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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VAT relief provided by Government to businesses that assist in dealing with the Covid-19 pandemic

Introduction

The Covid-19 pandemic has disrupted our lives and brought many of the challenges countries were facing to the fore. One of these challenges was Government's ability to deal with a health crisis.

Due to the Government's limited resources, the president and other ministers appealed to corporate citizens to assist in dealing with the health crisis.

Many corporate citizens heeded the call and opened up their cheque books and their business resources to assist. These corporate citizens are invariably taxpayers who are registered for VAT.

Assistance provided to Government comprised both monetary financial aid as well as the donation of certain goods and services such as, for example, food, personal necessities, personal protective equipment and, in some cases, medical equipment.

In response, Government provided limited VAT relief for corporate and other tax citizens. While this relief is and was welcomed, it has not catered for all areas impacting businesses that have provided assistance.

VAT impact on business assisting Government

Below, we assess the extent of the VAT relief provided by Government to businesses that assist in dealing with the Covid-19 pandemic.

The acquisition of personal protective equipment (PPE) solely for the purpose of donation to Government or the public

Businesses registered for VAT (excluding certain welfare organisations) acquiring PPE to donate to the general public or Government will be disappointed to note that any VAT incurred on such purchases will not be allowed as an input tax deduction.

SARS is of the view that these goods or services are not acquired for purposes of making taxable supplies and therefore cannot be regarded as qualifying input tax deductions for VAT purposes. In addition, no exception and or dispensation is considered by SARS in order to provide VAT relief to businesses in this regard and in these challenging times. In addition, notwithstanding proposals made to National Treasury as part of the Covid-19 Relief Bills and other tax amendments to allow for such a deduction, this was not accepted by National Treasury and no amendments have been noticed.

The importation of PPE vs the local acquisition of PPE for purpose of donation to Government or the public

For a limited period (expiring at the end of 5 June 2020), businesses were permitted to import PPE under a VAT exemption contained in the VAT Act. This exemption allowed businesses to import PPE without paying the VAT due on importation, irrespective of the ultimate purpose (i.e. to resell or donate or for own use). For the same period, however, the local acquisition of PPE was subject to VAT in all instances.

For reasons previously mentioned, locally purchased PPE which is/was acquired for purposes of donating such to the general public or to Government in order to mitigate the impact of the pandemic was not regarded as a permissible deduction for VAT purposes and, as such, the VAT incurred cannot be deducted as input tax.

Preferential treatment was accorded to imported PPE versus PPE purchased locally, which is contrary to the construct of the VAT Act, which seeks to create tax parity for goods and services acquired locally or internationally.

Furthermore, from the measures implemented in relation to the importation of PPE and other necessities in terms of the pandemic, it is clear that the objective of Government was to create tax and customs relief in respect of essential or necessary goods during the pandemic. This, however, did not filter through to the local purchase of similar essential goods for purposes of donating such to Government and other general public members in need.

The manufacture of PPE for the purpose of donation to Government or the public

During the various stages of lockdown, many companies kept their businesses open to manufacture PPE both to supply such PPE in the normal course of its business or enterprise and to donate such PPE to the general public or Government.

Based on SARS' approach, any VAT incurred in relation to the acquisition of the raw materials in the production process, or in procuring other goods or services in order to manufacture such equipment, would not be deductible as input tax to the extent being used to make donations.

Again, should manufacturers have imported all materials necessary for the manufacture of the PPE during the time period mentioned above, such importations would have been 'VAT free', resulting in the local and foreign acquisition of PPE not being treated equally, placing the local market at a disadvantage.

The building of Covid-19 field hospitals for the purpose of donating them to Government

Where a business assists or has assisted Government in making premises available and converting such premises into a field hospital or other medical facility and equipped the facility with the necessary PPE, beds, ventilators and other medical equipment, any VAT incurred by the business in order to do so would not be deductible as input tax. This is again based on the premise that all of these goods and services are not acquired for purposes of consumption, use or supply in the course of making taxable supplies. This would be the case irrespective of whether the hospital is made available to Government temporarily whilst the pandemic is ongoing or whether it is permanently donated to Government.

If this VAT cost were allowed as a deduction, it could have been further applied by businesses to contribute to the efforts to deal with the pandemic. In other words, should the vendor have received the VAT on acquisitions of PPE or other equipment etc. as a deduction, this amount could have been used to purchase more PPE/equipment for use in the pandemic, further contributing to the cause and Government's request for assistance.

The takeaway

Having regard to the above, although some VAT relief has been provided by Government during the Covid-19 pandemic, this relief is limited and does not materially assist businesses that have come forward to assist Government through various other initiatives.

Businesses must carefully consider their respective activities in this regard and the concomitant VAT impact thereof in order to avoid future assessments by SARS.

To date, no further measurements in relation to any of the above which will provide relief to these businesses have been introduced by Government.

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Where your feet are – international taxation of employment income

The disruption caused to our world and our work with the advent of Covid-19 has resulted in many unintended consequences, not least of which are those related to the world of expatriate tax.

Many South African expatriates have been forced to return home and work remotely in South Africa due to Covid-19 travel restrictions, whilst continuing to perform their duties for their foreign employer and remaining on foreign payroll for the duration of the time spent in South Africa. The foreign employer has not moved the individual to the South African payroll (if there even is one) but continues to pay them from their own payroll. The foreign employer then continues to tax their employment income in their country. However, since the employee is physically working in South Africa, most employers and employees are not aware that South Africa has a right to tax that income due to the services being physically rendered in South Africa. This is the case potentially (subject to double tax treaty provisions) regardless of whether the returning South African has ceased to be tax resident.

Taking a step back, let's examine the principles behind taxation of employment income from a South African perspective, before considering an international tax perspective. South Africa operates on a residence basis of taxation which means residents are liable to tax on a worldwide basis, including on income earned from abroad.

However, even if the person is not a South African tax resident, the individual is still liable to tax on income earned from a source within South Africa. In the case of remuneration, the source of that income is seen to be the place where those services are physically rendered,[1] not where the remuneration is paid from or for whom a person is working. In other words, a person working remotely in South Africa is taxable on that remuneration in South Africa, regardless of whether they are working for a South African employer and regardless of where they are being paid from. If you work in South Africa, you must pay tax on your income in South Africa.

The obvious concern is that the individual is now subject to double taxation. The question is how or whether this can be alleviated.

1 CIR v Lever Brothers & Unilever Limited 14 SATC 1

Many countries (including South Africa) subscribe to the principles of the Organisation for Economic Co-Operation and Development (OECD) model tax convention when concluding Double Taxation Agreements (DTA). This is to say, the DTAs are concluded in line with the OECD principles for double taxation.

Article 15 of the OECD model tax convention deals the taxation of income from employment. Paragraph 15(1) establishes the general rule in this regard – namely, that employment income is taxable in the state where the person is tax resident.

However, if the employment is exercised in another state, it may be taxed in that other state as well. Colloquially speaking, where the employee's feet are or where he/she is physically present when performing the activities for which the employment income is paid. This applies irrespective of where an individual may be paid from for these services.

The OECD commentary on Article 15(1) specifically states that a consequence of this principle is that taxing rights cannot be claimed in a state merely because the results of an employee's work are *exploited* there. Take the following example. If a South African resident employee is on Country X' payroll and rendering services

to a Country X company but is physically exercising those services in South Africa for an extended period due to travel restrictions, in terms of Article 15, arguably Country X does not have the right to tax the resulting employment income because the person is neither resident in Country X nor physically rendering the services there, regardless of the fact that they are being paid from Country X.

Where Country X, in our example, argues that it retains taxing rights of the employment income as the employee is employed and remunerated by a Country X company, and has been forced to work in another state due to circumstances outside of the company's control, a situation of double taxation will arise. Additionally, we should consider the taxation of non-cash benefits and allowances ('assignment-related benefits').

Where an employee is unable to return to the home country where employment was formerly exercised, but remains on home country payroll and continues to be paid an assignment related allowance in respect of that country, which country has taxing rights of those benefits? Some countries concede that they do not have taxing rights on employment-related income where employment is exercised in another state, but they retain taxing rights over assignment-related benefits.

Generally, double taxation of the same income in two states is resolved by Article 23 of the model tax convention. Article 23 provides that where the source/host country (i.e. South Africa) has a taxing right, the residence/home country (i.e. Country X) must relieve double taxation either by exempting the income or by taxing it and giving a credit for the source country tax.

Section 6*quat(1)* of the Income Tax Act 58 of 1962 ('Act') provides that a rebate may be claimed in South Africa for taxes paid on income from a source outside the Republic. However, this is applicable only where the other country has a substantive taxing right to that income and the income is sourced outside the Republic. This is not the case when Article 15(1) deems employment income to be taxable in the country where the employment is exercised, and the exercise takes place in South Africa. Likewise, foreign tax authorities are likely to have similar interpretations of their tax credit provisions.

A second option would be for the employee who is a resident to rely on the provisions of section 6*quat*(1C) of the Act. This provision follows the application of section 6*quat*(1A) which allows a rebate for tax on income paid to the government of another country without the right of recovery and where one can prove such foreign tax has been paid (general rebate). Subsection (1C) creates an additional rebate for foreign taxes, at the election of the employee, where foreign tax paid cannot be recovered through a DTA provision or an entitlement to carry back losses. Any amounts deducted under section 6*quat*(1C) which have subsequently been recovered from the foreign tax authority must be included in the employee's taxable income in the following year of assessment. However, this has seldom been relied upon with any great success, and, as mentioned above, no tax rebate can be claimed on South African-sourced income, despite it being paid from a foreign source.

A further related aspect we must consider is the exemption of foreign income earned by South African residents under section 10(1)(o)ii) of the Act. Where a South Africa resident is stranded in South Africa and rendering services locally to a foreign company and remains on the foreign payroll, they may be unable to claim their foreign employment income exemption under section 10(1)(o)(ii), as they will not comply with the relevant provisions for time periods spent outside the country and will not be earning remuneration related to services physically rendered abroad. This will result in their foreign income being fully taxable in South Africa as well as in the foreign country and takes us back to a situation of double taxation with no relief. It may well be possible for the resident to rely on section 6*quat*(1C) as outlined above. However, as mentioned, this section is not frequently successfully applied.

The extent of the conundrum appears endless. It is somewhat helpful that the OECD is also aware of this issue.

In April 2020, the OECD published a report analysing the impact of the Covid-19 on tax treaties entitled: *OECD Secretariat*

Analysis of Tax Treaties and the Impact of the Covid-19 crisis (Version 3)[2] ('Covid-19 Report'). Item 4 of the Covid-19 Report addresses concerns related to cross-border workers and the right to tax employment income under Article 15 of the model tax convention as discussed above. Point 27 summarises the key issue faced, namely that if the country where employment was formerly (prior to Covid-19) exercised should lose its taxing right as a result of the application of Article 15 (in our example, Country X), additional compliance difficulties would arise for employers and employees.

Employers may have withholding obligations which are no longer underpinned by a substantive taxing right. The OECD concludes that withholding obligations may have to be suspended and a new way must be found to refund the tax to the employee. The OECD is calling for an exceptional level of cooperation between countries to mitigate the compliance and administrative costs for employers and employees associated with involuntary and temporary change of the place where employment is performed.

Whilst it is comforting to know that these issues are being discussed at OECD level, in our view it is difficult to imagine various tax authorities jumping at the opportunity to forgo perceived taxing rights to employment income, especially in the current economic climate.

The takeaway

We caution employers not to idly amend employment contracts and mobility policies, assuming that it is simpler for employees to continue to work from jurisdictions where they have been stranded, without considering the added complexity brought about by Covid-19 and the potential for double taxation without clear relief. We suggest that companies structure arrangements carefully considering the provisions of any relevant DTA and whether the exception in Article 15(2) of the model tax convention, which provides taxing rights to the state of tax residence and not where employment is exercised, could be used to good effect, ensuring employment income is taxed in the intended jurisdiction.

Article 15(2) provides an exception to the general rule in Article 15(1) of the model tax convention. The exception, where the remuneration will not be taxed where employment is exercised, but in the state of tax residence is where:

i. the assignee is present in the other state (i.e. host state or South Africa in our example) for a period or periods (need not be continuous) of less than 183 days in any 12-month period commencing or ending in fiscal year concerned; and

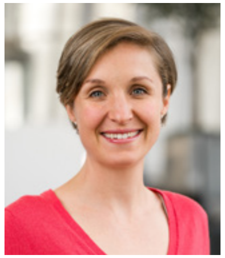
ii. the remuneration is paid by, or on behalf of, an employer who is not a resident of South Africa; and

iii. the remuneration is not deductible in determining taxable profits of a permanent establishment or a fixed base which the employer has in South Africa.

The reference to 'fiscal year concerned' should be interpreted as the fiscal year of the country in which the employment is exercised and in which the employment services have been rendered. The 183-day period should, according to paragraph 2(5) of the OECD commentary on Article 15, be based on actual days physically present in the host state.

In a situation where the exception in Article 15(2) may be relied on, our problem appears to be resolved. However, this applies only where the employee is tax resident.

Lastly, we suggest that companies with individuals at risk provide added tax compliance support to these employees in home and host locations and formulate a strategy which considers these complexities.



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2 http://www.oecd.org/coronavirus/policy-responses/oecd-secretariat-analysis-of-tax-treaties-and-the-impact-of-the-covid-19-crisis-947dcb01/

The voluntary disclosure programme regime – recent case law and the taxpayer's perspective

The Voluntary Disclosure Programme (VDP) was introduced into the Tax Administration Act, No. 28 of 2011 (TAA), with effect from 1 October 2012, for purposes of enhancing voluntary compliance in the interest of good management of the tax system and the best use of SARS' resources. The VDP is a mechanism for taxpayers to regularise their tax affairs without incurring potentially significant penalties or criminal charges. It is also an important tool for revenue collection for SARS. According to the Annual Report 2018–2019, SARS reported that an amount of R3.2 billion was collected for the period 1 April 2018 until 31 March 2019 under the VDP. Under section 227 of the TAA, six key requirements must be met for an application to be considered to be a valid voluntary disclosure. Such disclosure must:

1. be voluntary;
2. involve a 'default' which has not occurred within five years of the disclosure of a similar 'default' by the applicant;
3. be full and complete in all material respects;
4. Involve a behaviour referred to in column 2 of the understatement penalty percentage table in section 223 of the TAA;
5. not result in a refund due by SARS; and
6. be made in the prescribed form and manner.

Tying in to the requirement that a VDP application must be voluntary, section 226(2) of the TAA states that if the person seeking relief has been given notice of the commencement of an audit or criminal investigation into the affairs of the person, which has not been concluded and is related to the disclosed 'default', the disclosure of the 'default' is regarded as not being voluntary for purposes of section 227, unless a senior SARS official is of the view, having regard to the circumstances and ambit of the audit or investigation, that:

1. the 'default' in respect of which the person has sought relief would not otherwise have been detected during the audit or investigation; and
2. the application would be in the interest of good management of the tax system and the best use of SARS' resources.

In the recent judgment of *Purveyors South Africa Mine Services (Pty) Ltd v The Commissioner for the South African Revenue Service* (61689/2019) [2020] ZAGPPHC 409 (25 August 2020), the court stated that the concepts of 'default', 'voluntary' and 'disclosure' make up the three essential components of section 227 of the TAA.

The court noted that section 225 of the TAA defines the term 'default' to mean the submission of inaccurate or incomplete information to SARS. In the *Purveyors* case, the concept of 'default' was not in contention, as it was common cause that it had failed to pay import VAT in 2015 when it should have done so. The inquiry in the case was thus focused on the concepts of 'voluntary' and 'disclosure', which are not defined in the TAA.

By way of a background, Purveyors had imported an aircraft into South Africa during 2015 which it then used to transport goods and personnel to other countries in Africa. Purveyors became liable for the payment of import VAT to SARS in respect of the importation of the aircraft in 2015, which it failed to pay to SARS during the latter part of 2016. Purveyors was advised by SARS on 1 February 2017 that the aircraft should have been declared in South Africa and VAT thereon paid, but, more importantly, it was advised by SARS that penalties were applicable as a result of the failure to have paid the VAT. This prompted Purveyors to avail itself of the voluntary disclosure relief under the TAA. SARS declined to grant relief on the basis that Purveyors had not met the requirements

of section 227 of the TAA on the basis that there was no 'disclosure' nor was it made 'voluntarily'. Purveyors brought an application to the High Court to have SARS' decision set aside.

The crux of the *Purveyors* case was that as at the date of submission of its VDP application it had not been given notice by SARS of the commencement of an audit or criminal investigation into the affairs of Purveyors, which had not been concluded as contemplated by the provisions of s 226(2) of the TAA, and that the effect thereof was that this application was indeed 'voluntary' as contemplated in s 227(a) of the TAA, despite the said prior knowledge on the part of SARS. With regard to the 'disclosure', Purveyors contended that prior knowledge on the part of SARS was not a disqualifying factor, that SARS' interpretation was too wide and it went on to refer to the ordinary meaning of the word 'voluntary' as defined in the Merriam-Webster Dictionary.

SARS, however, contended that section 227 of the TAA envisages a disclosure of information or facts of which SARS had been unaware. With regard to whether the VDP application was 'voluntary', SARS contended that the term is not defined, but its ordinary meaning is 'an act in accordance with the exercise of free will'. If there is an element of compulsion underpinning a particular act, it is no longer done voluntarily. In the context of Part B of Chapter 16 of the TAA (i.e. the VDP part of the TAA), a disclosure is not made voluntarily where an application has been made after the taxpayer had been warned that it would be liable for penalties and interest owing from its mentioned default. It was thus submitted that the application was brought in fear of, *inter alia*, being penalised.

Ultimately, the court was of the view that:

a. the interpretation and argument put forward by Purveyors was too narrow and did not accord with the purpose of the said sections or what they sought to achieve,

b. the VDP application was not 'voluntary' for the reasons referred to by SARS; and

c. there was no disclosure to SARS of information which it was not already aware of.

Purveyors' application was therefore dismissed.

PwC's Taxing Times 2020 survey:

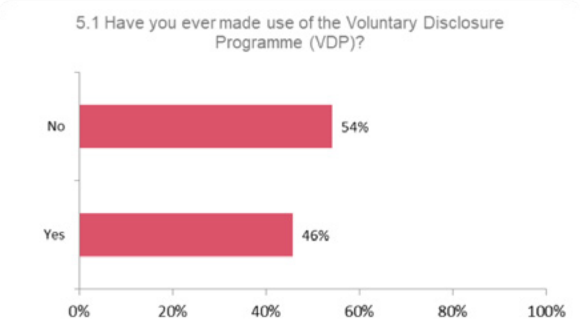
Whilst the VDP regime sounds like a good practical solution for taxpayers to come clean with SARS in theory, it appears (as evident from the case above) that the process can be complicated. This may deter taxpayers from attempting to utilise the VDP relief. These sentiments were echoed in PwC's third annual Taxing Times 2020 Survey, which was published in early September 2020. The report provides key insights in respect of taxpayers' practical experiences, perceptions and needs with regard to five crucial areas that were tested: 1) the audit process (including the debt management process), 2) the VDP process, 3) SARS' service delivery, 4) Covid-19 tax relief, and 5) taxpayer behaviour.[3]

3 PwC's Taxing Times 2020 Survey targeted those persons in charge of tax functions across various industries. The survey ran between May and July 2020 and was sent out to a number of taxpayers either via email or anonymous link. A total of 184 people participated which included 37 people participating via the anonymous link. A total of 107 corporate participants completed the survey in full.

In respect of the VDP category of questions, taxpayers had the following to say:

Making use of the VDP regime

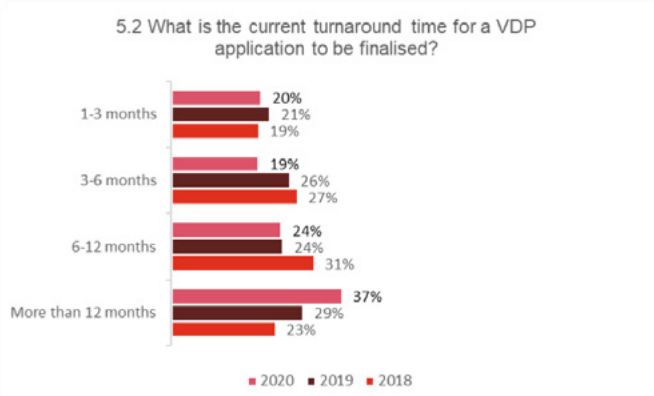
The VDP portion of the Taxing Times Survey kicked off with gauging the number of taxpayers who utilised the VDP process. This year (being the first year in posing the question), just under half (46%) of the participants said they had made use of the VDP process.



Turnaround times post submission of a VDP application

From a timing perspective, 20% of the participants indicated that their VDP application was finalised between 1-3 months. This appears to be consistent with last year's results. This year 37% reported that their VDP applications took more than 12 months to finalise (8% ahead of last year) which is an exceptionally long turnaround time considering the potential revenue for SARS.

It appears that SARS seriously needs to re-look at the operations within the VDP Unit, from the allocation of resources and capacity, to skill.

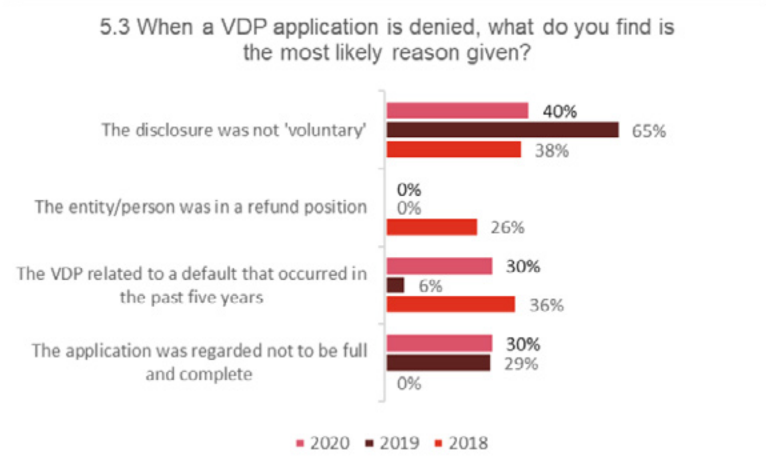


Rejection of VDP applications

Where VDP applications have been denied due to non-compliance with criteria as set out in TAA, the most frequent reason, according to our participants, is that the disclosure was not voluntary (40%). This is problematic, as there is no formal definition of 'voluntary' in the TAA. In practice, SARS takes a very narrow and strict approach to its interpretation of a 'voluntary' disclosure, as can be seen from the *Purveyors* case.

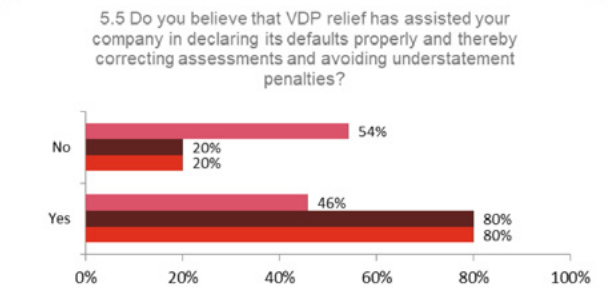
Further, 30% of participants reported that their applications were rejected due to their applications relating to a similar default which occurred in the past five years, when compared to just 6% last year. This requirement was introduced into the TAA to widen the scope of the VDP regime. However, in practice, this may not be the case. The results could be an indicator that it is time to reconsider the mechanics of this requirement.

In addition, another 30% of participants indicated that their VDP applications were rejected due to the application not being 'full and complete', which is roughly consistent with last year's results. Here again, little to no guidance is provided on the meaning of these words. For example, the age of the information required by SARS does not always correlate with the taxpayer's record retention obligations under the TAA.



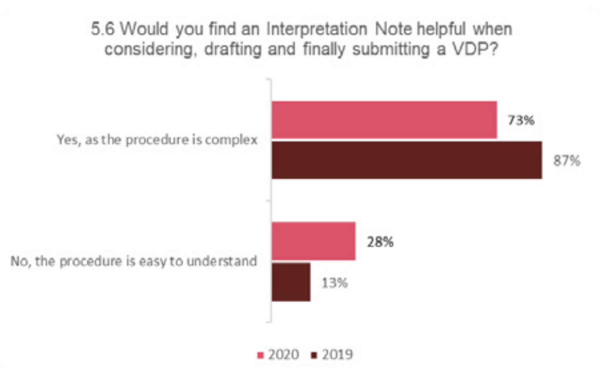
Is the VDP a viable option?

A discouraging result is that 54% of participants felt that the VDP regime did not assist their company in declaring its defaults. This is strange, as in 2018 and 2019, 80% of participants were of the view that VDP was of assistance to their companies. This could mean that taxpayers are losing faith in the system and/or that SARS is missing out on the opportunity to collect revenue, in the tough economic climate that we are facing.



VDP guidance required

Many taxpayers find that the VDP process is perplexing and 73% of participants would find an Interpretation Note helpful when drafting and submitting a VDP application. Although the results show a 14% decrease since last year, 73% is still high and an important indicator of assistance required by taxpayers in this regard. As mentioned above, SARS and taxpayers would benefit greatly if there is clear guidance issued on the meaning of crucial words and phrases used in the VDP part of the TAA – for example the meaning of 'voluntary' and 'full and complete' disclosure as well as clarity on whether an IT14SD is regarded as being part of SARS' audit process.



Key takeaways:

With the current state of our economy post Covid-19 and considering the Government's deteriorating fiscal position, it may be time for SARS to refocus on the VDP regime (legislation and practical implementation) to make it more accommodating for taxpayers and to fulfil the objective that it was envisioned to achieve. Furthermore, for SARS, this could mean more revenue collected without conducting long, drawn-out audits. Therefore, it is suggested that SARS refocuses on:

- Restoring taxpayers' faith in the effectiveness of the VDP regime as well as improving operations within the VDP Unit. This may include continuing to request amendments to the TAA in respect of certain sections contained in the VDP part of the TAA, for instance to define terms such as 'disclosure' and 'voluntary', what constitutes an 'audit' and furthermore the meaning of 'full and complete' – as there seems to be different interpretations on whether this part is not limited by section 99 of the TAA (i.e. prescription). As can be seen in the *Purveyors* case, there is a difference in the interpretation of fundamental key concepts relating to what constitutes a valid VDP application.
- Employing more skilled staff to the VDP Unit to assist with managing the processing of applications, thereby improving the turnaround time of applications.
- Issuing an Interpretation Note which contains guidance on drafting and submitting a VDP application (which Note must align with SARS' own internal policies on how the VDP Unit deals with VDP applications), as it would seem from the Taxing Times 2020 Survey and the *Purveyors* case that there is disparity between the interpretation of key concepts between SARS and taxpayers.

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SARS Watch

1 September 2020 – 30 September 2020

Legislation		
22 September 2020	Draft rules amendments under sections 49 and 120 – AfCFTA rules	Comments must be submitted to SARS by Friday, 9 October 2020.
14 September 2020	Draft Response Document on Disaster Management Tax Relief Bill, 2020 and the Disaster Management Tax Relief Administration Bill, 2020	This draft Response Document includes a summary of the key written comments received on the Covid-19 Tax Bills released for public comment as well as other key issues raised during the public hearings held by both the SCoF and SeCoF on 22 July 2020.
4 September 2020	Amendment to Part 1 of Schedule No. 1, by the substitution of tariff subheadings 1001.91 and 1001.99 as well as 1101.00.10, 1101.00.20, 1101.00.30 and 1101.00.90, to increase the rate of customs duty on wheat and wheaten flour from 51.66c/kg and 77.49c/kg to 83,21c/kg and 124,81c/kg respectively, in terms of the existing variable tariff formula – Minute 16/2019	Notice R955 published in Government Gazette No. 43683 with an implementation date of 4 September 2020.
2 September 2020	Draft rules amendments under sections 59A, 60 and 120 – Rules 59A.01A and 60.10(1) – Calendar day grace period and implementation date	Comments must be submitted by Wednesday, 9 September 2020.
1 September 2020	Draft Schedule Amendment – Part 1 of Schedule No. 1 to implement the 2021 Economic Partnership Agreement (EPA) phase-downs with effect from 1 January 2021	Comments must be submitted by Thursday, 1 October 2020.
Case law		
According to judgment date		
11 September 2020	Graspan Colliery SA (Pty) Ltd v CSARS (8420/18)	Whether the rehabilitation conducted by the applicant was primary production activities in mining which qualify for a diesel refund.
31 September 2020	Cart Blanche Marketing CC and others v CSARS (26244/15) [2020] ZAGPJHC	Whether the decision to select taxpayers for audits, in the context of the facts of this case, should be reviewed based on the principle of legality.
25 August 2020	Purveyors South Africa Mine Services (Pty) Ltd v CSARS (61689/2019) [2020] ZAGPPHC 409	Whether disclosure by Applicant was voluntary as contemplated in the provisions of section 227(a) of the Tax Administration Act.
13 August 2020	Pearlstock (Pty) Ltd v CSARS (83481/18) [2020] ZAGPPHC 393	The appeal lies against a tariff classification for customs duty purposes of certain 'PVC Panels' imported by the applicant.
27 August 2020	CSARS and Another v Alves (A194/2019) [2020] ZAFSHC 123	Whether the court a quo correctly declared that SARS failed to finalise the investigations under section 88 in reasonable time.
Rulings		
29 September 2020	BPR 354: Cash grants to an employee incentive trust and the transfer of share awards to qualifying employees	This ruling determines the income tax and capital gains tax consequences arising from cash grants made by an employer to an employee share incentive trust and the receipt thereof by the share incentive trust, and the vesting of shares in qualifying employees.
10 September 2020	BPR 353: Linear adjustment of gross sales of an unrefined mineral resource	This ruling determines that a linear adjustment may be made to adjust gross sales of an unrefined mineral resource in the event that the mineral is supplied in a condition higher than the maximum condition specified in Schedule 2 to the Act, read with section 6(2).
10 September 2020	BPR 352: Taxation of employees participating in an option programme	This ruling determines the tax consequences relating to the exercise of share options acquired by an employee under an incentive scheme.
10 September 2020	BGR 55: Sale of dwellings by fixed property developers following a change in use adjustment under section 18(1) or 18B(3)	This BGR clarifies the VAT consequences of the sale of fixed property consisting of dwellings, by a developer, pursuant to such dwellings being deemed to have been supplied by the developer under section 18(1) or 18B(3).

Guides and forms		
22 September 2020	Taxation in South Africa 2020	This is a general guide providing an overview of the most significant tax legislation administered in South Africa by the Commissioner for the South African Revenue Service (SARS).
21 September 2020	Offences and Penalties Policy	This external Customs and excise policy came into effective on 21 September 2020.
21 September 2020	Completion Manual for Declaration	The purpose of this manual is to ensure uniform implementation of Customs procedures in the Customs clearance declarations (CCD) process.
21 September 2020	Customs Clearance Declaration	External Policy for importers and exporters and their clearing or registered agents before submitting a Customs Clearance Declaration.
16 September 2020	Third-Party Appointments via eFiling	The purpose of this document is to assist Third Parties in understanding the Third-Party Appointment process.
6 September 2020	Carbon Tax – External Policy	The policy applies to licensees of emissions facilities that generate carbon emissions liable to Carbon Tax (CBT) in South Africa (SA) and comes into effect on 16 September 2020.
16 September 2020	DA180 Environmental Account for Carbon Tax – External Manual	The manual will assist business entities that generate carbon emissions liable to Carbon Tax in South Africa.
8 September 2020	Guide to the Taxation of Special Trusts (Issue 3)	The purpose of this guide is to assist users in gaining a more in-depth understanding of the taxation of special trusts.
2 September 2020	Manage Value-Added Tax on Imported Services	The purpose of this document is to guide a recipient of imported services, who is not registered as a vendor, on the record keeping and payment process of the VAT that is payable on imported services.
Other publications		
28 September 2020	OECD: Tax inspectors without borders annual report 2020	This report from the Secretariat covers TIWB activity from January 2019 to June 2020.
23 September 2020	Tax Alert: Customs and Excise Valuations	The purpose of this alert is to give an overview of the customs value under the World Trade Organisation's General Agreement on Tariff and Trade (GATT).
17 September 2020	Tax Alert: Carbon Tax filing season	The purpose of this alert is to discuss the carbon tax filing season commencing on 1 October 2020.
4 September 2020	Tax Alert: Passing of Covid-19 Tax Relief Bills by the National Assembly	The purpose of this Alert is to highlight the changes, which relate to the deferral of employees' tax payments by employers as well as the treatment of donations made to Covid-19 disaster relief organisations.
3 September 2020	OECD: Tax Policy Reforms 2020	The report covers the latest tax policy reforms in all OECD countries, as well as in Argentina, China, Indonesia and South Africa.