TAXPRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 06 - 12 June 2024
(Issue 22 -2024)

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TOP STORY

Tax practitioners left stranded without eFiling access

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For context, this happens when the risk engine finds irregularities and mismatches of information. The primary concern is the use of tax practitioners' emails and/or cell phone details being used as Security Contact details on their clients' eFiling profiles.

Although the date of implementation was not previously communicated, SARS and SAIT did inform tax practitioners of this pending implementation since 14 May 2024, see issue 18 of the Tax Practice: Weekly Highlights.

In the announcement made by SARS, it was stated that affected tax practitioners would need to visit the SARS branch to authenticate themselves together with substantiating documents (ID, proof of address, proof of banking details, etc.). Unfortunately, from reports received from members, it would appear that the branch offices are also unable 'unlock' the profiles and that they have to report digital fraud first to get assistance. This process may take up to 21-business days to resolve.

We strongly recommend that affected tax practitioners inform each of their taxpayer clients and request that they update their security contact details on eFiling or at a SARS branch.

#StayAbreastOfTheTaxWave

Are you a tax practitioner with a passion for writing?

Let's feature your article on the **Tax Practice: Weekly Highlights.**

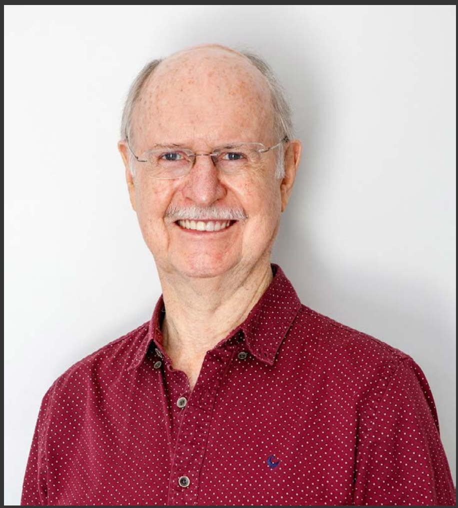
Send your article to
taxqueries@thesait.org.za.

Approximately 500 – 1 500 words

MEMBERS' DIGEST

Do you want to pay tax at 45%, no tax or somewhere in between?

Written by: : Kobus Muller, Master Tax Practitioner (SA)™



Transferring real estate to the trust: special considerations
The question of how to plan for a family's wealth is frequently asked, particularly by younger individuals. It is a crucial matter often discussed during casual conversations between friends or neighbours around a braai.

Discussing wealth planning with friends and older and experienced family members about such matters and with relevant consulting professionals is important.

Professional wealth planners
Before making any decisions, seeking assistance from a professional advisor is recommended. Additionally, it is important to involve a specialised professional in the final decision-making process for asset planning, which might be one or more of the following industries:

- Law;
- Accounting or auditing;
- Taxation;
- Registered financial professionals; and
- Real estate brokers.

When seeking advice or guidance from a professional, it is important to ensure that they have experience in your specific field of interest. Do not hesitate to ask the professional if they have the relevant experience. Additionally, it is recommended that you inquire whether the professional belongs to any recognized controlling body and if they are required to complete CPD (continuous professional development) hours each year. This indicates that they stay updated on the latest legislation and court cases. Whereas a young professional may be energetic and knowledgeable, the experience of a seasoned professional is invaluable.

Long-term or short-term planning
When planning their family's wealth, people often consider future generations beyond their children, such as their grandchildren and great-grandchildren. Therefore, it is crucial to think long-term and plan for at least forty years, taking into account the power of compound interest over time to build wealth.

For instance, if you invest R1000 per month with a 10% interest rate for ten years, you will have R204 844 after this period. This amount will increase to R2 260 487 after 30 years and to R6 324 079 after 40 years.

It is vital to consult a professional to determine which investment vehicle will offer the best return. In this article, we will focus on Trusts as an investment option. However, please note that we cannot cover all investment options here, such as public and private company shares, mutual funds, money markets, primary residences, offshore investments, etc.

Types of trusts
Broadly speaking, there are a number of ways in which South African trusts can be classified. This includes the following classifications:

- An 'inter vivos trust': Is a type of trust created during a person's lifetime through an agreement between the founder (usually a father or mother) and trustee(s). The purpose of this trust is to benefit the beneficiaries, who may include children and their descendants, among others. At present, this type of trust is very common in South Africa.
- A 'Testamentary trust': Is created by a person's last will and testament and takes

effect after their death. The trustees' duties are explicitly defined in the document and they must comply with all their obligations.
- In a 'Bewind trust': The founder or settlor transfers ownership of assets or property to the trust's beneficiaries, but control over the assets or property is given to the trustee(s).
- In an 'Ownership trust': The founder or settlor transfers ownership of assets or property to the trustee(s) (in a fiduciary capacity) to be held for the benefit of defined or determinable beneficiaries of the trust.
- Specific application trusts may be classified as the following types of trusts based on the application of a trust, e.g.:
  - Trading (business) Trusts;
  - Asset-protection or realisation Trusts;
  - Charitable Trusts;
  - Land rehabilitation Trusts;
  - Share incentive scheme Trusts;
  - Broad-based Black Economic Empowerment (BEE) Trusts;
  - Collective investment scheme (CIS) Trusts; or
  - Special Trusts.
- For tax purposes, the following types of special trusts are recognised: Special Trust Type A - A trust created solely for the benefit of a person(s) with a mental or physical 'disability' as defined in section 6B(1).
- Special Trust Type B - A trust created solely for the benefit of a person(s) who is a relative of the person who died and who is alive on the date of death of that deceased person (including those conceived but not yet born), and the youngest of the beneficiaries is younger than 18 years on the last day of the year of assessment.
-

Persons involved in a trust

Trusts, as defined by the Trust Property Control Act 57 of 1988, are intended to separate the assets held within them from the personal estates of the founders and trustees. In any trust there must be at least three types of persons:

- The founder;
- The trustees;
- -he beneficiaries.

Can a trustee be a company? Yes, it can be a company or a natural person.

Must all trusts have an independent trustee? Yes, in the court case of the *Land and Agricultural Development Bank of SA vs. Parker and Others*, Case no: 186/2003, the case led to the introduction of an independent trustee.

Any of the following: A company, trust or natural person, can be designated as a trust beneficiary.

This separation is a fundamental principle of trust law intended to safeguard the assets for the benefit of the beneficiaries. It is of the utmost importance to ensure that the assets within a trust are protected and used for their intended purposes. By creating a trust, individuals can ensure that their assets are managed and distributed according to their wishes while protecting any potential legal claim against their personal estate.

The primary reason for transferring assets to a trust is to ensure that they do not fall under the name of the founder's estate, thereby avoiding estate duty. In the 1980s and 1990s, this was the main reason for creating a trust; founders/trustees would register a trust and leave the trust deed in a drawer, thereby not submitting tax returns and opening themselves to possible prosecution. Doing this has also withheld them from obtaining huge benefits from registering a trust. However, over the past few years, the duties of trustees and independent trustees have become increasingly important. This is reflected in the 2022 amendment to the Trust Property Control Act 1988, which states that trustees must fulfil certain obligations to maintain the trust: *"When a new trust is registered, a more comprehensive list of information is required, and we refer you to the Master's Office form J401 to obtain the full list of information".*

According to the new regulation 3C of the Trust Property Control Act,1988 (Act No. 57 of 1988): amendment regulations, trustees must keep a record of beneficial ownership information.

(1) A trustee must keep a record of the following information relating to each identified beneficial owner of the trust, in the register contemplated in section 11A(1) of the Act:
(a) The full names;
(b) Date of birth;
(c) Nationality;
(d) An official identity document number or passport number, indicating the type of document and the country of issue;
(e) Citizenship;
(f) Residential address;
(g) If different from the residential address, the beneficial owner's address for service of notices;
(h) Other means of contact;
(i) If the person is a registered taxpayer in the Republic, the person's tax number;
(j) The class or category of beneficial ownership under which the person falls;
(k) The date on which the person became a beneficial owner of the trust; and
(l) Where applicable, the date on which the person ceased to be a beneficial owner of the trust.

(2) Where a beneficial owner is a minor, a trustee must also keep a record of the information referred to in sub-regulation (1) in respect of the minor's legal guardian.

(3) A trustee must keep a certified or verified copy of an official identity document or passport of each identified beneficial owner of the trust. The information recorded in terms of sub-regulation (1)(a) to (d) must appear in the same way as it appears on the certified or verified copy of the identity document or passport.

As everyone can observe, there has been a significant transformation in the sharing of information over the past few decades. This change is essential and much needed. Unfortunately, some individuals have taken advantage of this shift in sharing information for their own benefit. The abovementioned adjustments made to the system will help reduce the misuse of information by such individuals.

Taxation

Income tax

When we discuss income tax, the tax rates for the income tax year 2024/ 2025 will be used.

The question always arises about how it could be possible to use a trust as a vehicle and not pay the highest income tax rate if the income tax rate of a trust is 45%, that of an individual is also 45% and that of a company is 27%.

Allow me to provide an example to make the explanation easier. Let us suppose there is Trust A with Founder B, Trustees C and D and an independent Trustee E. C and D are a married couple. The Children of the trustees are the beneficiaries of Trust X, Y and Z.

The trust's founder must have paid the initial trust fund of R1 000 into the trust's bank account.

The trust has bought a commercial property after it obtained a bond from a commercial bank for a purchase price of R10m; a Transfer duty of 10% on the purchase price is payable; therefore, a total cost of R 11m and the bond also R10.99m. There is one exception that The Court held in the *CIR vs. Freddies Consolidated Mines Ltd* case of 1957 that the word 'acquired' (which is required for a 'transaction' to take place under the Transfer Duty Act) means the acquisition of a 'right'.

The trust got a long-term tenant who received the following income and paid the following expenses.

Rent received		R1 000 000
Less expenses: Accounting fees	R3 500	
Bond Interest	R725 000	
Other expenses	R5 000	
Net profit before distributions to Beneficiaries		R266 500
Distributions to beneficiaries		0

If the trustees of Trust A decide not to distribute the profit to the beneficiaries, the tax payable is 45% or R 119 925. However, the trust deed gives the trustees the right to decide how they want to distribute the trust's income. In this case, the three trustees have decided to distribute the profit as follows:
- X: R95 000 (tax payable: Nil)
- Y: R90 000 (tax payable: Nil)
- Z: R81 500 (tax payable: Nil)

The total profit is R266 500. The total tax payable is R nil because they have applied the conduit principle. Therefore, in this case, the tax is much less than 45% of the normal tax of a trust.

It is crucial for the trustees of the trust to decide on the distribution before the year-end and document it in the minutes of the trust meeting. The year-end for all trusts is at the end of February. If the year-end ends in February 2024 and the distribution is made in March or later, the trust will be taxed at 45% on the full amount of R 266 500 for the February 2024 tax year. Additionally, the beneficiaries will be taxed on the mentioned amounts in the 2025 tax year.

Taxation of non-resident beneficiaries of trusts

(Applicable provision: Section 25B of the Act)

This proposal is complete and will take effect from 1 March 2024. If distributions are made before the end of February 2024, they will be taxed in the hands of beneficiaries X, Y and Z, as mentioned above. If beneficiary Z emigrates after February 2025 but before 28 February 2026 (and the same amounts would apply for the 2026 tax year), the taxation of the group will be as follows:

- X: R 95 000 (tax payable: Nil)
- Y: R 90 000 (tax payable: Nil)
- Z: For the 2026 tax year. Due to the change in legislation from 1 March 2024, the amount distributed to this beneficiary for this year will be taxed in the trust at the trust's tax rate of 36%, which amounts to R29 340.

Capital Gains tax

If the same 'Trust A' as the above is used and the property was bought after 1 October 2001, the trustees have made an addition to the property to the amount of R 3m, which brings the total cost price during the 2025 tax year to R 14m (R 11m + R3m), and have decided to sell the property for R20m, the trust has a capital gain of R 6m (20m-14m); the best taxation for the group will be as follows:

Proceed	R20m
Base cost (Purchase price plus additions)	R14m
Capital Gain	**R6m**
Distribution to X	R2m
Distribution to Y	R2m
Distribution to Z	R2m
Capital profit in trust	Nil

Each individual beneficiary will be taxed as follows:

Capital Gain	R2m
The inclusion rate of 40%	R800 000
Taxation on this amount after the primary rebate	**R211 411.61**

Three beneficiaries will receive a total amount due of R 634 324.83, representing 10.57% and not 45% or 36% of the total capital gain of R 6 million.

When discussing trust matters, it is important to consult with a professional and inquire about the implications of section 7(C) on all transactions. Due to time constraints, this article cannot discuss this topic in detail.

It is important to note that if a property is sold after the beneficiary has emigrated, the beneficiary's portion will be taxed at the trust rate, rather than the individual rate.

The source of income, such as capital gains, is declared to the beneficiary. For instance, if a trust receives a capital gain and distributes it to the beneficiary, the beneficiary will be taxed on the capital gain. When the trustee declares a dividend to the beneficiary, the beneficiary will be taxed on the dividend.\
On the other hand, if the trustees choose not to sell the property and pay off the bond, the beneficiaries become the next-generation trustees. This means that the property can continue to grow in value. For example, if it grows at a rate of 10% annually over a period of 50 years, it could be worth up to R 1.1 billion.

Conclusion

To answer the initial question, the important decisions made in conjunction with good, up-to-date planners will determine the lowest rate[1]

1 The information mentioned above has been collected from various sources such as the Trust Property Control Act 57 of 1988, the SARS Guide to Taxation of Special Trusts, the Income Tax Return for Trusts (ITR12T), the Tax Registration of a Trust, and a helpful article by Phia van der Spuy. Additionally, the Income Tax Act 58 of 1962, as amended, De Rebus journal, has also been used as a reference.

Soli Deo Gloria

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

SAIT TaxHelpline – SARS operational queries

Tax practitioners left stranded without eFiling access

On Friday, 31 May 2024, SARS started denying access to eFiling profiles where the contact details associated with the profile are linked to more than the maximum number of profiles allowed. This came at a sensitive time as 31 May 2024 fell on the submission deadline for some electronic VAT submissions, employer reconciliation and third-party data.

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We strongly recommend that affected tax practitioners inform each of their taxpayer clients and request that they update their security contact details on eFiling or at a SARS branch.

eFiling security details

The eFiling security details are primarily used with retrieving the eFiling profile where the eFiling user has forgotten the username or password. To update the eFiling security details, the following process must be followed:

1. Select **My Profile** from the eFiling menu on the left and click on **Profile and Preference Setup**.
2. Scroll to the section **Security Contact Details**.
3. Insert your new email address and/or your new cell number.
4. Select your preferred method of communication.
5. Click on **Update & Save**.
6. On the pop-up screen that displays, select your preferred method of communication to receive the One-Time-Pin (OTP).
7. After you have entered the correct OTP, a message will display confirming that your security contact details have been updated successfully.

SAIT TaxHelpline – escalations

As part of our service to members, SAIT escalates appropriate cases within the SARS structures on behalf of members. Members can submit a query via the TaxHelpline for SAIT to assist with a SARS escalation matter. You can read more on the process and requirements, here.

The most urgent cases escalated this week related to:

1. Delay in the finalisation of VAT objections;
2. Tax practitioners being unable to access their eFiling profile; and
3. Registered representative cases being finalised without the ability to activate tax types on eFiling.

SARS regional and national operational meetings

SAIT and its Regional Representatives attend the SARS/RCB regional meetings on a quarterly basis (qualifying for CPD points).

Feeback from the RCB/SARS regional and national meetings

Feedback from the following regional meetings can be accessed:

1. Western Cape held on 5 June 2024; and
2. Free State and Northern Cape held on 10 June 2024

In case you missed it, feedback from the previously held North West regional meeting held on 3 June 2024 can also accessed.

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. KwaZulu-Natal for 24 June 2024;
2. Gauteng South for 17 July 2024;
3. Gauteng North for 22 August 2024;
4. Free State and Northern Cape for 9 September 2024;
5. KwaZulu-Natal for 9 September 2024;
6. Free State and Northern Cape for 11 November 2024;
7. Gauteng South for 13 November 2024;
8. Gauteng North for 21 November 2024; and
9. KwaZulu-Natal for 25 November 2024.

Other meetings of interest

1. SARS National Operations meeting scheduled for 25 July 2024;
2. RCB forum meeting scheduled for 10 September 2024;
3. RCB forum meeting scheduled for 12 November 2024; and
4. SARS National Operations meeting scheduled for 21 November 2024.

Members who wish to make themselves available to serve as SAIT Regional Representatives or raise agenda points can send their details (full names, region, and area of speciality) to Lerato Mashigo at taxassist@thesait.org.za.

DAILY COMPLIANCE AND ADMINISTRATION

Due dates for reporting and payments: May and June 2024

Month	Date	Tax Type	Notification
June 2024	07/06/2024	Employment Taxes	**EMP201 -** Submissions and payments
	25/06/2024	Value-Added Tax	**VAT201 -** Manual submissions and payments
	28/06/2024	Value-Added Tax	**VAT201 -** Electronic submissions and payments
	28/06/2024	Income Tax	**ITR14 -** Submission of 2023 returns for companies with a June year-end
	28/06/2024	Income Tax	**1st provisional (2024)** - Submissions and payments for individuals, trusts and companies with a December year-end
	28/06/2024	Income Tax	**2nd provisional (2024)** - Submissions and payments for companies with a June year-end
	28/06/2024	Income Tax	**3rd provisional (2023)** - Payments for companies with a December year-end

SAIT member resources

- SAIT Important tax dates calendar – contains important dates from January 2024 to January 2025 (updated). The SAIT calendar has been updated to include the Filing Season 2024 submission deadlines.
- SAIT SARS contact map – links service requirements to SARS channels (unchanged).

Key Operational News

Reminder on SARS officially gazettes the Filing Season 2024 dates

On 3 June 2024, SARS published a public notice relating to the notice in terms of section 25 of the Tax Administration Act, No. 28 of 2011 (the TAA), read with section 66(1) of the Income Tax Act, No. 58 of 1962 (the ITA) specifying the persons who must submit income tax returns for the 2024 year of assessment.

Between **1 – 14 July 2024**, SARS will be issuing **auto-assessments** to the qualifying population, and during this time, all other 2024 personal income tax return submissions will be blocked.

Filing Season 2024 will then open on **Monday, 15 July 2024** and the following deadlines will apply to the different categories of taxpayers:

- Any company, 12 months from the date on which the financial year ends.
- All other persons (which include natural persons, trusts and other juristic persons such as institutions, boards or bodies).
- **21 October 2024** if the return is submitted electronically through the assistance of a SARS official **at a SARS branch office or manually**.
- **21 October 2024** if the return does **not relate to a provisional taxpayer** and is submitted by using the **SARS eFiling platform**.
- **20 January 2025** if the return relates to a **provisional taxpayer** and is submitted by using the SARS eFiling platform.

- Unlike previous years, the **Trusts Income Tax** filing season will **open on 16 September 2024 and close on 20 January 2025**.
- Where accounts are accepted by the Commissioner in terms of section 66(13A) of the ITA in respect of the whole or portion of a taxpayer's income, which are drawn to a date after 29 February 2024 but on or before 30 September 2024, within 6 months from the date such accounts are drawn.

SARS launches a tool to determine if a personal income tax is required

With Filing Season 2024 around the corner, SARS has launched an online tool to determine if the taxpayer needs to submit a personal income tax return (ITR12) for the 2024 year of assessment.

The tool uses an automated questionnaire to determine if the taxpayer meets the submission criteria per the public notice. Some of the questions include:

- Did you earn any income during the tax year 1 March 2023 to 29 February 2024?;
- What is your age range?;
- Was your annual income more than R91 250?; and
- Was your income only from employment and from a single employer?

Based on the answers provided, SARS will advise if the taxpayer needs to submit a tax return come 15 July 2024.

Other SARS and related operational publications and announcements

- **12 June 2024:** SARS announced that the eBooking callback option on the USSD menu option had been removed. SARS stated that this decision was taken to manage the effect of the number of queries during peak tax seasons.

TAX PRACTITIONER MANAGEMENT

SAIT TaxHelpline – Tax practitioner access and functionality (eFiling)

No new recurring matters have been identified in the queries submitted to SAIT for the week of 6 - 12 June 2024.

Key tax practitioner news

No key tax practitioner news were published during the week of 6 – 12 June 2024.

Government & stakeholder newsletters

No government and stakeholder newsletters were published during the week of 6 – 12 June 2024.

Other tax practitioner access and functionality publications and announcements

- **11 June 2024:** SARS announced that both the Secure File Gateway and Connect:Direct platforms would be temporarily offline for planned maintenance between 16:00 and 21:00 on Thursday 13 June 2024. Users are advised not to submit any files in the production or test environment during this time as they will not be received or processed.
- **10 June 2024:** The SARS Rissik branch was closed on Monday, 10 June 2024.
- **6 June 2024:** SARS announced that it would be performing planned upgrades to the

eFiling platform on Friday, 7 June 2024 at 22:00 until Sunday, 8 June 2024 at 01:00. During this time, the digital platform will not be available.

- **6 June 2024:** SARS announced that it would be performing planned upgrades to the eFiling platform on Saturday, 8 June 2024 at 19:30 until Sunday, 9 June 2024 at 00:00. During this time, the digital platform will not be available.
- **6 June 2024:** SARS identified a new scam doing the rounds talking about outstanding tax payment. SARS would like to confirm that they do not give bank account numbers to taxpayers. Taxpayers are urged not to make any payments to these accounts.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Legislation

No new legislation, international agreements or policy matters were published in the week of 6 - 12 June 2024.

Reminder regarding the legislative cycle update

The annual legislative tax amendment cycle which culminates in the promulgation of the Tax Laws Amendment Act and the Tax Administration Laws Amendment Act includes several key events.

During the Finance Minister's presentation of the National Budget Speech, the Minister indicated that National Treasury will be implementing a global minimum tax to limit the negative effects of tax competition. With retrospective effect for years of assessment commencing on or after 1 January 2024, multinational corporations with annual revenue exceeding €750 million will be subject to an effective tax rate of at least 15 per cent, regardless of where their profits are generated.

National Treasury forecasts that the implementation of the global minimum tax will raise an additional R8 billion in corporate tax revenue in 2026/27. Simultaneously, the Minister of Finance released the draft Global Minimum Tax Bill (and associated documentation) for public commentary. All submissions have since been made to National Treasury and are undergoing consideration.

At present, it is expected that the comprehensive annual tax amendments in the form of the draft tax amendment bills (together with the revised draft Global Minimum Tax Bill) will be published towards the end of July 2024. For ease of reference, SAIT has provided a calendar setting out the general dates relevant to the annual legislative tax amendment cycle.

LEGISLATIVE INTERPRETATION

Submissions made in response to legislative interpretation calls for comment

On 7 June 2024, the SAIT Technical team submitted commentary to SARS regarding the draft interpretation note that addresses the income tax treatment of water services providers (draft IN).

The draft IN provides guidance on the interpretation and application of the definition of 'water services provider' in section 1(1) of the Act for purposes of the exemption of the receipts and accruals of a qualifying water services provider from normal tax under section 10(1)(t)(ix) of the Act.

The SAIT Technical team is unopposed to the interpretation contained therein. There were, however, technical and grammatical amendments that were raised with SARS and thus bought to SARS' attention.

Legislative counsel publications

Publication of the average exchange rates now available

On 7 June 2024, SARS published the latest update to the Average Exchange Rates.

The Income Tax Act provides specifically that certain amounts expressed in a foreign currency must be translated into ZAR by the application of an applicable average exchange rate. On a quarterly basis, the South African Reserve Bank determines weighted average exchange rates, based on the foreign exchange transactions of commercial banks. These average exchange rates are published to be used by taxpayers in the determination of the average exchange rate when required for specific sections of the Income Tax Act.

Taxpayers may opt to utilise the below average exchange rates, which may differ from those published by SARS, in these cases, the taxpayer must keep record of all calculations for audit purposes:

- Table A – A list of the average exchange rates of selected currencies for a year of assessment as from December 2003.
- Table B – A list of the monthly average exchange rates to assist a person whose year of assessment is shorter or longer than 12 months.

The next update to the average exchange rates can be expected in September 2024.

SARS publishes FAQs on domestic reverse charge regulations

On 10 June 2024, SARS published a document containing frequently asked questions (FAQs) pertaining to the interpretation and understanding of the VAT domestic reverse charge (DRC) on valuable metals.

A VAT DRC was introduced in the regulations that were published in *Government Gazette 46512* on 8 June 2022. The DRC Regulations came into effect on 1 July 2022. Further amendments to the DRC Regulations were made in *Government Gazette* 50642 published on 10 May 2024 (Notice 4793) and came into effect on 1 January 2024.

The FAQs were compiled based on questions that were and are likely to be raised about the implications of the DRC Regulations. The FAQs are drafted to assist vendors and the public at large to obtain clarity and to ensure consistency on certain practical and technical aspects relating to the DRC Regulations. These FAQs are not to be utilised as legal reference.

Published court cases

No new court cases were published in the week of 6 - 12 June 2024.

Other SARS publications and announcements

The long-standing matter between SARS and SHL Wholesalers CC (SHL) has been finalised with the sole member of SHL - Suhayle Ballim – receiving a sentence of 15 years direct imprisonment for defrauding SARS a total of R15 607 587.86 in fraudulent and false submissions of VAT 201 returns for 39 VAT periods from February 2004 until April 2007. Ballim was accused of purportedly exporting goods from South Africa to, among others, Mozambique and Zimbabwe (ghost exports), which resulted in the accused and SHL claiming undue VAT.

SARS' Criminal Investigation Unit included search and seizure operations, which were conducted on the business premises and private residence of the accused. These operations unearthed false export documents, invoices, delivery notes, road manifests and export bills of entry (DA550). The accused used the proceeds from the fraudulent refunds to maintain his lavish lifestyle.

SARS Commissioner, Mr Edward Kieswetter, stated that *"the message is loud and clear that SARS will not rest nor tolerate those who indulge in criminality and deprive the country's fiscus of what is due to it. Taxpayers who live lavish lifestyles, beyond honest means, by stealing from the most vulnerable in society must face the consequences; SARS will make it hard and costly for those who engage in criminality"*.

Stakeholders, taxpayers and practitioners are advised to avoid any conduct that is unbecoming and that would result in stern action being taken against them.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

No other matters of interest for a tax practice were published for the week of 6 – 12 June 2024.