 10 August 2020.
24 May 2019	Amendment to Part 2 of Schedule No. 4 by the insertion of rebate items 460.15/7604.29.15/01.08 and 460.15/7604.29.65 in order to create a temporary rebate provision for aluminium bars, rods and profiles for use in the manufacture of stabilisation fins – ITAC Report 597	Notice No. R. 748, published in Government Gazette No. 42475, with an implementation date of 24 May 2019.
24 May 2019	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 and 1101.00.90 to increase the rate of customs duty on wheat and wheaten flour from 49,07c/kg and 73,61c/kg to 67,51c/kg and 101,26c/kg, respectively, in terms of the existing variable tariff formula – Minute 14/2018	Notice No. R.747, published in Government Gazette No. 42475, with an implementation date of 24 May 2019.
23 May 2019	Customs and Excise Amendment Act No. 13	The Act was promulgated on Thursday, 23 May 2019 and comes into operation on 1 June 2019.
23 May 2019	Carbon Tax Act No. 15 of 2019	The Act was promulgated on Thursday, 23 May 2019 and comes into operation on 1 June 2019.

21 May 2019	Draft regulations to provide for the implementation of the OECD Common Reporting Standard	Comments must be submitted to SARS by Monday, 24 June 2019.
22 May 2019	Draft rule amendment notice – rules under section 8 for trains – reporting of conveyances and goods ("RCG")	Comments must be submitted to SARS by Friday, 14 June 2019.
17 May 2019	Notice to submit EMP501	Notice 684, published in Government Gazette No. 42464, with an implementation date of 17 May 2019.
1 May 2019	Draft rule amendment notice and related forms – Environmental levy in respect of carbon tax imposed in terms of the Carbon Tax Act	Comments must be submitted to SARS by Friday, 14 June 2019.
30 Apr 2019	Draft Notice for Part 1 of Schedule No. 1, in order to insert the provision of carbon emissions tax; Part 3F of Schedule No. 1, to provide for the environmental levy on carbon emissions; and Part 6 of Schedule No. 6, to provide for rebates and refunds on carbon tax	Comments must be submitted to SARS by Friday, 14 June 2019.
Case law		
In accordance to date of judgment		
31 Jan 2019	ITC No. 14106	Whether the taxpayer was entitled to be a PBO and be allowed a tax exemption in terms of section 10(1).
Guides and forms		
22 May 2019	Frequently asked questions: Supplies of electronic services	These FAQs are meant to assist foreign electronic services suppliers, intermediaries, vendors and the public at large to obtain clarity and to ensure consistency on certain practical and technical aspects relating to the updated regulations and amendments.
7 May 2019	Guide to the employment tax incentive (Issue 3)	The purpose of the guide is to provide general guidance on the employment tax incentive.
Rulings		
24-May 2019	BCR 066 – Tax consequences for recipients of shares in an unbundled company	This ruling determines the income tax consequences for the recipients of listed shares in a company, following an unbundling of that company by its listed parent company.
Other publications		
24 May 2019	Tax Alert: Promulgation of the Carbon Tax Act	The Alert touches on the promulgation of the Carbon Tax Act, 2019 (Act No. 15 of 2019) and the Customs and Excise Amendment Act, 2019 (Act No. 13 of 2019).
20 May 2019	Tax Alert – Get ready for carbon tax	The Alert briefly touches on the key points that taxpayers need to consider to prepare themselves for carbon tax.
17 May 2019	OECD compilation of public comments: 'What is driving tax morale?'	On 10 April 2019, the OECD invited interested parties to comment on this publication. This document contains the public comments received.



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