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

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The VAT treatment of prepaid airtime vouchers remains unanswered

On 24 October 2022, the Supreme Court of Appeal ('SCA') delivered its judgment in the matter of Mobile Telephone Networks (Pty) Ltd v Commissioner for the South African Revenue Service (805/2021) [2022] ZASCA 142. The SCA held that the declaratory relief MTN sought in the High Court and the SCA in respect of the VAT treatment of its prepaid airtime vouchers was not appropriate, and that the High Court incorrectly entertained the declaratory application.

In brief

The matter between Mobile Telephone Networks (Pty) Ltd ('MTN') and the Commissioner for the South African Revenue Service ('CSARS') was heard in the Gauteng High Court as the court of first instance on 12 January 2021. The Gauteng High Court dismissed the case with costs in favour of the CSARS. The matter was then brought on appeal to the SCA on 9 September 2022.

The SCA dismissed MTN's appeal with costs of two counsel on a procedural basis.

Background

MTN offers multi-purpose prepaid vouchers to customers which are also termed 'airtime' vouchers. The airtime vouchers allow the holder to access any of the products or services available through MTN's network up to the value stated on the voucher.

MTN's administrative approach to the voucher is understood to be as follows. When an airtime voucher is purchased and activated, MTN credits a sum of money equal to the face value of the voucher to a ledger account linked to the account holder's SIM card. This storage of money is referred to as a 'main wallet', which can be used to access the various products and services. When the holder accesses the selected product or service, the applicable cost, based on the prevailing tariff, is deducted from the main wallet.

In November 2017 MTN applied to SARS for a binding private ruling to confirm that its multi-purpose 'airtime' vouchers fall within the ambit of section 10(18). Historically, these vouchers were treated as being subject to section 10(19). However, SARS issued a ruling determining and confirming that the airtime vouchers fall within the ambit of section 10(19).

Unhappy with the ruling's outcome, and seeking interpretational clarity on the law, MTN sought a declaratory order from the High Court confirming its view. The High Court entertained the application but did not find in favour of MTN's request and agreed with SARS' position. MTN, consequently, lodged an appeal to the SCA.

Law

Section 10(18) deals with the right of the holder to receive unspecified goods or services to the extent of the monetary value stated on any voucher. The goods or services to which the holder may apply the voucher are not specified on the voucher, but a monetary value is specified. In this instance, the supply of the voucher

is disregarded for VAT purposes, which means that the sale of the voucher does not trigger a VAT liability (except and to the extent that the voucher is purchased for a sum exceeding its face value). Therefore, the vendor issuing a monetary voucher is required to charge and account for output tax only when and to the extent that the voucher is redeemed for goods or services. Based on the Explanatory Memorandum on the Value-Added Tax Bill, 1991 ('Explanatory Memorandum'), section 10(18) vouchers are regarded as a means of exchange, similar to money. A standard retail gift voucher or 'mall voucher' typically falls into this category.

In contrast to this, **section 10(19)** deals with vouchers that specify the goods or services that the holder is entitled to receive upon redemption of the voucher. In this case, since the goods or services that will be supplied upon redemption are known at the time the voucher is issued, the applicable VAT rate is determinable and, consequently, VAT is levied on the sale of the voucher. When the voucher is subsequently redeemed for the specified goods or services, the vendor does not have any further VAT liability, as the value attributable to the latter supply is regarded as nil.

The main difference between the two VAT provisions is therefore the timing of the VAT liability.

Judgments

In the High Court, Hughes J agreed with MTN's reliance on the case of *CSARS v Langholm Farms (Pty) Limited*[1] *(Langholm Farms* case), highlighting that nothing would change SARS' interpretation of the specific section of the VAT Act and that no amount of further facts or information would alter SARS' legal view. As such, the declaratory application was deemed appropriate by the court.

In relation to the VAT treatment of the airtime vouchers, the High Court acknowledged that the airtime vouchers could be used to make and receive calls, send messages, and use the internet and data. However, Hughes J took the view that this does not change the nature of the voucher. That is, they were redeemable for specified goods or services.

In essence, the High Court found that an airtime voucher is not akin to a gift voucher, which is a means of payment for goods or services (that is, a monetary voucher), but is rather a voucher that specifies goods or services as envisaged in section 10(19) – this being airtime.

SCA judgment

The SCA noted that the appeal related to two issues, namely:

1. Whether seeking a declaratory order was appropriate in the circumstances; and
2. If so, whether the SARS ruling was incorrect.

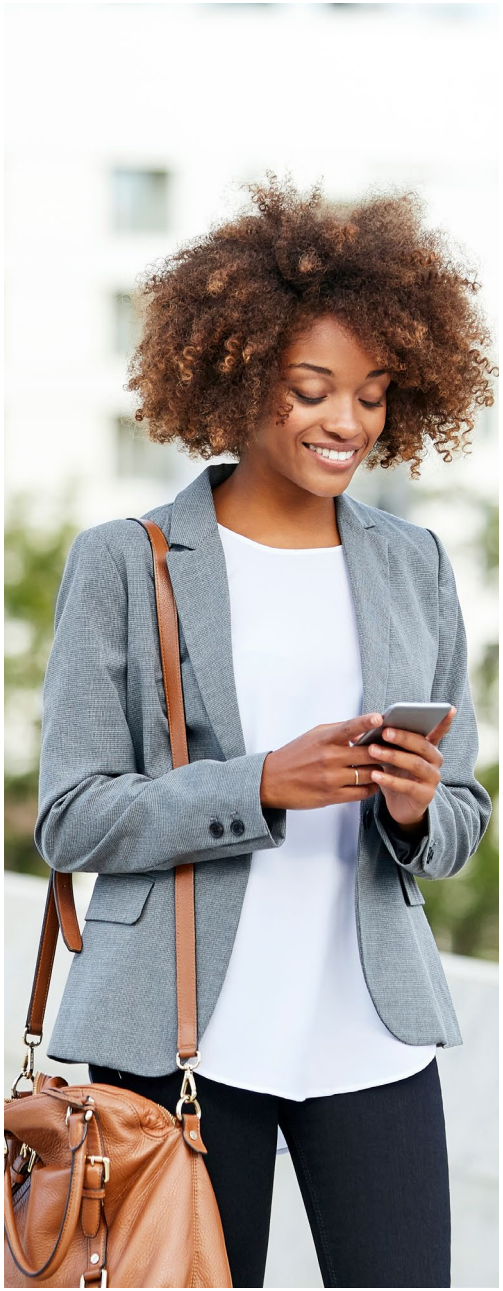
The SCA primarily dealt with the issue as to whether declaratory relief was the correct and competent process to follow and not with the real VAT issue of whether the vouchers ought to be treated under section 10(18). SARS contended that the declaratory application was not the correct procedure and that the correct course of action was –

1. For MTN to have submitted a return in which it treated the vouchers as falling under section 10(18); and
2. For SARS to have presumably rejected the return and issued an assessment, to which MTN could have objected and followed the "*special machinery created under the TAA for such disputes between SARS and taxpayers*."

As a defence against this assertion, MTN contended that its application was not an objection but rather "*a legitimate approach to the high court for a declaration of rights*." In MTN's view, its situation aligned with the circumstances described in the *Langholm Farms* case, which supported its approach to the High Court instead of following the normal TAA process.

In the SCA's view, there is a clear distinction between sections 10(18) and 10(19) in the Act and that it is a factual inquiry as to whether the prepaid vouchers fall into one category or the other.

It was furthermore submitted by SARS that the factual position as to "*how the vouchers are purchased, what information is provided to customers and the manner in which the vouchers are actually used*" was far from clear, citing examples of MTN's terms and conditions. SARS alleged that it wasn't clear on what the term 'airtime' connoted, and SARS submitted that the terms and conditions supported its view. In paragraph 20 of the judgment, SARS submitted that 'the factual position was far from clear' and that 'MTN dealt with the application largely in the abstract' and



1 (1354/2018) [2019] ZASCA 163 (29 November 2019).

that 'it had not put up sufficient or clear facts to allow the court to finally determine the entitlement of MTN to apply section 10(18)…'.

The SCA referred to various previous cases where declaratory relief was sought. It was evident in these cases that there were clear, uncontested facts and no further factual information was necessary to resolve the legal issue in such cases. The SCA concluded that declaratory relief in tax matters is only to be entertained in limited circumstances and where there are clear, uncontested facts. In addition to uncontested facts, the SCA mentioned that other factors can also weigh in on such decisions, the main concern of which is opening 'floodgates for applications to court where certainty is sought from the court prior to applying a new strategy'.

In conclusion, the SCA held that the High Court erred in its decision that the matter was ripe for declaratory relief and that the declaratory relief was not appropriate.

Analysis and our view

Unclear facts

Considering Chapter 7 of the TAA, in terms of section 79(4), an application for a VAT ruling must contain at least a complete description of the proposed transaction in respect of which the ruling is sought, including its financial implications (for VAT purposes it is accepted that it may not always be a proposed transaction). Should an application not comply with this minimum requirement, it may not be accepted by SARS. In addition to this, SARS also has the right / opportunity to request more information if this is necessary for it to express its opinion or views on the question addressed to them, which opportunity we expect SARS made use of. The VAT Rulings Process Reference Guide (Issue 3) dated 4 November 2021 also indicates that SARS will hold a consultation with the taxpayer if a negative ruling will be issued which allows the taxpayer to clarify any facts. This process in itself provides ample opportunity for SARS to ensure that the facts of the matter and transaction are clearly understood.

If SARS was unable to determine and clearly understand the facts on which MTN based its ruling request, it could have rejected the ruling application or asked for information until it was satisfied that the transaction and background were understood and clear.

From the information in the judgments, SARS accepted that it had sufficient information to express an opinion on the applicability of section 10(18) to the facts as it issued an interpretive ruling to MTN. This ruling was what is generally referred to as a 'negative' ruling and after receiving the negative ruling on the issue, MTN approached the High Court for a declaratory order.

The High Court then entertained the relief sought. In paragraph 27 of its judgment, it also indicates that SARS actually ruled on the matter and expressed its views. In paragraph 28 the court further indicated that no further facts would change SARS' interpretation or legal view.

Having regard to the above, it is disappointing that the SCA saw "*considerable merit*" in SARS' submissions that there was a lack of clarity, especially having regard to the fact that SARS was comfortable to have previously expressed an opinion together with the High Court seeing fit to decide on the matter.

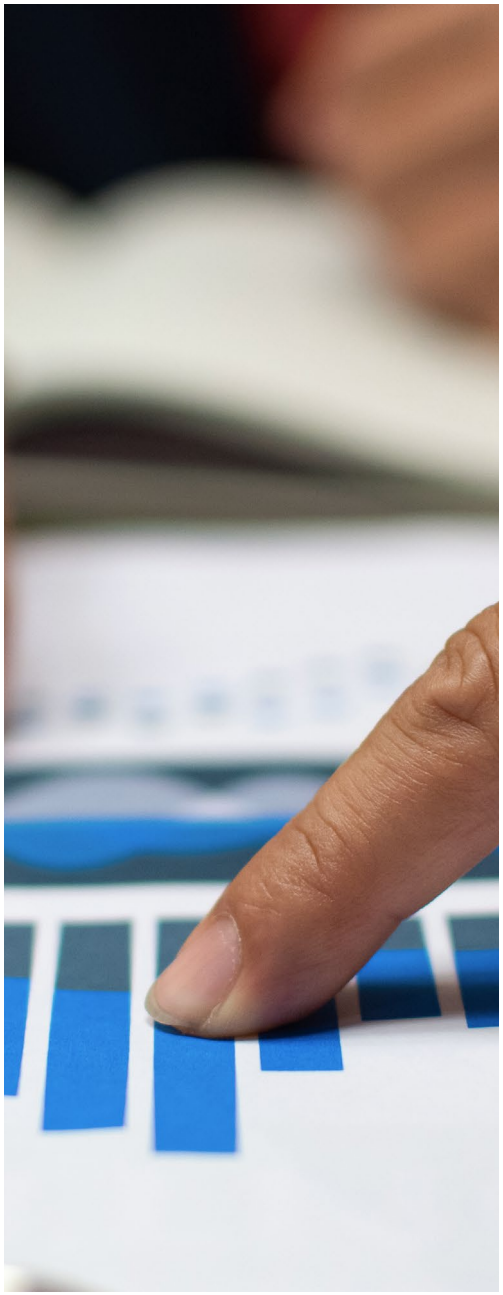
The functioning of the vouchers also appeared to be explained in an understandable format in the judgment, as MTN puts it "*as common cause*". These details would presumably have also been set out in the ruling application to SARS and clarified by SARS to ensure a proper enough understanding in order to express a legal view, before it did so.

It is not clear where between being able to rule on the matter (and express a legal opinion) versus being able to consider the matter in the court application, the facts became unclear.

Notwithstanding the above uncertainty, Gorven JJA remarked that counsel experienced considerable difficulty in obtaining clarity on the nature of airtime and how the vouchers function in practice, as well as whether the services offered were specified by usage or arrangement (as envisaged in section 10(19)). To the court, these aspects were "*distinctly opaque*" and the court submitted that "*this is not a matter where there is a set of clear, sufficient, uncontested facts*."

MTN's airtime voucher

In paragraph 26, the court acknowledged that MTN "*put up some nine pages listing the services offered by it*" which SARS contended showed that the voucher belonged under section 10(19) as it entitles



the holder to specified goods or services. This statement causes difficulties when considering the practical application of the matter which we unpack further below.

The reality in this case is that MTN offers an extensive and ever-expanding service offering to its customers and in our view this ought to have been considered with more weighting.

The vouchers in question issued by MTN, as was stated in the judgment, entitle the holder to an array of services for which they can be redeemed. The case made mention of a list of 9 pages of services, and further acknowledges that the list of services continues to develop and expand.

On issuing the voucher, MTN would never know the specific goods or services the holder will redeem using the voucher, as this decision will only be made by the consumer on redemption.

Furthermore, this list of services (which SARS contended indicates that the prepaid airtime voucher is a voucher entitling a holder to specific goods or services) may include standard rated goods or services, zero-rated services and/or exempt services.

Section 10(18) is a mechanism in the VAT Act for vendors to apply the correct tax rate to their supplies by postponing the VAT liability to when the voucher is redeemed and the taxable nature of those goods or services is known.

This is important as a voucher could entitle a holder to zero-rated supplies (e.g. roaming bundles) or exempt supplies (e.g. funeral policies), or standard rated supplies (e.g. subscription services).

To draw a comparison, if a customer purchases, as an example, a grocery voucher, which entitles it to a list of all the groceries supplied by the grocer (standard and zero-rated groceries), does it mean that this voucher must be treated under section 10(19), despite the vendor having no knowledge as to the specific goods or services the voucher may eventually be redeemed for?

This is certainly not the purpose of section 10(19). Every vendor (supplier) has a list of goods or services that it could possibly supply but that is not the fundamental principle that renders a voucher one that entitles the consumer to specific goods or services. The important principle is the correct tax treatment of the product to be supplied, that is, if the product is unknown at the time of supplying the voucher, the correct VAT rate cannot be determined and therefore a deferral of the payment of VAT on the redemption of the voucher.

The outcome of this judgment fundamentally impacts all section 10(18) vouchers and suggests that section 10(18) will not apply if a voucher can be redeemed for a specified or predetermined list of goods or services.

SARS Draft Interpretation Note

The SARS Draft Interpretation Note on the VAT treatment of vouchers states that the voucher envisaged under section 10(18) is for unspecified goods or services. It goes further to confirm that the reason for section 10(18) is that the nature of the goods or services to be supplied when redeemed is not known when selling the voucher.

Importantly, the tax rate that will apply to the supply cannot be determined at that point, and it is in light of this that the vouchers are disregarded on issue thereof and the output tax is accounted for on the supply of the goods or services on redemption.

This aligns exactly with the matter that was before the court. The explanations given by SARS in the Draft Interpretation Note cannot result in a voucher being regarded to be for specified goods or services merely because the vendor is able to list all of the goods or services that it possibly supplies.

It goes further than this — the tax rate that may apply on redemption is unknown because, notwithstanding the vendor only having a list of, say, ten products that it sells, such products may either be taxable or non-taxable.

SARS goes further to state under paragraph 4.3 of the Draft Interpretation Note that section 10(19) vouchers are accounted for upfront as 'the vendor is able to establish the nature of the goods or services to be supplied and the applicable VAT rate.'

In addition, in paragraph 4.6 of the Draft Interpretation Note, SARS acknowledges that monetary vouchers can be issued for redemption at a third party .SARS regards these vouchers as non-specific vouchers falling under section 10(18), and uses the example of a mall voucher to be redeemed at any retailer in the mall. In our view, a prepaid airtime voucher is no different from this — it also entitles the holder to redeem it for a supply by a third party.

Regarding the airtime vouchers as not falling under section 10(18) therefore results in the incorrect VAT collection process on the transaction, that is, VAT is collected at the standard rate on both the issuing of the voucher as well as on the supply of standard rated goods or services by the third-party supplier when the voucher is redeemed.

International norms

The Australian GSTR 2003/5[2] refers to a voucher that can be used only to make telephone calls as a 'single function voucher' (which in our view would be similar to what we consider to be a section

2 https://www.ato.gov.au/law/view.htm?docid=GST/GSTR20035/NAT/ATO/00001

10(19)). In Canada it appears that gift cards and gift certificates are not taxable on the sale thereof but GST will be due on the price of the goods/services purchased.[3] In addition, in the European Union ('EU'),[4] a multi-purpose voucher is one that entitles the holder to receive goods/services where it is not sufficiently identified and as a result VAT cannot be determined with certainty at the time the voucher is issued. As example a prepaid credit voucher is listed which could be used to purchase telecommunications services or public transport (which has a different, reduced rate). As such, VAT can only be accounted for when the vouchers are redeemed.

Having regard to this, it is clear that the main purpose for the postponement of the VAT event when it comes to vouchers, is the uncertainty regarding the correct VAT treatment. This reiterates the reason why a prepaid airtime voucher, in our view, should fall under section 10(18).

Conclusion

Due to the outcome of the SCA judgment, there is no change in the manner in which these vouchers have historically been treated for VAT purposes. However, with the continuous evolving nature of business and the industry, this position will cause many practical difficulties.

In the current environment, VAT is accounted for upfront on the issuing of the voucher. In instances where the holder of the voucher subsequently uses it to acquire, for example, a funeral policy which is an exempt supply it will result in VAT being collected on an exempt supply. Suppliers of the voucher cannot even apply the provisions of section 21 to issue a credit note to effectively reverse the VAT originally paid as none of the listed circumstances apply. This outcome goes against the construct and purpose of the VAT Act.

In other instances, the holder of the voucher could redeem the voucher to pay for content streaming services provided by a third-party service provider. In these circumstances, the service provider and MTN will account for VAT at the standard rate resulting in VAT being collected twice.

The practicality around these issues, as well as resolving them, is substantial if not treated under section 10(18) of the VAT Act. A definite answer/certainty on this is definitely required to ensure a correct application of VAT.

3 https://www.revenuquebec.ca/en/businesses/consumption-taxes/gsthst-and-qst/special-cases-gsthst-and-qst/gift-cards-and-gift-certificates-gst-and-qst/
4 https://www.pwc.com/mt/en/publications/vat/vat-treatment-of-vouchers.html

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Long-time-coming changes to sections 8F and 8FA – how do they affect REITs, controlled companies and property companies?

Introduction

Simply put, interest is the return earned on a debt instrument whilst a dividend is the return earned on an equity investment. For income tax purposes, interest incurred on debt instruments is generally deductible in the hands of the payor subject to having met specific requirements and is taxable in the hands of the recipient. On the other hand, dividends are not deductible in the hands of the payor and are generally (again subject to certain conditions) not taxable in the hands of the recipient.

Sections 8F and 8FA of the Income Tax Act 58 of 1962 ('the Act') are anti-avoidance provisions targeted at debt instruments with equity-like features and interest with dividend-like features respectively.
The above anti-avoidance provisions re-characterise interest incurred in respect of specific debt instruments with equity-like features and specific forms of interest with dividend-like features, to dividends.
As a result, debtors who are party to these instruments are precluded from deducting the interest incurred. In certain instances, the dividend (i.e. re-characterised interest) may even be subject to dividends tax.

The wording of sections 8F and 8FA of the Act prior to 2013 were substituted in their entirety by new provisions contained in the Taxation Laws Amendment Act 31 of 2013 ('the 2013 TLAA'). Interestingly, there were accompanying amendments to these newly-worded provisions contained in the very same 2013 TLAA – which is very rarely seen. The reason for the accompanying amendments to the new provisions introduced simultaneously was to delete specific provisions of sections 8F and 8FA at a future date (i.e. the substituted wording of sections 8F and 8FA had an effective date of 1 April 2014 whilst the corresponding amendments to delete the specific provisions were to come into effect on 1 January 2016). These amendments are outlined in more detail below, but essentially relate to the deletion of certain exclusions for the application of sections 8F and 8FA.

Even more interesting is that the effective date of the abovementioned accompanying amendments of 1 January 2016 was consistently moved forward every year since. Year on year, the effective date was changed resulting in a delay of those amendments from 1 January 2016 to 1 January 2023 as it stands. In fact, the recently published Taxation Laws Amendment Act, 2022 (yet to be gazetted) proposes to change the effective date, yet again, to 1 January 2024. We understand that the reason for the continuous change of the effective date is to provide a transitional measure until the legislation to regulate unlisted Real Estate Investment Trusts ('REITs') is introduced.

In this article, we discuss the abovementioned amendments to sections 8F and 8FA contained in the 2013 TLAA and unpack what these mean for Real Estate Investment Trusts, controlled companies and property companies when they are eventually implemented.

Detailed analysis

As mentioned above, sections 8F and 8FA of the Act are anti-avoidance provisions targeted at equity-like debt instruments and their corresponding returns. Under both sections, the interest incurred by a borrower is deemed to be a dividend in specie that is declared and paid by that borrower to the lender and is not deductible by the borrower for income tax purposes.

Sections 8F(3) and 8FA(3) include instances where sections 8F and 8FA do not apply ('exclusions'). Insofar as relevant to this article, the carve-out provisions in sections 8F(3) and 8FA(3) state the following:

This section [8F or 8FA] does not apply to any instrument or any interest incurred in respect of an instrument (as the case may be):

> 'that constitutes a linked unit in a company where the linked unit is held by… a REIT…, if-
>
> (i) the… REIT… holds at least 20 per cent of the linked units in that company;
>
> (ii) the… REIT… acquired those linked units before 1 January 2013; and
>
> (iii) at the end of the previous year of assessment 80 per cent or more of the value of the assets of that company, reflected in the annual financial statements prepared in accordance with the Companies Act for the previous year of assessment, is directly or indirectly attributable to immovable property.' (our omissions)

We note that our omissions from the above subsection are references to short-term insurers, long-term insurers, pension funds and provident funds. For completeness' sake the above exemption applies equally to qualifying instruments held by these entities.

Regarding the third requirement in order for the above exclusion to apply, for the sake of simplicity, we will refer to a company of which, at the end of the previous year of assessment, 80 percent or more of the value of the assets of that company reflected in the annual financial statements is directly or indirectly attributable to immovable property, as a 'property company'. The current exclusions, which are proposed to be deleted in the future, can therefore simply be paraphrased as where 20 percent or more of a linked unit, acquired before 1 January 2013, in a property company is held by a REIT then the provisions of sections 8F and 8FA will not apply to any interest incurred in respect of the linked unit.

A linked unit is defined in section 1 of the Act as a unit comprising a share and a debenture in a company, where that share and that debenture are linked and are traded together as a single unit. Profits distributed by property companies in this instance usually have both dividend and interest elements. The determination of the amount of interest in respect of a debenture forming part of a linked unit is generally linked to the profits of the property company and thus such interest may fall within the ambit of section 8FA. The debenture part of the linked units is usually not subject to specific repayment terms.

The amendments to sections 8F and 8FA as contained in the 2013 TLAA (of which the effective date is currently 1 January 2023 but is proposed to be moved to 1 January 2024) simply delete these exclusions. In essence, once these amendments become effective, sections 8F and 8FA will now apply to interest incurred by property companies in respect of debentures forming part of linked units. At face value, the impact, once the amendments become effective, seems simplistic, i.e. the issuers of such linked units will no longer be entitled to a deduction of the interest incurred and the recipients of such interest will now instead be deemed to receive a dividend in specie. This may however not be the case for property companies held by REITs as we illustrate below.

REITs as taxpayers

REITs are investment vehicles which are designed to hold various immovable properties and to encourage investment from investors ranging from individuals, collective investment vehicles and companies. This is done by enabling these investors to pool their resources and invest them into income-earning properties without requiring each investor to individually have vast capital from the outset (thereby increasing the availability of entry into the property market to a broader range of investors). The tax rules in this regard essentially aim to treat a REIT as a conduit through which the income and

capital returns in respect of the underlying property activities are passed through to the investors who are then taxed as having received that income directly themselves. Refer to our earlier article 'When tax amendments conflict with the policy rationale' published in the October 2021 edition of our Synopsis for more background in this regard.

In the REITs industry, two sets of instances can arise with regards to linked units:

1. The first is where a REIT holds 20 percent or more of the linked units issued by the property company and that property company is also a controlled company (a subsidiary, in terms of IFRS, of the REIT). We will refer to the property company in this instance as a controlled property company.
2. The second is where a REIT holds 20 percent or more of the linked units issued by a property company, but the property company does not qualify as a controlled company of the REIT (i.e. it is not a subsidiary of the REIT). We will refer to the property company in this instance as a non-controlled property company.

We analyse the income tax implications of each instance within the confinement of the pending amendments.

Where a REIT holds 20 percent or more of the linked units in a controlled property company

We set out the current income tax treatment below followed by the treatment once the amendments become effective.

Current income tax treatment

At present, as a result of the abovementioned exclusions, the interest incurred by a controlled property company in respect of a debenture forming part of a linked unit issued by it will not be reclassified as a dividend within the provisions of sections 8F and 8FA. This means that the interest incurred by a controlled property company will retain its nature as interest incurred, which is deductible, in the hands of the controlled property company and interest accrued in the hands of the REIT. However, in terms of section 25BB(6)(a), any amount of interest received by or accrued to a REIT in respect of a debenture forming part of a linked unit held by that REIT in a controlled property company will be deemed to be a dividend.

It follows that regardless of the application of sections 8F and 8FA, any amount of interest in respect of a debenture forming part of a linked unit will always be a deemed dividend accrued to or received by the REIT. It is noted that in terms of paragraph (aa) of the proviso to section 10(1)(*k*)(*i*), a dividend received by a person from a controlled property company is not exempt from normal tax. Therefore, the interest is deductible in the hands of the controlled property company and taxable, albeit reclassified as a dividend, in the hands of the REIT. The REIT may further deduct the distribution of the interest to its shareholders, subject to the rules relating to the deductibility of qualifying distributions discussed below.

Section 25BB(2) provides that there must be deducted from the income for a year of assessment of a REIT the amount of any qualifying distribution made by that REIT subject to specific requirements having been met. A qualifying distribution, in simple terms, means a dividend, the amount of which is determined with reference to the financial results of the REIT as reflected in the financial statements prepared for that year of assessment provided that 75 percent of the gross income of the REIT for the relevant year constitutes 'rental income' as defined (which includes qualifying distributions from controlled companies). This means that should the REIT on-distribute the interest received from the controlled property company as a dividend to its shareholders, it will qualify for a deduction of the amount distributed.

In summary, a controlled property company is entitled to a deduction of the interest incurred in respect of a debenture forming part of a linked unit. The interest accrued to the REIT will be reclassified as a dividend under section 25BB(6)(a) which is taxable. Should the REIT declare the interest as a dividend to its shareholders, subject to having met the relevant requirements, it will qualify for a deduction of the amount declared, resulting in a tax-neutral position for the REIT.

Post the amendments

Once the amendments become effective, sections 8F and 8FA will reclassify the interest in respect of a linked unit in the hands of the controlled property company as a dividend which is not deductible. The interest accrued to or received by the REIT will also be reclassified as a dividend. Irrespective, the controlled property company would still be entitled to a deduction of the interest incurred by way of qualifying distribution made provided the relevant requirements are met as the definition of qualifying distribution includes interest incurred in respect of a debenture forming part of a linked unit. Similar to the above scenario, the deemed dividend in the hands of the REIT would be taxable and the REIT will also be entitled to a deduction through the qualifying distribution made in respect of that amount to its shareholders provided the relevant requirements are met.

It follows that the tax positions of a controlled property company and a REIT would not change post the amendments.

Where a REIT holds 20 percent or more of the linked units in a non-controlled property company

Current income tax treatment

Any amount of interest received by or accrued to a REIT in respect of a debenture forming part of a linked unit held by the REIT in a non-controlled property company is reclassified as a dividend in terms of section 25BB(6)(b). However, unlike the first scenario, paragraph (aa) of the *proviso* to section 10(1)(*k*)(*i*) will not apply as the property company in this instance is not a controlled company. This means that the REIT will be exempt from normal tax in respect of the reclassified dividend received. Subject to the REIT meeting the relevant 75 percent 'rental income' test it would then claim a deduction for the distribution of the interest to its shareholders by way of a qualifying distribution.

Turning to the tax impact for the non-controlled property company, as a result of the current exclusion from the application of sections 8F and 8FA, the interest incurred in respect of a debenture forming part of a linked unit will be deductible subject to having met the 'normal' income tax deductibility requirements.

To illustrate the differing result of the current treatment to that post the amendments we provide an example.

A non-controlled property company earned rental income of ZAR 100. The full ZAR 100 is then paid to a REIT as interest in respect of a debenture forming part of a linked unit. The non-controlled property company is entitled to deduct the ZAR 100 interest expense against the rental income resulting in no tax liability. The REIT receives an amount of ZAR 100, reclassified as a dividend, which is exempt from normal tax. (Note that this example is for illustrative purposes and does not consider other relevant sections of the Act which may be applicable in relation to the deduction of interest.)

Post the amendments

When the proposed amendments under sections 8F and 8FA become effective, the interest in respect of a debenture forming part of a linked unit incurred by a non-controlled property company will be reclassified as a dividend and not deductible in the hands of the property company. Unlike a controlled property company, a non-controlled property company does not qualify for a deduction.

With regards to the REIT, the treatment post the amendments will not be any different to the current tax treatment as section 25BB6(b) dealt with above, reclassifies the receipt as a dividend regardless of the application of sections 8F and 8FA and this dividend will be exempt from normal tax.

This does not necessarily present a different tax result for a REIT, however, there may be a cash flow impact which we illustrate below using the same example to that above.

A non-controlled property company earned rental income of ZAR 100 and considered to pay interest of the full ZAR 100, as interest in respect of a debenture forming part of a linked unit, to a REIT. However, unlike the scenario above, the non-controlled property company would have to make a provision for normal tax on the ZAR 100 rental income as the interest on the linked unit will not be deductible. This means that a non-controlled property company can only pay a maximum of ZAR 72 [100*(1-28%)], out of the rental income, as interest after accounting for a tax liability of ZAR 28.

This highlights a tax leakage in this instance when compared to the first scenario where ZAR 100 can be paid as interest to the REIT. This presents a concern as the non-deductibility of the interest incurred in respect of a debenture forming part of a linked unit may limit the amount of the distribution made by a non-controlled property company to a REIT. This limit of the distribution is essentially lost by a REIT and its shareholders due to tax.

Other consideration

In the above scenario a REIT may consider converting the linked units into equity shares. While this is possible and may be carried out on a tax neutral basis as outlined below, it is noted that such a conversion will not change the above result from a cash flow perspective. Such conversions may however be useful in instances where the non-controlled property company does not want to be seen as paying interest, perhaps for accounting purposes or where this may adversely affect certain important financial analytical ratios.

Section 43 provides a solution for the tax-neutral conversion of linked units to equity shares provided certain conditions are met. Section 43 provides the so-called roll-over relief to persons who undertake a 'substitutive share-for-share transaction'. A substitutive share-for-share transaction is

defined as a transaction in which a person disposes of an equity share in the form of a linked unit in return for an equity share other than a linked unit in that company. Section 43, if applicable, would operate to deem the taxpayer to have disposed of their linked units for proceeds equal to the expenditure incurred (i.e. the base cost) thereof and to acquire the new equity share for expenditure equal to that amount. The contributed tax capital of the equity shares will be the issue price of the linked unit. In summary, the linked unit can be converted into equity shares on a tax neutral basis.

For these conversions the so-called debt relief provisions (which deal with concessions or compromises in respect of a debt) contained in section 19 and paragraph 12A of the Eighth Schedule to the Act must be considered on the basis that a debenture forming part of a linked unit would in all likelihood constitute a debt. It is however noted that section 19 and paragraph 12A of the Eighth Schedule will generally not be an issue where the debenture is capitalised on a value-for-value basis as this is specifically excluded from the application of section 19 and paragraph 12A.

Leaving section 43 aside, section 25BB(8) also offers REITs and controlled companies a tax-neutral outcome for cancelling the debenture part of a linked unit issued by them. Effectively, the cancellation and the capitalisation of the linked unit does not trigger any adverse tax consequences.

It is however noted that these solutions should only be implemented after considering the specific facts and circumstances of each individual scenario. It is recommended that you seek expert advice should this be of relevance.

Key takeaway

The above highlights instances in which pending amendments to sections 8F and 8FA will impact REITs, controlled companies and property companies. Based on the above analysis, it appears that property companies (which are not controlled companies) would ultimately likely be impacted the most by way of additional taxes payable once these amendments affecting the deductibility of specific forms of interest come into force. REITs on the other hand may not be adversely affected from a tax perspective but they would earn a lower return on these quasi-equity debt instruments as a result of the above tax due. Whilst there are ways in which these debt instruments may be converted into equity on a tax neutral basis, doing so may not change the tax and cash flow outcome, but may be warranted by other qualitative considerations of property companies.

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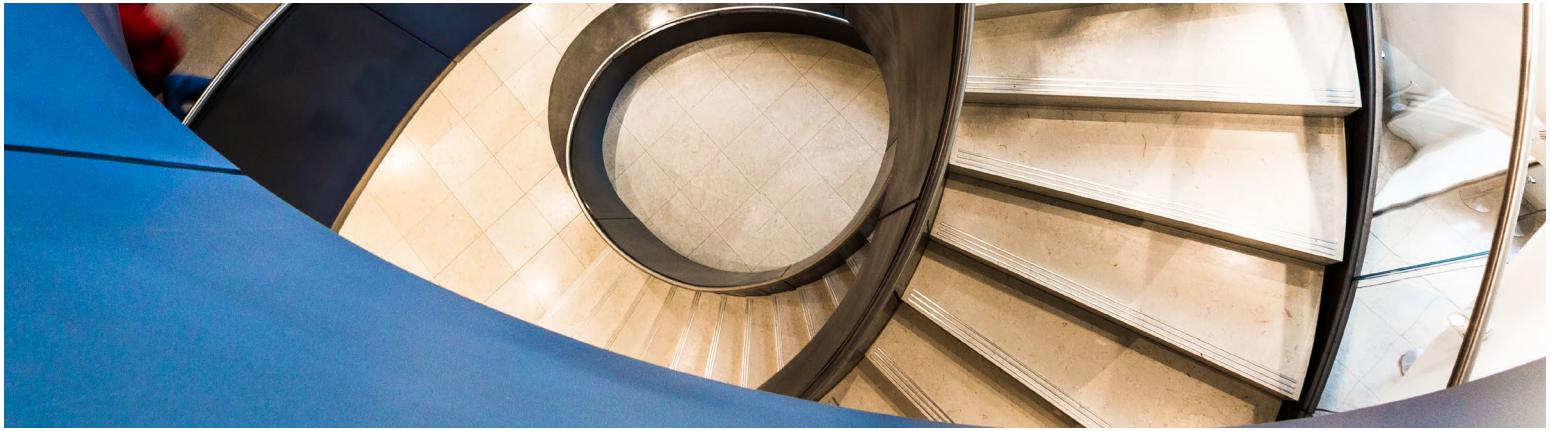

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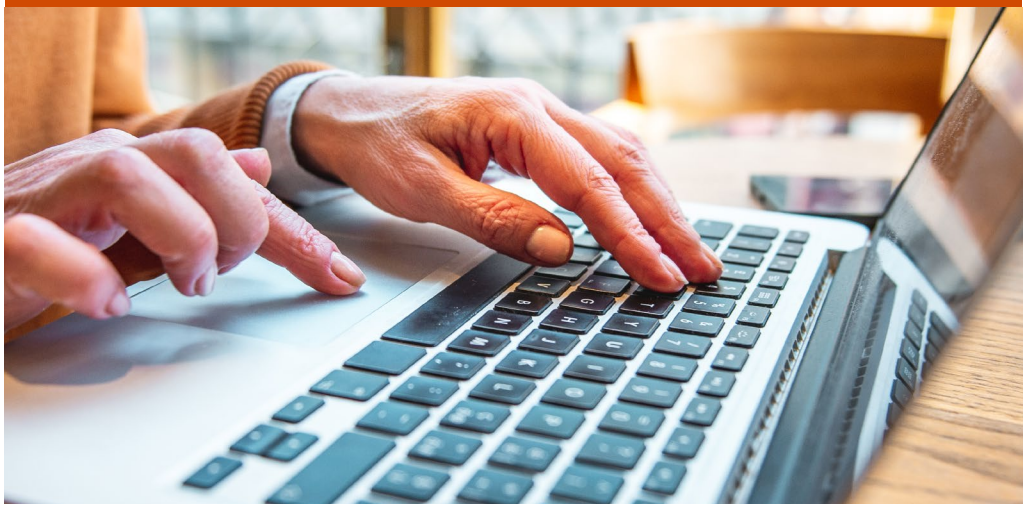
The Transfer Pricing and Customs Valuation Series: Article 3

Where multinational enterprises enter into intra-group transactions in relation to goods that are linked to intangibles and/or services, the determination of an arm's length price for the transaction from a transfer pricing ("TP") perspective could lead to later subsequent "adjustments" or payments. These adjustments could impact the valuation of the goods which was determined at the time of importation. In this article, we illustrate how the implementation of a taxpayer's TP policies subsequent to the importation of the goods can have a direct impact on the customs valuation that was established at the time of importation and how this can result in additional customs duty payments. Please note that in this article, we only discuss a few examples and therefore it is not an exhaustive discussion of all issues that could be encountered.



1. Accurate delineation of the transaction

Post the execution of the Base Erosion and Profit Shifting ("BEPS") Actions Plans 8 to 10 and 13, the revised Organisation for Economic Cooperation and Development Transfer Pricing Guidelines (January 2022 version) ("the OECD Guidelines") emphasise that a TP analysis should start with the accurate delineation of the transactions. It follows that in order to determine the arm's length price of the intra-group transaction(s), in most instances, the starting point would be a thorough identification of the contractual terms of the agreement and/or arrangement between the parties that fall within the ambit of the South African TP rules set out in section 31 of the Income Tax Act No.58 of 1952 ("the ITA"). Through the functional analysis, it is then possible to verify the actual conduct and economic substance of the parties to the agreement and/or arrangement. The information obtained through these two processes is then utilised to determine the accurate delineation of the transactions.

From a customs perspective, in the context of a customs audit, the Revenue Authority will typically also ask for copies of the inter-group agreements, the TP policy document and the relevant invoices. Having this documentation at their disposal allows the Customs Authorities to form their own views as to the nature of the transaction and whether, for example, certain separate transactions and/or adjustments could impact the valuation of the goods for customs purposes.

2. Functional characterisation and choice of TP method

Following the accurate delineation of the transaction, in order to determine the most appropriate TP method to apply to the transaction(s), as a first step, the functional characterisation of the parties need to be determined. The functional characterisation of the parties of the transaction will inter alia determine which party should be selected as the "tested party" for TP purposes (where a one-sided TP method is applied in which case the tested party for TP purposes is usually the simplest party to the transaction) and which TP method should be used to support the arm's length nature of the transaction. Where the transactions subject to the TP rules take place throughout the financial year (i.e. where it is not a one-off transaction), compliance with the taxpayer's TP policy can result in post-importation adjustments that need to be made to ensure that the

transaction(s) take place on an arm's length basis. This is in contrast with the customs valuation rules which require the transaction to be valued at the time of import. In the section below, we discuss examples of TP models and the impact the implementation of these TP models can have on the customs valuation.

3. Impact of different TP models on the customs valuation at the time of importation

A common example from a TP perspective is that of a distributor who purchases products/goods from an offshore connected person (as defined in the ITA) to sell these products/goods to the end customers in its assigned territory.

a. Limited risk distributor

Where the distributor is performing minimal or limited functions, not utilising any significant assets nor assuming any significant risks, such a distributor is commonly referred to as a "limited risk distributor" or "LRD". In this case, the LRD (as the simplest party to the transaction) is often paid a fixed return on sales and the balance of the profits/losses would be remitted to the principal entity offshore for performing the significant functions, assets and risks that lead to creation of intangibles by the principal entity.

We discuss below two potential ways in which the balance of the profits can be returned to the principal or how losses are dealt with.

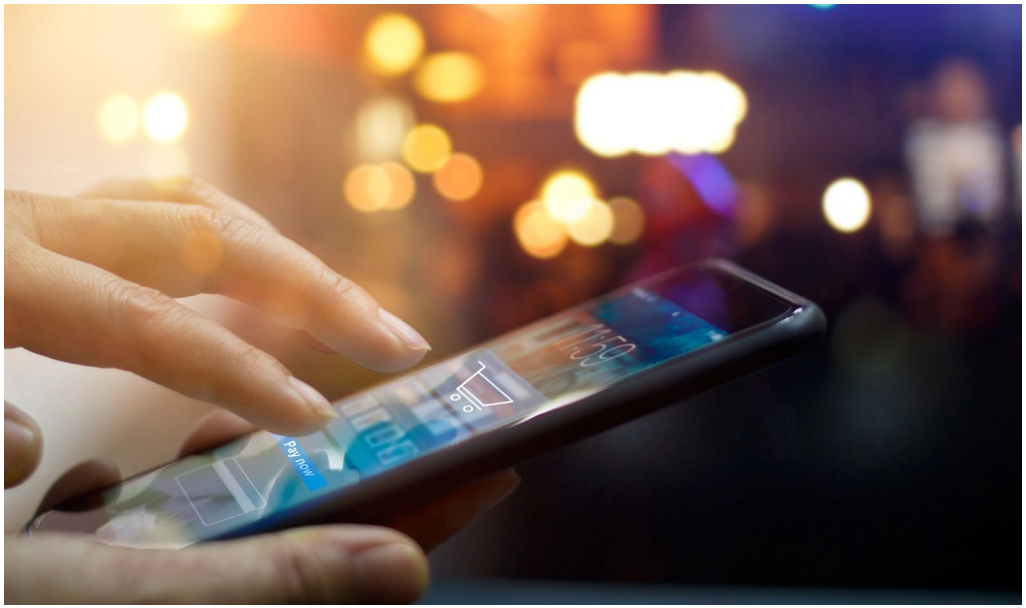
i. One alternative is the payment of a "variable royalty/service fee" to the principal entity and in the case of losses, the principal entity will make a "market support payment" to cover for the losses so that the LRD can earn a fixed return on sales in line with the TP policy. Where there are profits, the payment of the variable service fee/royalty represents additional consideration and thought needs to be given as to whether the additional amount payable can be linked to the goods such that additional customs duty and VAT will be payable on such payment (i.e. an ex post facto adjustment would need to be made to adjust the customs value of the imported goods).

ii. A further alternative is to manage the profitability of the LRD through the purchase price of the stock purchased from the principal entity. In this case, this can be managed through regular adjustments to the price of the stock (in which case the customs value of the same goods may fluctuate between shipments) or through debit or credit notes.

Both types of adjustments have customs implications which need to be considered when issuing invoices (including debit and/or credit notes) to pay post-importation fees or to adjust the taxable income. The Act requires that the importer report such payment and/or debit/credit note to SARS – Customs Division within one month from the date of the invoice, debit or credit note and bring relevant import duties and VAT account.

A further complication to the above is that there may be subsequent adjustments, including adjustments post year-end (for example, when all the actual costs are collated or once the auditors have processed certain adjustments). In this case, any such adjustments may also have customs duty implications that would need to be considered.

Furthermore, the information relating to the comparable data to be used for determining the arm's length price is required to be of the same period of time as the transaction. This is commonly referred to as a "contemporaneous" analysis. In some instances, the transactions will be conducted on an *ex-ante* basis, i.e., the group policy is to follow "the arm's length price-setting" approach where the arm's length price of the transaction is set at the beginning of the financial year. In other instances, transactions will be conducted on an *ex-post* basis, i.e., the group policy will be to follow "the arm's length outcome-testing" approach, where the transfer price is tested as part of the process for establishing the tax returns at year-end. In some cases, both approaches are used in combination.



b Entrepreneur distributor

Where the distributor is carrying the full entrepreneurial functions, it does not mean that the offshore connected person ("the counterparty") does not potentially hold significant intangibles which are related to the distribution activity. The remuneration of any intangibles held by the offshore counterparty can either be included/embedded in the price of the goods (in which case the customs value of the time of importation would include this) or there can be a separate charge or charges by the offshore connected party in addition to the price charged for the goods. Where a royalty is paid, similar to earlier example, consideration would need to be given to determine whether the subsequent royalty payment would result in additional customs duty.

In addition, the counterparty may also provide services to the South African distributor. If any element of these services can be linked to the product, this can also have customs duty implications. Some examples of this include development services, design services, etc. where these charges are not included in the cost of the product sold to the distributor.

The issue around year-end adjustments (described in the section above) would also be applicable in this scenario.

In some circumstances, both parties to the transaction, for example, make valuable contributions and/or the transactions are so interrelated that they cannot be analysed separately. In this case, a one-sided TP method would not be appropriate and in order to implement the appropriate TP method, it would result in the sharing of residual profits/losses *inter alia* based on the contribution of the relevant party or parties within the value chain.

In the execution of the agreed TP policy, most taxpayers will need to process adjustments to give effect to the allocation or reallocation of such profits or losses. Timing issues may, however, arise when affecting such adjustments.

It therefore follows that companies that are involved in international trade with group companies should be aware of the transactions that can give rise to customs valuations or TP risks. Often, from a practical perspective, the customs valuation is not aligned with the TP policies that could make managing the risks difficult.

The takeaway

In practice, a big problem is where the implementation of a TP model may result in an increase or in a reduction in the purchase price of the goods imported. Consequently, the customs value originally declared to SARS at time of importation is incorrect. This means that the importer is obliged to inform SARS of any invoices (debit and/or credit notes) received in relation to the goods imported. In the next article, we will discuss this practical issue of under payments and/or over payments in customs duties and VAT in further detail.

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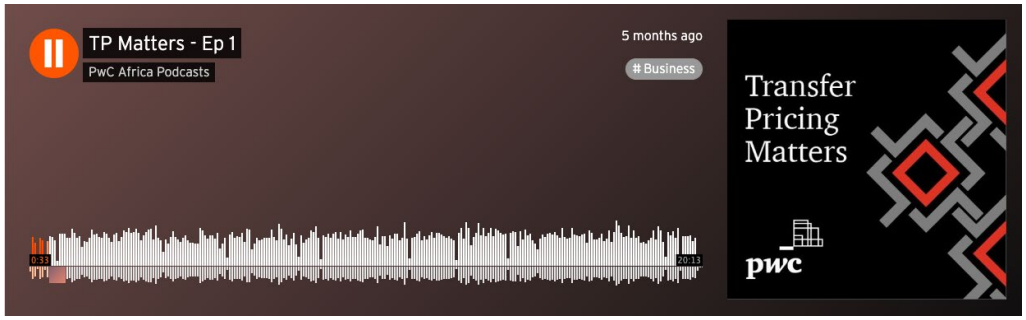
The link for the TP Matters podcast from May is available here.



Overview of the Samsung Electronics SA (Pty) Ltd v The Commissioner for the South African Revenue Service

Case No. 764/2021 [2022] ZASCA 126 (26 September 2022)

Introduction

On 28 September 2022, the Supreme Court of Appeal ("SCA") dismissed an appeal brought by Samsung Electronics SA (Pty) Ltd ("Samsung") wherein it sought an order in terms of Section 47(9)(e) of the Customs and Excise Act 91 of 1964 ("the Act"), to set aside the decision of SARS made on 11 April 2018 to withdraw a tariff determination under tariff heading 8517.12.10 and its replacement under tariff heading 8517.62.90.
To put it simply, the SCA confirmed that the Samsung Galaxy S7 should be classified as a telephone and/or smartphone rather than a machine for the reception, conversion and transmission or regeneration of voice, images or other data. The effect of the initial classification of the product was that it did not attract any ad *valorem duty* upon importation whereas the subsequent classification resulted in duties payable on import. The appeal was dismissed with costs.

Background

On 3 July 2017, Samsung applied for a tariff determination for its imported multi-functional devices, the Samsung Galaxy S7 ("the product") under tariff heading 8517.62.90 or 8517.69.

On 27 September 2017, Samsung received a tariff determination from SARS determining that the products were "... *smart devices classifiable under tariff sub-heading 8517.62.90" as "machines for the reception, conversion and transmission or regeneration of voices, images or other data*".

On 20 November 2017, the Commissioner for SARS ("the Commissioner") notified Samsung that it was considering withdrawing the determination.

On 11 April 2018, the Commissioner withdrew the first determination on the basis that it had been made in error and determined that the product would be classified under tariff heading 8517.12.10 as '*telephones for cellular networks or for other wireless networks, designed for use when carried in the hand or on the person*', and that the new determination will apply retrospectively.

Samsung appealed the decision to change the determination to the High Court.
On 18 March 2021 the Judge upheld the Commissioner's subsequent determination set out above.

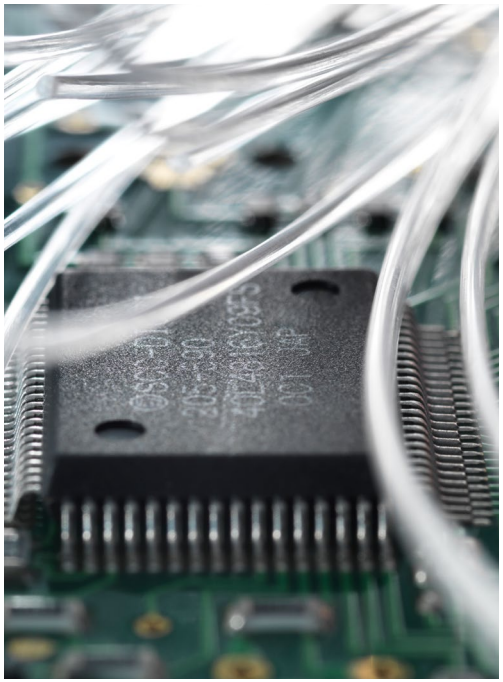
Samsung then took the above decision on appeal to the SCA.

Technical position

The amount of customs duty payable upon importation depends on the tariff heading ("TH") or sub-heading in Part 1 of Schedule 1 to the Act, under which a product is classified.

Section 47(8)(a) of the Act provides, *inter alia*, that the interpretation of any tariff heading or tariff sub-heading in Part 1 of Schedule 1, the general rules for the interpretation of Schedule 1, and every section note and chapter note in Part 1 of Schedule 1, shall be subject to the International Convention on the Harmonized Commodity Description and Coding System ("the Harmonized System") and the explanatory notes to the Harmonized System, issued by the World Customs Organisation ("WCO").
The Harmonised System serves as the basis for customs tariffs and for the compilation of international trade statistics of the majority of countries globally.
The General Rules for Interpretation sets out rules of interpretation in classifying goods within the Harmonised System.

The Commissioner is empowered by Section 47(9)(a)(i)(aa) to determine tariff headings or subheadings under which imported goods shall be classified. Section 47(9)(d)(i)(bb) further empowers the Commissioner to amend or withdraw any determination, if it was made in error, and make a new determination.



Arguments

Samsung's case was based on two propositions. Firstly, Samsung argued that even though the product performs the function of cellular telephone, it is a multifunctional machine. Secondly, by reason of its multifunctional nature, the product's principal function is not that of a telephone for cellular networks. Alternatively, if the principal function cannot be identified, under the rule of interpretation a tariff heading with a later numerical value should be adopted.

Samsung sought to identify the principal function of the product, by starting with interpreting the term '*telephones for cellular network*' and in doing so looked at the meaning of a 'telephone' from dictionaries in order to attach that meaning onto the concept of '*cellular network*'.

Samsung argued that SARS had been right the first time around in that the product could be used to make telephone calls, but its primary function was more for connecting to the internet, the use of social media, playing games and music, and not making telephone calls. Samsung also provided market survey results showing that the devices in question are predominantly used for the abovementioned purposes rather than telephone calls.

The Commissioner's response to these arguments was *inter alia* that in making a call over WhatsApp or Skype, one is still using the handset as a telephone. It also countered that the product had design features of a telephone facility as it had typical features of such a device, i.e. a speaker, an electronic keyboard and software.

In addition, SARS submitted that since the telephone technology had developed significantly in a short period of time, Samsung was attempting to define the principal function of the product '*out of context*'.

The judgment

The cases of *Commissioner, SARS v Komatsu South Africa (Pty) Ltd*[5] and *CSARS v The Baking Tin (Pty) Ltd*[6], wherein the courts dealt with the classification of goods for tariff determination, were examined by the court.

In the *Komatsu Case* the court stated that:

> "It is clear from the authorities that the decisive criterion for the customs classification of goods is the objective characteristics and properties of the goods as determined at the time of their presentation for customs clearance. This is an intentionally recognised principle of tariff classification. The subjective intention of the designer or what the importer does with the goods after importation are, generally, irrelevant considerations. But they need not be because they may in a given situation be relevant in determining the nature, characteristics and properties of the goods."

The court in the *Baking Tin* case further noted that the subjective intention of the designer or maker '*may affect what appears to be the objective characteristics of the goods and thus change their classification*'.

The judgment noted that Samsung "ignores to a large extent the wording of TH 8517.60 and the explanatory notes to the tariff heading or that most of the *other functions* of the product are completely unrelated to TH 8517.60". The objective characteristics of the product which identify the principle function of the product should not be overlooked.

The Court took the view that the objective characteristics and properties of an item will determine the appropriate tariff classification, and that the correct approach to the issue before the court is to give meaning to the expression '*telephones for cellular networks*' as a single concept rather than separating them as put forward by the Appellant.

The Court further noted that the fact that the product can connect to the Internet and browse the Internet like a computer does not make it more like a traditional laptop or desktop computer. The product's size, construction, and SIM card capacity dictate that the product is still a telephone. It is a telephone that has advanced due to the natural progression and rapid advancements in technology in this field.

The court therefore held that the most appropriate tariff heading for the product was TH8517.12.10 – '*telephones for cellular networks or for other wireless networks, designed for use when carried in the hand or on the person*'.

5 [2006] ZASCA 156; [2007] 4 All SA 1094 (SCA); 2007 (2) SA 157 (SCA) para 8.
6 [2007] SCA 100 (RSA); [2007] 4 All SA 1352 (SCA); 2007 (6) SA 545 (SCA) para 13.

The takeaway

As apparent from this case, the true nature and objective characteristics of a product should be considered in order to determine the most appropriate tariff classification. The common usage of the product and its similarity in use to other products are secondary considerations in arriving at the correct tariff classification.

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SARS Watch

1 October 2022 – 31 October 2022

Legislation		
27 October 2022	*Legal Counsel: Preparation of Legislation – Bills*	27 October 2022 – National Legislation: The Minister of Finance introduced the following Bills in the National Assembly on 26 October 2022: Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25—2022] Taxation Laws Amendment Bill [B26—2022] Tax Administration Laws Amendment Bill [B27—2022]
14 October 2022	Legal Counsel – Secondary Legislation – Other Notices	Correction Notice 2644 in *Government Gazette* 47305 on 14 October 2022 – Correcting General Notice 2610 of *Government Gazette* 47284 on 11 October 2022 to substitute the heading to read "Publication of explanatory summary of the Tax Administration Laws Amendment Bill, 2022".
14 October 2022	National Legislation	General Notice 2644 in *Government Gazette* 47284 on 11 October 2022 – Publication of explanatory summary of the Tax Administration Laws Amendment Bill, 2021.
Customs and excise		
14 October 2022	Customs: Temporary solution for over carried cargo	In light of the Transnet strike and the increasing movement of over carried cargo, all shipping lines and traders need to be aware of the temporary solution for over carried cargo under the provisions of Section 40(3)(a)(i)(C) to the respective Branch Office where once processed a manual release will be provided to the declarant and allow for the movement and manual processing of the Vouchers of Correction when ships over carry cargo.
20 October 2022	Media Release: SARS takes a further step toward implementing Smart Borders	Travellers are required by law to make certain declarations of goods and cash on entering or leaving South Africa. The declaration process is in line with practices around the world and in compliance with the provision of the Customs and Excise Act No. 91 of 1964 which makes it mandatory for any person entering and leaving the Republic to declare any goods in their possession. During November 2022, SARS will launch a pilot implementation of an electronic online portal for travellers to make declarations on a voluntary basis, well ahead of their arrival or departure to/from South Africa. This pilot will initially be implemented at the King Shaka International Airport.
27 October 2022	Excise: Manage Diesel Refunds Calculations	The Manage Diesel Refund Calculations Policy has been revised to include: • All criteria that a prospective claimant must meet to qualify for a diesel refund; • The refund calculation prescribed in Rebate Item 670.04 of Schedule 6; • Information needed to complete Part C of the VAT201; • Steps to follow where the implementation date of the new rates fall within the tax period; and • Calculation examples. The extent of the rebate of the General Fuel and Road Accident Fund levies has been deleted from the document as it is readily available in Schedule 6. The path to the current and historic rates has been included.

Case law		
According to judgment date		
13 October 2022	Structured Mezzanine Investments (Pty) Ltd & another v CSARS (1824/2021)	Tax Administration Act 28 of 2011, Policy and procedure: confidential taxpayer information – whether appellants should be granted leave to appeal judgment in favour of the respondent where the application to have the main application heard "in camera" was denied.
12 October 2022	Eskom Pension and Provident Fund v Brian Molefe and others (93895/2019)	Tax Administration Act 28 of 2011, Policy and procedure: application for leave to appeal – alleged incorrect application of rule 41A – allegations of misdirection and lack of judicial deference – no prospect of success on appeal – leave refused.
Interpretation Note		
4 October 20222	Customs & Excise Act, 1964	Comments to be recorded on the Customs & Excise Tariff Amendments Comment Sheet. Explanatory Note: The description of Additional Note 5(c)(i) is being amended to provide for the usage of grape juice in the manufacture of ciders as prescribed in the Regulations to the Liquor Products Act 60 of 1989. Comments due on 1 Nov 2022.
7 October 2022	National Legislation	Draft notice: Section 11D of the Income Tax Act, 1962 – Draft refinements to the research and development tax incentive. Draft Explanatory Memorandum – Refinements to the research and development tax incentive. Comments due on 7 Nov 2022.
14 October 2022	Income Tax Act, 1962	Draft Interpretation Note – Definition of "associated enterprise". Explanatory Note: This Note, "Definition of 'Associated Enterprise'", provides guidance on the interpretation and application of the definition of "associated enterprise" in section 31(1). The inclusion of an "associated enterprise" in section 31 comes into operation on 1 January 2023 and applies in respect of years of assessment commencing on or after that date. Comments due on 17 Jan 2023.
Rulings		
5 October 2022	BPR 382 – Rebate in respect of foreign taxes	This ruling determines the tax consequences of a capital gain arising from the disposal of shares in a resident company, which shares derive their value principally from immovable property situated in a foreign jurisdiction.
4 October 2022	BPR 381 – Beneficial ownership in respect of back-to-back share transfer	This ruling determines the securities transfer tax consequences of the transfer of listed shares from a client to the applicant and by the applicant to an authorised user or vice versa.
4 October 20222	BPR 380 – Transfer of shares in resident company to non-resident holding company	This ruling determines the tax consequences of the transfer of ordinary and preference shares by a South African resident company (the applicant) to a non-resident, indirect subsidiary (Foreign Company) of the applicant.
3 October 2022	BPR 379 – Qualifying purpose	This ruling determines the tax consequences of a dividend declared by the issuer of a preference share which was issued for a qualifying purpose after the shares in an operating company financed by the preference share funding are disposed of by the shareholder in the operating company.
Other		
29 October 2022	FINAL Reminder – Monday (31 October 2022) is the deadline to submit annual Third-Party Data Returns.	Third Party Data Returns are due on Monday 31 October 2022, that includes the associated data files and correlating declarations [Data Types: IT3(b), IT3(c), IT3(s), MED, INS].
28 October 2022	Tax Workshops	Tax workshops for North-West province during November.
27 October 2022	Media Release: SARS and law enforcement agencies take action against illegal and illicit goods	Millions of rands worth of illegal or illicit goods were confiscated in several joint operations conducted through coordinated efforts within SARS over the past month.
27 October 2022	Updated PAYE BRS for Employer Reconciliation	The PAYE BRS for Employer Reconciliation was updated. The PAYE BRS for Employer Reconciliation version 21 2 is now published (previous version was 21 1). The changes are: • Relaxed the validations for email addresses and • Amended the description for the Fixed Rate Indicator.
26 October 2022	Media Release: SARS committed to achieve higher revenue estimate	The South African Revenue Service (SARS) welcomes the consistent emphasis by the Minister of Finance, Mr Enoch Godongwana, on ensuring that government finances are spent in an equitable, efficient and flexible manner to support South Africa's development objectives.

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