

ENS tax in brief

Below, please find issue 129 of ENS' tax in brief, a snapshot of the latest tax developments in South Africa.

case law

- ***TALT v C:SARS (A2023/077887) [2024] ZAGPJHC 827 (27 August 2024)***
 - The taxpayer, an inter vivos discretionary trust, submitted its 2012 tax return declaring its taxable capital gains as nil. However, the South African Revenue Service ("SARS") conducted an audit and issued an additional assessment in terms of which a taxable capital gain and understatement penalty were included.
 - The taxpayer objected to the additional assessment and the USP, arguing that the assessment was invalid due to the expiry of the prescription period. SARS disallowed the objections.
 - The taxpayer appealed to the Tax Court, raising the same objections and introducing a new ground of appeal in its rule 32 statement of grounds of appeal in relation to the capital gain, which it believed was impermissibly taxed.
 - SARS contended that the new ground of appeal was invalid because it was not included in the original objection to the additional assessment. The Tax Court treated this as a preliminary issue and upheld SARS' view that the new ground could not be raised.
 - The taxpayer appealed to the Full Court and the appeal was upheld. The Full Court agreed that the new ground was not a separate objection, but a further argument related to the same issue (i.e. the capital gain) that had already been disputed.
 - Therefore, the taxpayer was permitted to raise this new ground of appeal.
 - Find a link to the judgment [here](#).

SARS publications

- **Monthly Tax Digest for August 2024**
 - Find the August monthly digital column [here](#).
- **Government Connect | Government Connect Issue 21**
 - Issue 21 highlights the benefits of eFiling and SARS' self-help services available on mobile devices.
 - Find more information [here](#).
- **Tax Practitioner Connect | Tax Practitioner Connect Issue 55**
 - Issue 21 highlights the benefits of e-Filing and SARS' self-help services available on mobile devices.
 - Find more information [here](#).
- **FAQ Issue 4 | Deceased estates**
 - The FAQs document has been compiled on the basis of questions that executors and the public at large have about the tax treatment of deceased estates.
 - Find a copy of the FAQs Deceased Estates (Issue 4) [here](#).
- **Guide on return for withholding tax on royalties**
 - The Withholding Tax on Royalties Guide including details of the latest version of the Withholding Tax on Royalties' Return ("WTR01") has been published.
 - This guide provides guidelines regarding the completion of the WTR01, how to make payment on e-Filing and apply for a refund using the Rev16 form.
 - Find a copy of the guide [here](#).
- **Traders and Travellers Connect Edition 4**
 - The [SMME Traders Connect Newsletter edition 4](#) is now available.

- In the October 2023 and March 2024 publications, focus was placed on SARS Customs administered incentives, particularly the Authorised Economic Operator and Customs Deferment.
- This was to raise awareness about these incentives so that our SMME traders can learn more about them and use the incentives to benefit their businesses and improve their compliance. This publication continues to zoom in on more incentives that the SMME trader community can benefit from.
- **Verify a tax practitioner** using their tax practitioner number [here](#).
- **Tax implications of withdrawals under the Two-Pot Retirement System**
 - Persons who intend to withdraw from the savings pot of the “Two-Pot Retirement System” from 1 September 2024 must be registered for tax.
 - Those who are not registered must register before they apply to their relevant fund. If a person is not registered for tax, the request for a tax directive sent from the fund to SARS will be rejected.
 - Contributions to retirement funds are not taxed. Therefore, tax will be deducted from any amount withdrawn. Tax will be calculated at the tax rate applicable to the individual.
 - Taxpayers must also ensure that they have no outstanding returns and do not owe SARS. Debt owed to SARS will be deducted from the withdrawal amount.
 - Taxpayers are not required to go to a SARS office, as most applications are available on one of SARS’s digital or mobile channels.
 - Find a copy of the full media release [here](#).
- **Extended Trade Testing and Updated Specification for Two-Pot Retirement System**
 - SARS has commenced system enhancements to the Tax Directives process to accommodate the Two-Pot Retirement Scheme that commenced on 1 September 2024.
 - The latest changes incorporated into [IBIR-006 Tax Directives interim Interface Specification Version 6.705](#), and IBIR-006 Tax Directives interim [Interface Specification Version 6.706](#) include:
 - Rebates Calculation
 - Calculation of 1 third allowable Lump Sum

- Definition of Annual Remuneration of IRP3(a)
- Form A&D and Form C validations, regarding the 1/3 allowable lump sum.
- **Two-Pot Retirement Fund System webpage**
 - SARS launched a new webpage ([here](#)) which taxpayers are urged to visit before applying to retirement funds for two-pot withdrawals or if they require further information regarding the two-pot retirement system.
- **Updated Guide for tax rates/duties/levies (Issue 17)**
 - SARS has published an updated Guide Tax Rates/Duties/Levies
 - The guide provides a current and historical view of the rates of various taxes, duties and levies collected by SARS.
 - The guide is not an “official publication” as defined in section 1 of the Tax Administration Act, 28 of 2011 (“TAA”) and accordingly does not create a practice generally prevailing. It does not consider the technical and legal detail that is often associated with taxation and should, therefore, not be used as a legal reference.
 - See a copy of the guide [here](#).
- **Interpretation Note 15 (issue 6) | Exercise of discretion to extend the period to lodge an objection or appeal**
 - This note provides guidance on the considerations that a senior SARS official will take into account when exercising a discretion to extend the prescribed period for lodging an objection under section 104(4) or an appeal under section 107(2) of the TAA.
 - This issue replaces issue 5 as from 30 August 2024.
 - Find a copy of the interpretation note [here](#).
- **Draft Interpretation Note for public comment | Meaning of reserve fund under section 23(e)**
 - The draft note considers the meaning of “reserve fund” for the purposes of section 23(e) of the Income Tax Act, 58 of 1962.
 - Due date for public comment is 30 September 2024.
 - Find a copy of the draft interpretation note [here](#).

- **Trade statistics for July 2024**

- South Africa recorded a preliminary trade balance surplus of R17.6 billion in July 2024 attributable to exports of R175.0 billion and imports of R157.4 billion.
- The year-to-date (01 January to 31 July 2024) preliminary trade balance surplus of R85.3 billion was an improvement from the R30.3 billion trade balance surplus for the comparable period in 2023.
- On a year-on-year basis, export flows for July 2024 (R175.0 billion) were 1.9% higher compared to R171.8 billion recorded in July 2023.
- Import flows were higher by 1.1%, having increased from R155.7 billion in July 2023 to R157.4 billion in the current period.
- Find the full media release [here](#).

customs and excise

- **Legal Counsel | Secondary Legislation – Tariff Amendments**

- The Tariff Amendments landing page has been updated to expand the note section below the heading “Technical tariff amendments” to read “2. The requested 8-digit tariff subheadings will be reviewed continuously and if there is no usage / imports for a period of two years, the subheadings will be deleted from the tariff book.”
- Find more information [here](#).

- **The updated contravention list that was published on 13 August 2024 has been withdrawn.**

- The previous contravention list is therefore still effective.
- Find more information [here](#).

- **Customs | Registration, Licensing and Accreditation**

- The facility codes used in Box 30 of Goods Declaration (“**GD**”) have been updated to include the details of the newly approved container depot – Grindrod Logistics (located in Cape Town) and a new de-grouping depot – Rhenus Logistics (Pty) Ltd (located in Johannesburg, ORTIA).
- See the updated Facility Code List [here](#).

- **Rule amendments 2024**

- [Rule amendment notice R5158](#), as published in Government Gazette 51131 of 30 August 2024, to effect miscellaneous amendments to rules under sections 21 49F 49G 59A and 120 of the Customs and Excise Act, 91 of 1964.

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