

# COMPLIANCE WITH SARS, CIPC AND REGULATORY BODIES

## WEBINAR MATERIAL: 5 MAY 2020

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## MODULE 1: INTRODUCTION

The recent embarrassingly high wave of scandals in the accounting and auditing profession has now subsided. It however left a big dent in the public's perception of this noble profession.

A positive outcome from this episode, however, is that industry regulators and professional bodies have been prompted to re-evaluate regulatory and compliance matters with a view to limiting the recurrence of future scandals. The good reputation of this profession must be restored!

In this webinar we focus on SARS, CIPC and IRBA. We cover important announcements on current developments, rulings, compliance notices, judgments, inspection reports, and administrative notices that every accountant and auditor need to be aware of so that they remain compliant.

### 1. THE “MAIN” PLAYERS = SARS, IRBA & CIPC

During the webinar, you can expect to find the following items in each of the categories below:

#### *SARS:*

- Guides
- Interpretation Notes
- Binding General Rulings
- Media releases, where appropriate
- Other important articles and information found:

#### *IRBA:*

- Standards
- Guides
- Code of Professional Conduct
- Inspections
- Investigations
- Press releases

#### *CIPC:*

- Filing of Annual returns and AFS/FAS
- CIPC Notices issued
- Compliance Checklist
- Reaction to COVID-19
  - Certificates issued
  - Companies under insolvent circumstances

### 2. OTHER LEGISLATION & OTHER REGULATORS (E.G. SAICA)

During the seminar, you can also expect to find some of the following items in each of the categories below:

#### *Other Legislation:*

- BCEA

#### *SAICA:*

- Standards
- Guides
- Press releases

## MODULE 2: CIPC COMPLIANCE UPDATE

### 1. GENERAL: OPERATIONS DURING LOCKDOWN ALERT LEVEL 4

- Kindly take note for the purpose of the Acts mentioned in the schedule below, and as part of CIPC providing support in respect of various government interventions on opening industries and services on various levels, CIPC will commence a phased-in approach of resumption on normal business operations as from 4<sup>th</sup> of May 2020.
- CIPC would like to advise customers that CIPC will incrementally be recommencing back office processing services for CIPC and related services. This notice must be read together with the other general notices dated 24 March 2020 and 15 April 2020, for more information please read Notice 23 of 2020 ([Refer to Number 10 below](#)).

### 2. NOTICE 1 OF 2020 – DISPARITY OF REGISTRATION NUMBERS AND INCORPORATION DATES

- Date published = 6 January 2020
- 1-page document
  - ☐ You may find that the registration number of your application submitted last year is 2019 and the incorporation date (or registration date) is 2020. This is due to the automation of CIPC's system.
  - ☐ CIPC assigns the year of registration as the year within which the application was received, while the incorporation date is the actual date that the company was registered.

*This Notice is available to you as a Source Document*

### 3. NOTICE 4 OF 2020 – DISCONTINUATION OF 3RD PARTY MODEL

- Date published = 3 January 2020
- 1-page document
  - ☐ CIPC will be discontinuing the Third Party Model as a transactional channel.
  - ☐ This means that no new 3<sup>rd</sup> parties will be registered on the CIPC website.
  - ☐ Support to existing 3<sup>rd</sup> parties that have registered with CIPC will be ended by 30 September 2020

Send any queries to [thirdparties@cipc.co.za](mailto:thirdparties@cipc.co.za)

*This notice is available to you as a Source Document*

### 4. NOTICE 5 OF 2020 – COMPULSORY NAME RESERVATION FOR CO-OPERATIVES

- Date published = 31 January 2020
- 1-page document
  - ☐ As per Notice 60 of 2019, before a Co-Op can be registered, the name of the Co-Op must be approved first.
  - ☐ CIPC have noticed the practice that Co-Op applications are filed with CR5 and not an approved name as prescribed in the Act.
  - ☐ Effective from 1 April 2020, an approved name (CoR 9.4) must be attached and accompany an application to the registrar for registration of a new co-op or name change. *Otherwise, your application will be rejected.*
    - An approved name is valid for 6 months from date of approval.


*This notice is available to you as a Source Document*

## 5. NOTICE 6 OF 2020 – EXPANSION OF MOBILE SERVICES

- Date published = 14 February 2020
- 1-page document
- ☐ CIPC launched Short Standard Private Company Registration and B-BBEE certificate (affidavit) on CIPC Mobile (available on the Android version only)
- ☐ Can still do: Name reservation, Disclosure certificate & Annual returns on CIPC Mobile

*This notice is available to you as a Source Document*

## 6. NOTICE 9 OF 2020 – UPDATE ON COMPANIES COMPLIANCE CHECKLIST ON E-SERVICES

- 
- Date published = 3 March 2020
  - 2-page document
  - ☐ CIPC confirms that this **only applies to companies that are audited/independently reviewed (both mandatory & voluntary)**
  - ☐ The Compliance Checklist now contains a **comment box** for each question, should companies wish to explain their specific answers given to the CIPC.
  - ☐ **Compliance Year** is clarified = is aligned to the anniversary date of a company's incorporation

### More detail on this important notice:

- CIPC has issued an update on which companies must submit the Compliance Checklist
- **With effect from 3 March 2020, it is mandatory for 5 relevant types of companies to confirm if the company's annual financial statements are audited or independently reviewed.**
- If NO (the company's AFS are not audited or independently reviewed), then the company will not be required to complete the Compliance Checklist.
- An email will be sent to all active directors and to the person who submitted this information
- If YES (the company's AFS are audited or independently reviewed), then you **MUST** complete the Compliance Checklist.
- Upon submitting the Compliance Checklist, an email will be sent to all active directors and to the person who submitted the Compliance Checklist confirming the information sent on behalf of the company.
- Reference to Compliance Year in the Compliance Checklist is aligned to the anniversary date of a company's incorporation.
- The Compliance Checklist is a standalone service and the information required must therefore be submitted by a company to the CIPC within 30 business days after the anniversary of the company's date of incorporation.
- They have also issued an update Companies Compliance Checklist – which now contains a comment box for each question should companies wish to explain their specific answers given to the CIPC.
- This enhanced Compliance Checklist can be accessed by logging on to the CIPC's E-services platform, clicking on TRANSACT and then on the Compliance Checklist icon.



**Remember:**

- The 5 types of companies are: Incorporated – Inc. (21); Proprietary Limited – (Pty) Ltd (07); Limited – Ltd (06); State Owned Company – SOC (30); Non-Profit Company – NPC (08)
- Any of the above types of companies that are audited or independently reviewed, **MUST** complete this Compliance Checklist.
- Close Corporations **DO NOT** need to submit the Compliance Checklist.
- Once you access the Compliance Checklist online in CIPC's E-services, you will need to answer whether or not the company is audited or independently reviewed by answering YES or NO.
- If you answer NO, then you **DO NOT NEED** to complete the Compliance Checklist
- The Compliance Checklist is a standalone service and the information required must therefore be submitted by a company to the CIPC within 30 business days after the anniversary of the company's date of incorporation.
- The Compliance Checklist **now contains a comment box for each question**, should companies wish to explain their specific answers given to the CIPC.
  - Once you select Yes, No or N/A whilst completing the checklist online, the comment box will automatically open for each question.
- For any questions or specific points of clarification on the Compliance Checklist please send an email to [COR135.1complaints@cipc.co.za](mailto:COR135.1complaints@cipc.co.za)

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## 7. NOTICE 13 OF 2020 – NON-READABLE DOCUMENTS SUBMITTED FOR PROCESSING

It has been noted that when clients are uploading or emailing documents to CIPC for processing in certain instances these documents cannot be processed due to the following reasons:

- Documents are password protected;
- Documents are corrupt;
- Documents are illegible;
- Incorrect document file names, which include too many dots, special characters in the file names, etc.

**To ensure timeous processing of all submitted documents, clients are advised to ensure:**

- There are no password set on any submitted documents;
- Customers should open documents prior to submission, to validate readability;
- Legibility to be confirmed after the document is compiled (scanned or saved);
- No documents should be saved with any special characters.

If all of the above requirements have been met and there is no feedback within 5 business days, please log a ticket on the CIPC enquiry system for the necessary attention.

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## 8. NOTICE 21 OF 2020 – SERVICES DURING EXTENDED LOCKDOWN

*This notice updated previously issued Notice 15 of 2020 (dated 23 March 2020), which dealt with the various platforms that customers were encouraged to use to transact with CIPC.*

As from 1 April 2020 only fully automated services (see table in the Notice) on the indicated channels will be available to the public.

Other important information in the notice includes:



- For the purposes of filing **Annual Returns**, it should be noted that the filing period, which falls within the national lockdown period, would be extended until two weeks after the national lockdown ceases or communicated otherwise by CIPC. If the filing period falls outside of this period, the normal prescribed filing period will be applicable. This extension of the filing period has the effect of deferring penalties, compliance checklist and preparation of annual financial statements accordingly.
- For purposes of **name reservations**, all name reservations that falls within the lockdown period will automatically be extended until two weeks after the lockdown period ceases, or CIPC communicates otherwise.
- For purposes of **business rescue**, a general extension is provided for business rescue proceedings which commenced, but which did not complete the procedure as stated within section 129 of the Companies Act, 2008 (the Act), until two weeks after lockdown period, or CIPC communicates otherwise. Further, for proceedings that have not yet commenced in terms of section 129 of the Act, *dies non* will apply until national lockdown period ceases, or CIPC communicates otherwise.

*This notice is available to you as a Source Document*

## 9. NOTICE 22 OF 2020 – PATENTS & DESIGNS, COPYRIGHT AND TRADE MARK DIVISIONS

Kindly take note that for purposes of the Acts mentioned in the schedule below, and as part of CIPC providing support in respect of various government interventions on opening of industries and services on various levels, **CIPC will commence a phased-in approach of resumption of normal business operations as from 4 May 2020.**

To this end the following must be noted:

1. All **external facing CIPC IP systems** will be available from **1 May 2020**.
2. The **filing date** for any applications and documents lodged via any of the IP e-filing platforms or electronic channels will be **4 May 2020**.
3. Processing of applications and documentation will commence on 4 May 2020 with limited staff numbers. Due hereto external service delivery standards may not be complied with from the outset.
4. **Manual lodgments** can be made from 4 May 2020 (with courier services being permissible under Alert Level 4 of national lockdown) by placing documents in the **various drop boxes** outside the CIPC office building. **NO documents** will be received in person by any CIPC staff member.
5. The next **Patent Journal** will be published at the end of **May 2020**.
6. The **electronic query system of CIPC (QRS)** will be available from **1 May 2020**.
7. **The CIPC Call Centre will be available from 4 May 2020.**
8. Until further notice, **no external visitors** will be allowed at CIPC. This will also include no meetings with external visitors, as well as trade mark related hearings.
9. In addition, the service of **physical inspection of files will not be available** until further notice.

As CIPC will be functioning at limited staff capacity numbers for the foreseeable future, clients are requested to exercise a level of patience regarding turn-around times on processing of matters and responding to queries. Clients are requested to refrain from sending reminders on matters on intervals of less than 3 months.

*This notice is available to you as a Source Document*

## 10. NOTICE 23 OF 2020 – RECOMMENCEMENT OF SERVICES

*Issued on 30 April 2020*



CIPC will incrementally be recommencing back office processing services for Companies and Intellectual Property and all related services.

*This notice must be read together with the other general notices dated 24 March 2020 and 15 April 2020.*

Customers should be aware that the recommenced services will be done on a reduced staffing basis considering government requirements regarding social distancing, health and safety of staff and new methods of working, and therefore delays may be experienced.

Together with the automated services listed in the above notices, CIPC will **recommence on 6 May 2020**, due to their preparing and sanitizing their work spaces and general office.

On business rescue proceedings it is important to note that matters submitted to CIPC during the *dies non* period of 24 March 2020 to 30 April 2020, cannot be regarded as being filed due to the fact that such days did not exist in law in order for it to be delivered or received by CIPC.

Therefore, **business rescue matters** e-mailed to CIPC **must be resubmitted as from 4 May 2020** and the effective filing date will be regarded as the date the complete application as per the requirements of Practice Note 1 of 2020.

CIPC will ultimately try to improve on the processing times as they **implement work from home programmes** and **shift rotational work for all staff** as well as giving their staff vital infrastructure to ensure that their service delivery standards meet customers' needs.

They thank everyone for their understanding during this unprecedented and difficult time in history but assure all of their intentions to service all their customers as best they can.

They ask for patience as they continue to ramp up services and constantly seek new and innovative ways to better serve.

They are aware that **in the coming weeks they will have an increased volume of queries as they navigate the effects of the lockdown and various levels of the opening of additional industries as regulated and that their call centre and query resolution mechanisms will be flooded.** They will attempt to answer and reply to all queries in as speedy time as possible.

*This notice is available to you as a Source Document*

## 11. PRACTICE NOTE 1 OF 2020: NOTICE TO CUSTOMERS (NOTICE 17 OF 2020)

### CIPC provides COVID-19 relief to businesses

CIPC issues the following practice note in terms of Paragraph 4(1)(b) of the Companies Regulations (GNR 351 of 26 April 2011):

1. Section 22 of the Companies Act, 71 of 2008 (the Act) empowers the Commission to issue notices, and if necessary, compliance notices to companies, which the Commission has reasonable grounds to believe is trading or carrying on business recklessly, with gross negligence or for a fraudulent purpose.
2. In light of the COVID-19 pandemic and the declaration of a national state of disaster under the Disaster Management Act, 57 of 2002, **CIPC will not invoke its powers under section 22 of the Companies Act, in the case of a company which is temporarily insolvent and still carrying on business or trading. This is only applicable where the Commission has reason to believe that the insolvency is due to business conditions, which were caused by the COVID-19 pandemic.**
3. **This practice note shall lapse within 60 days after the declaration of a national disaster has been lifted.**

*This notice is available to you as a Source Document*

## Impact of CIPC's actions on companies and businesses unable to trade

Usually, CIPC would do the following in terms of Section 22 of the Companies Act:

**CIPC "may" call on the company to show cause why it should be allowed to continue trading.**

**CIPC has taken the view that trading under insolvent circumstances, may not necessarily be trading recklessly as intended by Section 22 of the Companies Act.**

- Where CIPC has reasonable grounds to believe that companies are trading or carrying on business recklessly, with gross negligence or for a fraudulent purpose, CIPC may issue notices, and if necessary, compliance notices to such companies.

Because of the National Lockdown, there are numerous companies that this would normally apply to, because their insolvency is due to business conditions that were caused by the COVID-19 pandemic.

BUT because of this Practice Note, companies that are temporarily insolvent and still carrying on business or trading, would not be prosecuted.

These businesses therefor would not receive any notices or compliance notices from CIPC whilst SA is in lockdown, and for a period of 60 days after the lockdown has formally come to an end.

At least, this is one less headache for companies that are already experiencing hardship and worrying about their continued existence, the ability to continue to pay their employees (who may not be working during lockdown), etc.

There are also numerous other tax and financial relief measures available to financially distressed companies.

## Impact of CIPC's actions on your Considerations as Auditor/Independent Reviewer/Accountant

You should still consider (and document) your client's responses to insolvency, e.g. renegotiating payment terms with creditors, use of tax and financial relief measures relating to COVID-19, etc.

CIPC's actions would mean that for the relevant period, the company may still be contravening Section 22 of the Companies Act, but CIPC will not impose any actions upon them, i.e. there would be no material financial loss and it would not be considered reckless trading.

## Impact of CIPC's actions on your Reporting Obligations

You should still consider (and document) your client's responses to insolvency, e.g. renegotiating payment terms with creditors, use of tax and financial relief measures relating to COVID-19, etc.

- If you are performing an **audit**, you must evaluate whether it is a Reportable Irregularity, then you must report to IRBA – in the prescribed format – within the prescribed timeframes stated in Section 45 of the APA (this will include reporting to management)

- NOW – the likelihood of it being an unlawful activity and/or reckless trading is NOT eliminated, and you would still need to evaluate whether this is a RI or not. The odds are, because CIPC have decided not to take action, it lessens the possibility of it being a RI, and you would probably not need to report to IRBA.**

- If you are performing an **independent review**, and it is a Reportable Irregularity, then you must report to CIPC – in the prescribed format – within the prescribed timeframes stated in Companies Regulation 29 (this will include reporting to management)

- NOW – the likelihood of it being a Reportable Irregularity is NOT eliminated, because the company/CC has traded whilst insolvent, and that is an automatic RI.**
  - The question is now rather: Do you need to report to CIPC?**



- And the answer is...it feels like we shouldn't, but nothing has changed for us in our capacity as independent reviewer. CIPC have not issued any information to relax our reporting obligations in terms of Regulation 29.
- So, until CIPC issues a notice stating that they do not wish to be informed, we have to report the RI to them!!!

- If you are acting as the **accounting officer to a CC**, then you should report to CIPC – in the prescribed format – within the prescribed timeframes stated in the Close Corporations Act
  - This has not been affected by any CIPC action!
- If you are compiling the financial statements, then you should ensure that the relevant facts are reported, e.g. subordination of loans, guarantees, going concern issues, etc. in the notes to the AFS, and maybe in the Directors' Report
- In all of the above scenarios, you might need to report to management as well...

All instances of **NOCLAR** must be reported in accordance with your Professional Code of Conduct:

- Remember that this now includes compliance with the Lockdown Regulations!!!

## 12. CIPC ISSUES CERTIFICATES TO BUSINESSES PROVIDING ESSENTIAL SERVICES DURING LOCKDOWN

### Initial Process

#### CIPC to grant essential service business operation approval

Thursday, March 26, 2020



All businesses that will be allowed to provide essential services during the 21-day COVID-19 lockdown will be required to seek approval from the Department of Trade, Industry and Competition (the DTIC).

This is in terms of the National State of Disaster gazetted regulations which were published on Wednesday by Cooperative Governance and Traditional Affairs Minister Nkosazana Dlamini-Zuma.

In a statement, DTIC Minister Ebrahim Patel said such businesses are required to apply to the Companies and Intellectual Property Commission (CIPC) Bizportal website at [www.bizportal.gov.za](http://www.bizportal.gov.za).

Here they will obtain a certificate from the Commission that allows them to continue trading. The Bizportal website will contain a menu icon listed as "Essential Service Businesses" through which an application can be made to the CIPC.

"The application will be a simple declaration requiring minimal registration details, type of business/trade involved in, what trading name if any is used and whether it meets the requirements contained in the essential services list, the contact details of the person applying as well as the number of employees that will be working during the lockdown period," reads the statement.

The CIPC registry will then pre-populate the remaining company information and email a certificate stating that the business is allowed to remain trading.

The certificate can then be used as evidence to authorities requiring same that indeed the business has been given government permission to trade and that its employees are able to have unrestricted movement only in the course of that trade.

The department emphasised that **false applications to the CIPC will be taken as a fraudulent application** and will render the applicant liable to criminal prosecution and sanction.

This service will be available from 26 March 2020 at the start of business trading hours.

### CIPC's process of Cancelling the Certificates of companies not designated as essential services

Article – 6 April 2020

#### CIPC to revoke business permits mistakenly awarded, businesses face prosecution

*The Companies and Intellectual Property Commission (CIPC) says it has started the process of cancelling the certificates of companies not designated as essential services.*

The CIPC discovered several businesses had fraudulently obtained certificates when they initially filed applications on the Bizportal website.

Spokesperson for the Department of Trade and Industry Sidwell Medupe says a large number of businesses had applied illicitly.

“As was made clear when the automated certificate was issued by the CIPC, that the provision thereof was based on information provided by the registered company itself, and that possession thereof does not in itself constitute the right to continue operating during the lockdown period.

“In terms of the applicable regulations during the lockdown, all businesses shall cease operations except for any business involved in the manufacturing, supply or provision of an essential service or goods,” Medupe explains.

He adds businesses found guilty of wrongdoing will be taken to task.

“It is a criminal offence for any business to continue operating during the lockdown period if it is not providing an essential service. It is also a criminal offence for any business which misrepresents the nature of its operations in order to obtain a CIPC certificate.

“Businesses in the CIPC database that are not eligible to continue operations during the lockdown have had their certificates cancelled and will be handed over to the South African Police Services for further investigation and potential prosecution.”

Pubs, taverns, restaurants and fast food places are among those who applied for permits to operate during the lockdown, despite the regulations.

It is expected that this process will continue during the extended lockdown.

### Amended process due to Extended Lockdown – NEW Certificate

#### New CIPC certificate required to be open during extended lockdown

#### You will now need this new certificate to stay open as an essential service during South Africa's lockdown

Article – 17 April 2020

Companies, which are registered through the Companies and Intellectual Property Commission's (CIPC) BizPortal to perform essential services during the lockdown period, will be required to have a new certificate for the extended period, the Department of Trade and Industry has announced.

The certificate will be sent via email using the details provided at the time of registration, and will also be available for download from Friday (17 April). The full list of registered companies will have received their certificates by the weekend, the DTI said.

“The new certificate will clearly state that it is for the extended lockdown period, beginning 17 April 2020, and South African Police Service officials will be told which certificates to look for.

“Certificates issued before today will no longer be valid and must be disposed of. To provide time for businesses to adjust to the new requirements, the new certificates will be available to be displayed from start of business on Monday (20 April 2020).”

The department said that possession of the CIPC certificate is still subject to the company fully complying with the applicable lockdown regulations and is a record of the company's details, and does not in itself constitute the right to continue operating during the period.

Only businesses which provide essential services in terms of the regulations may continue their operations during the Covid-19 lockdown, it said.

### Only for registered companies

The certificate is a reference to the legal registration of the company in terms of the Companies Act and a record of registration to the CIPC.

This means that the registration portal is only for companies registered in terms of the Companies Act, the DTI said.

"Other essential service providers, like healthcare professionals registered with the Health Professions Council of South Africa, sole proprietors who provide essential goods and services (like small business owners and spaza shops), and small-scale farmers will not register through the Bizportal.

"These businesses will not have a CIPC certificate, but must still comply with the provisions of the lockdown regulations," it said.

Where the CIPC finds that certificates have been issued to companies which do not meet the definitions of an essential service, such certificate will be revoked, and the company will be referred to the South African Police Services, the DTI said.

"False declaration by the company is a criminal offence and will result in prosecution, in terms of lockdown regulations."

## 13. EXAMPLE OF NEW CIPC CERTIFICATE

Document issued by the Commissioner of  
Companies & Intellectual Property Commission  
on Thursday, April 16, 2020 at 19:04

Enterprise Number: [REDACTED]  
Enterprise Name: [REDACTED]  
Business Category: [REDACTED]  
Contact Person Name: [REDACTED]  
Contact Person Surname: [REDACTED]  
Contact Person Email: [REDACTED]  
Contact Person Cell Number: [REDACTED]  
Number of Employees: [REDACTED]  
Physical Address: [REDACTED]

**EXTENDED LOCKDOWN PERIOD: CERTIFICATE OF RECORD FROM 17 APRIL 2020**

This revised certificate records that the business operating as [REDACTED] is registered in terms of the Companies Act, 2008. The responsible person named above has submitted information to the Companies and Intellectual Property Commission to state that the business performs essential services as indicated in relevant regulations issued as part of the state of disaster declared under the Disaster Management Act, to deal with the Covid-19 crisis.

This CIPC certificate is a record that the company has submitted information to the CIPC. This replaces any other certificate issued by the CIPC prior to 17:30 on April 16, 2020.

The possession of the CIPC certificate is still subject to the company fully complying with the applicable Lockdown Regulations and is a record of the company's details. This certificate does not in itself constitute the right to continue operating during the period, and it is the responsibility of the company to ensure that it complies with the regulations.

Only businesses which provide essential services in terms of the Lockdown Regulations, as amended, issued by the Minister for Cooperative Governance and Traditional Affairs may continue their operations during the COVID-19 lockdown, and only in respect of goods or services defined as essential in the regulations.

False declaration by the company is a criminal offence and will result in prosecution. This certificate may be revoked if there are changes to the regulations or in order to improve implementation of the lockdown.

Yours truly  
CIPC Commissioner

Physical Address: [REDACTED]  
the dti Campus - Block F  
77 Menzies Street  
Gummyside 0001

Postal Address: Companies  
P.O. Box 429  
Pretoria  
0001

Docref: 256  
Web: www.cipc.co.za  
Contact Centre: 085 100 3472 (CIPC)  
Contact Centre (International): +27 12 394 9573

1 of 1

This example is available to you as a Source Document

## MODULE 3: SARS COMPLIANCE UPDATE

### 1. DRAFT GUIDE TO BUILDING ALLOWANCES (ISSUE 2)

Issued on 14 January 2020

*27-page document*

- The guide provides general guidance on building allowances available to owners and lessees of buildings.
- The Guide has been updated to take into account legislative amendments, clarification on certain aspects and the fact that some of the sections are now the subject of separate Interpretation Notes.
- *Due date for comments was 28 February 2020*

*The Draft Guide is available to you as a Source Document*

### 2. LIST OF QUALIFYING PHYSICAL IMPAIRMENT OR DISABILITY EXPENDITURE

**Effective 1 March 2020**

Issued on 16 January 2020

*10-page document*

- Expenditure prescribed by SARS and which is necessarily incurred and paid for by the taxpayer in consequence of a physical impairment or disability is a qualifying medical expense under section 6B of the Act, subject to specified limitations.
- See also the [Confirmation of Diagnosis of Disability Form \(ITR-DD\)](#)

*The updated List is available to you as a Source Document*

### 3. GUIDE ON VENTURE CAPITAL COMPANIES

Issued on 18 February 2020

*53-page document*

- Section 12J has requirements at the level of the VCC and at the level of the “qualifying company” whose shares are held by the VCC. A VCC is taxed as a company and does not enjoy any special tax concessions because of its VCC status.
- This guide provides users with general guidance on venture capital companies and investments in such companies.

*The updated Guide is available to you as a Source Document*

### 4. TAX GUIDE FOR SHARE OWNERS (ISSUE 7)

*Issue 7*

Issued on 21 February 2020

*55-page document*



- Section 12J has requirements at the level of the VCC and at the level of the “qualifying company” whose shares are held by the VCC. A VCC is taxed as a company and does not enjoy any special tax concessions because of its VCC status.
- This guide provides users with general guidance on venture capital companies and investments in such companies.

*The updated Guide is available to you as a Source Document*

## 5. ABC OF CAPITAL GAINS TAX FOR COMPANIES (ISSUE 9)

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Issued on 11 March 2020

*14-page document*

- Contains 5 examples
- This guide provides a basic introduction to capital gains tax (CGT).

*The updated Guide is available to you as a Source Document*

## 6. ABC OF CAPITAL GAINS TAX FOR INDIVIDUALS (ISSUE 11)

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Issued on 11 March 2020

*15-page document*

- This guide provides a simple introduction to capital gains tax (CGT) at its most basic level and probably contains insufficient detail to enable you to accurately determine your liability for CGT under most practical situations.
- It applies to the 2020 year of assessment which covers the period 1 March 2019 to 29 February 2020

*The updated Guide is available to you as a Source Document*

## 7. FAQs: FOREIGN EMPLOYMENT INCOME EXEMPTION (ISSUE 3)

---

Issued on 17 March 2020

*14-page document*

- An amendment to section 10(1)(o)(ii) of the Income Tax Act, 1962 (the Act) has been promulgated and came into effect on 1 March 2020.
- The Frequently Asked Questions (FAQs) in this document have been compiled on the basis of questions that employees, employers and the public at large have about the implications of the amendment.
- The 47 FAQs are drafted purely to assist employees, employers and the public at large to obtain clarity and to ensure consistency on certain practical and technical aspects relating to the amendment.

*The updated Guide is available to you as a Source Document*

## 8. BASIC GUIDE TO SECTION 18A APPROVAL (ISSUE 3)

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*This guide was previously titled "Basic Guide to Tax-deductible Donations"*

Issued on 17 March 2020

*39-page document*



- This guide has been prepared to assist organisations in understanding the basic requirements for obtaining and retaining approval under section 18A
- See **Tax Exemption Guide for Public Benefit Organisations in South Africa** for comprehensive information on both the approval of public benefit organisations as well as the approval under section 18A. The **Basic Guide to Income Tax Exemption for Public Benefit Organisations** provides a basic understanding of the requirements to obtain and retain approval as a public benefit organisation under section 30.

*The updated Guide is available to you as a Source Document*

## 9. DISPUTE RESOLUTION GUIDE: GUIDE ON THE RULES PROMULGATED IN TERMS OF SECTION 103 OF THE TAX ADMINISTRATION ACT, 2011 (ISSUE 2)

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Issued on 20 March 2020

147-page document

- This is a general guide dealing with the resolution of tax disputes in South Africa.
- **Refer to Table of Contents**

*The updated Guide is available to you as a Source Document*

## 10. GUIDE ON MUTUAL AGREEMENT PROCEDURES (ISSUE 3)

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Issued on 20 March 2020

31-page document

- This is a general guidance on the mutual agreement procedure (MAP) that allows competent authorities from the governments of contracting jurisdictions to interact with the intent to resolve international tax disputes.

*The updated Guide is available to you as a Source Document*

## 11. INTERPRETATION NOTE 67 (ISSUE 4) – CONNECTED PERSONS

---

Issued on 28 January 2020

48-page document

**40 examples**

### Purpose

- This Note provides guidance on the interpretation and application of the definition of “connected person” in section 1(1).

Deals with:

- Section 1(1) – definition of "connected person"

**NB = Annexure B** – Diagram illustrating the rule for determining persons who are related within the third degree of consanguinity

*The updated Interpretation Note is available to you as a Source Document*

## 12. INTERPRETATION NOTE 16 (ISSUE 3) – EXEMPTION FROM INCOME TAX: FOREIGN EMPLOYMENT INCOME

---

Issued on 31 January 2020

20-page document

**5 examples**

### Purpose

- This Note discusses the interpretation and application of the foreign employment remuneration exemption in section 10(1)(o)(ii).

Deals with:

- Section 10(1)(o)(ii)

Due date for comments was 28 February 2020

*The updated Interpretation Note is available to you as a Source Document*

## 13. INTERPRETATION NOTE 75 (ISSUE 3) – EXCLUSION OF CERTAIN COMPANIES AND SHARES FROM A "GROUP OF COMPANIES" AS DEFINED IN SECTION 41(1)

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Issued 11 February 2020

8-page document

**2 examples**

### Purpose

- This Interpretation Note provides guidance on the application of the proviso to the definition of “group of companies” in section 41(1).

Deals with:

- Sections 1(1) and 41(1)

*The updated Interpretation Note is available to you as a Source Document*

## 14. INTERPRETATION NOTE 44 (ISSUE 3) – PUBLIC BENEFIT ORGANISATIONS: CAPITAL GAINS TAX

---

Issued on 21 February 2020

17-page document

**9 examples**

### Purpose

- This Note provides guidance on the application and interpretation of paragraph 63A which deals with the disregarding of a capital gain or capital loss on the disposal of an asset by a PBO; and
  - **NB** = must be read with IN 24 “Income Tax: PBOs: Trading Rules – Partial Taxation of Trading Receipts”.

Deals with:

- Paragraph 63A of the Eighth Schedule

*The updated Interpretation Note is available to you as a Source Document*

## 15. INTERPRETATION NOTE 113 (ISSUE 1) – APPORTIONMENT OF SURPLUS AND MINIMUM BENEFIT REQUIREMENTS: PENSION FUNDS SECOND AMENDMENT ACT

---

Issued on 3 March 2020

13-page document

**2 examples**

### Purpose

- This Note provides clarity on the tax treatment of the actuarial surplus allocations or distributions made to members, former members, existing pensioners and employers by funds under the provisions of sections 15B, 15C, 15D or 15E of the Pension Funds Act.

Deals with:

- Section 1(1) – Definitions of “Pension” and “Provident Funds” and Paragraph 2C of the Second Schedule

*The new Interpretation Note is available to you as a Source Document*

## 16. INTERPRETATION NOTE 53 (ISSUE 3) – LIMITATION OF ALLOWANCES GRANTED TO LESSORS OF AFFECTED ASSETS

---

Issued on 18 March 2020

17-page document

**5 examples**

### Purpose

- This Note provides clarity and guidance on the application of section 23A, which ringfences specified capital allowances granted to a lessor for certain aircraft, ships, machinery, plant, implements, utensils and articles (“affected assets”).
- Section 23A limits the deduction of specified capital allowances on affected assets to a lessor’s taxable income derived from the letting of these assets, before taking into account the specified capital allowances. Any specified capital allowances not allowed because of the limitation are carried forward to the next year of assessment and, subject to any section 23A limitation, are available for deduction against any net rental income from the letting of affected assets. Disallowed capital allowances are thus ringfenced, and cannot be deducted against other taxable income earned by the taxpayer.

Deals with:

- Section 23A

*The updated Interpretation Note is available to you as a Source Document*

## 17. INTERPRETATION NOTE 47 (ISSUE 4) – WEAR-AND-TEAR OR DEPRECIATION ALLOWANCE

---

Issued on 24 March 2020

27-page document

#### 4 examples

##### Purpose

- This Note provides guidance on the circumstances in which the wear-and-tear or depreciation allowance in section 11(e) may be claimed as a deduction.
- This Note also provides guidance on the application and interpretation of section 11(e) in relation to the determination of:
  - the “value” of a qualifying asset on which the allowance is based; and
  - the acceptable write-off period of a qualifying asset.
- The **Annexure** contains a **schedule of write-off periods** for various qualifying assets which are **acceptable to SARS**.
- This Note is a **binding general ruling** made under section 89 of the Tax Administration Act on section 11(e) in so far as it relates to the determination:
  - of the value of an asset for purposes of section 11(e); and
  - the amount that will qualify as an allowance. This ruling applies to any qualifying asset brought into use on or after 24 March 2020.

Deals with:

- Section 11(e)

*The updated Interpretation Note is available to you as a Source Document*

## 18. INTERPRETATION NOTE 99 (ISSUE 3) – UNCLAIMED BENEFITS

---

Issued on 30 March 2020

17-page document

#### 5 examples

##### Purpose

- This Note explains the treatment of lump sum benefits classified as unclaimed benefits that accrued to members (both before and from 1 March 2009) for income tax purposes

Deals with:

- Paragraph 4(1) of the Second Schedule

*The updated Interpretation Note is available to you as a Source Document*

## 19. DRAFT INTERPRETATION NOTE – DOUBTFUL DEBTS AND ACCOMPANYING DOCUMENTS

---

Issued on 18 February 2020

18-page document

#### 5 examples

##### Purpose

- This draft Note provides guidance on calculating the section 11(j) doubtful debt allowance. Taxpayers should pay attention to the accompanying document outlining the application process, the requests for information (RFIs) and the excel-based Loss Allowance Models

*Due date for comments = 31 March 2020*

**NB = Refer to these accompanying documents:**

1. [Notes outlining the application process](#)
2. [Request for information \(RFI\) A](#) – section 11(j)(i)
3. [Request for information \(RFI\) B](#) – section 11(j)(ii)
4. [Excel-based Loss Allowance Models](#) [Note that there are two excel forms, relating to subparagraphs (i) and (ii) respectively]

*The Draft Interpretation Note is available to you as a Source Document*

## 20. DRAFT INTERPRETATION NOTE – PUBLIC BENEFIT ORGANISATIONS: PROVISION OF RESIDENTIAL CARE FOR RETIRED PERSONS

---

Issued 21 February 2020

*19-page document*

**3 examples**

### Purpose

- The draft IN discusses the requirements of the public benefit activity (PBA) contemplated in paragraph 3(c) in Part I of the Ninth Schedule to the Income Tax Act 58 of 1962 (the Act). PBA 3(c) provides for residential care to be provided to retired persons.
- An organisation carrying on that PBA as its sole or principal object may apply for approval as a public benefit organisation under section 30(3) of the Act, and if approved by the Commissioner, obtains preferential tax treatment under section 10(1)(cN), if all of the prescribed requirements are met.

*Due date for comments = 30 April 2020*

*The Draft Interpretation Note is available to you as a Source Document*

## 21. BGR 9 (ISSUE 4) – TAXES ON INCOME AND SUBSTANTIALLY SIMILAR TAXES FOR PURPOSES OF SOUTH AFRICA'S TAX TREATIES

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*BGR = Binding GENERAL Ruling*

- *BGRs are issued in respect of matters of general importance.*
- *They provide clarity on the application of tax laws in these general matters and can be applied across board*

- Issue 4
- 3-page document
- Issued on 30 January 2020

**Summary:**

This ruling identifies the taxes administered by SARS which in its opinion constitute taxes on income or substantially similar taxes for purposes of South Africa's tax treaties.

*This BGR is available to you as a Source Document*

## **22. BGR 7 (ISSUE 3) – WEAR-AND-TEAR OR DEPRECIATION ALLOWANCE**

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*BGR = Binding GENERAL Ruling*

- *BGRs are issued in respect of matters of general importance.*
- *They provide clarity on the application of tax laws in these general matters and can be applied across board*
- 20-page document
- Issued on 24 March 2020

**Deals with:**

- Section 11(e)

**Summary:**

The BGR reproduces the parts of Interpretation Note 47 (Issue 4) "Wear-and-Tear or Depreciation Allowance" dated 24 March 2020 that comprise a BGR under section 89 of the Tax Administration Act.

*This BGR is available to you as a Source Document*

## **23. NOTICE 37 – DEFINITION OF "DETERMINED VALUE"**

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- Date published = 17 January 2020
- GG 42961
- 4-page document
- Amending regulations under items (a) and (c) of the definition of "determined value" in paragraph 7(1) of the Seventh Schedule to the Income Tax Act, 1962, on the retail market value in respect of right of use of motor vehicle, as initially published by Government Notice R.362 of 28 April 2015
- = The price of acquisition of the motor vehicle paid by the employer (incl VAT) or where the motor vehicle was acquired at no cost = the market value of that vehicle
- *Regulation 2 of the Regulations is hereby amended by the substitution for paragraph (c) of the following paragraph:*  
  
*"(c) in cases other than motor vehicle manufacturers, motor vehicle importers, motor vehicle dealers or motor vehicle rental companies, in respect of any year of assessment, the price of acquisition of the motor vehicle paid by the employer (including value -added tax) or where the motor vehicle was acquired at no cost, the market value of that vehicle."*

**Effective date = 1 March 2020**

*This Notice is available to you as a Source Document*

## **24. EXPLANATORY MEMORANDUM ON THE TAXATION LAWS AMENDMENT BILL, 2019**

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- Date published = 21 January 2020

- 70-page document

**Sets out each change with:**

- Background
- Reasons for change
- Proposal
- Effective date

**Remember that this is still part of getting the 2019 budget speech written into the Act**

*This publication is available to you as a Source Document*

## 25. FINAL RESPONSE DOCUMENT ON THE 2019 DRAFT TAX BILLS

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- Date published = 21 January 2020
- 62-page document
- This response document includes a summary of the key written comments received on the 2019 Draft Rates Bill, 2019 Draft Income Tax Amendment Bill, 2019 Draft TLAB and 2019 Draft TALAB released for public comment as well as other key issues raised during the public hearings held by both the SCoF and SECoF on 10 September 2019

*This publication is available to you as a Source Document*

## 26. UPDATED TABLE OF INTEREST RATES: TABLE 3 – RATES AT WHICH INTEREST-FREE OR LOW INTEREST LOANS ARE SUBJECT TO INCOME TAX

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The term “official rate of interest” is defined in section 1(1) of the Income Tax Act 58 of 1962 (the Act)

- Where a loan is obtained by an employee from his or her employer in terms of which no interest is payable or where the interest payable is less than the “official rate of interest”, the difference between the amount which would have been payable if the loan was granted at the official rate and the amount actually paid by the employee, is taxed as a fringe benefit
- **Note:** The “official rate” as defined in section 1(1) of the Act is linked to the repurchase rate plus one per cent. The official rate is adjusted at the beginning of the month following the month during which the Reserve Bank changes the repurchase rate.

*Updated on 30 March 2020*

- **Table 3:** Rates at which interest-free or low interest loans are subject to income tax
  - The South African Reserve Bank changed the "repo rate" in March 2020

**Summary**

**Official rate decreased from 7,25% to 6,25% as from 1 April 2020**

*This Updated Table is available to you as a Source Document*



## 27. SECTION 12I TAX ALLOWANCE PROGRAMME – DEPARTMENT OF TRADE AND INDUSTRY – PUBLICATION OF DECISIONS TO APPROVE, NOT APPROVE OR WITHDRAW APPROVAL OF APPLICATIONS RECEIVED FOR THE TAX ALLOWANCE PROGRAMME UNDER SECTION 12I(12)(A)(i)(AA) AND (19)(D)

- Date published = 7 February 2020
- GG 42999 Notices 50, 51 & 52

➤ 13 decisions published – each with their own implementation date, as set out in the table below:

Nr	Publication Date	GG and Notice Numbers	Description	Implementation Date
1.	7 February 2020	GG 42999 Notice 52	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 52 – Robor (Pty) Ltd – Elandfontein FD Mill</a></li> </ul> Approval withdrawn	4 July 2019
2.	7 February 2020	GG 42999 Notice 52	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 52 – AGCO South Africa (Pty) Ltd</a></li> </ul> Approval withdrawn	4 July 2019
3.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Wispeco (Pty) Ltd</a></li> </ul> Not approved	9 April 2019
4.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Alpen Food South Africa (Pty) Ltd</a></li> </ul> Approval withdrawn	24 July 2018
5.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Siyanda Chrome Smelting Company (Pty) Ltd</a></li> </ul> Approval withdrawn	24 May 2019
6.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Mara Phones South Africa (Pty) Ltd</a></li> </ul>	30 January 2019
7.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Tiger Consumer Brands Ltd</a></li> </ul> Not approved	24 May 2019
8.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Sonae Arauco South Africa (Pty) Ltd – White River Expansion Project</a></li> </ul> Not approved	1 November 2018
9.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – Nampak Products Ltd</a></li> </ul> Not approved	16 May 2019
10.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – B Braun Medical (Pty) Ltd</a></li> </ul> Duplicated in Notice 50	17 July 2018
11.	7 February 2020	GG 42999 Notice 51	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 51 – CCL Label South Africa (Pty) Ltd</a></li> </ul>	24 July 2018
12.	7 February 2020	GG 42999 Notice 50	Section 12I Tax Allowance Programme <ul style="list-style-type: none"> <li>• <a href="#">Notice 50 – B Braun Medical (Pty) Ltd</a></li> </ul> Duplicated in Notice 51	17 July 2018

13.	7 February 2020	GG 42999 Notice 50	Section 12I Tax Allowance Programme • <a href="#">Notice 50 – RCL Foods Consumer (Pty) Ltd</a>	18 July 2018
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## 28. NOTICES 270 & 271 RE SUBSISTENCE & RATE PER KM

Income tax notices, scheduled for publication in the Government Gazette, under section 8(1) relating to daily amounts in respect of meals and incidental costs, and rate per kilometre in respect of motor vehicles

- Date published = 6 March 2020

### GG 43073 Notice 270

#### Subsistence:

- **Determination of the daily amount in respect of meals and incidental costs for purposes of section 8(1)(c)**

The following amounts will be deemed to have been actually expended by a recipient to whom an allowance or advance has been granted or paid—

- where the accommodation, to which that allowance or advance relates, is in the Republic and that allowance or advance is paid or granted to defray—

- incidental costs only, an amount equal to R139 per day; or

- the cost of meals and incidental costs, an amount equal to R452 per day; or

- where the accommodation, to which that allowance or advance relates, is outside the Republic and that allowance or advance is paid or granted to defray the cost of meals and incidental costs, an amount per day determined in accordance with the 'Table: Daily Amount for Travel Outside the Republic' under Notice 268 published in Government Gazette No. 42258 dated 1 March 2019.

- **NB** = See [GG 42258 Notice 268](#) dated 1 March 2019, for the '**Table: Daily Amount for Travel Outside the Republic**', which remains in force effective 1 March 2019 until communicated otherwise.

### GG 430373 Notice 271

#### Reimbursive rate per km

- **Fixing of rate per kilometre in respect of motor vehicles – section 8(1)(b)(ii) and (iii)**

#### 1. Definition

In this Schedule, “value” in relation to a motor vehicle used by the recipient of an allowance as contemplated in section 8(1)(b)(ii) and (iii) of the Income Tax Act, 1962, means—

- where that motor vehicle (not being a motor vehicle in respect of which paragraph (b)(ii) of this definition applies) was acquired by that recipient under a bona fide agreement of sale or exchange concluded by parties dealing at arm's length, the original cost thereof to him/her, including any value-added tax but excluding any finance charge or interest payable by him/her in respect of the acquisition thereof;

- where that motor vehicle—

- is held by that recipient under a lease contemplated in paragraph (b) of the definition of “instalment credit agreement” in section 1 of the Value-Added Tax Act, 1991; or

- was held by him/her under such a lease and the ownership thereof was acquired by him/her on the termination of the lease, the cash value thereof as contemplated in the definition of “cash value” in section 1 of the Value-Added Tax Act; or

- (c) in any other case, the market value of that motor vehicle at the time when that recipient first obtained the vehicle or the right of use thereof, plus an amount equal to value added tax which would have been payable in respect of the purchase of the vehicle had it been purchased by the recipient at that time at a price equal to that market value.

## 2. Determination of rate per kilometre

The rate per kilometre referred to in section 8(1)(b)(ii) and (iii) must, subject to the provisions of paragraph 4, be determined in accordance with the cost scale set out in paragraph 3, and must be the sum of—

- (a) the fixed cost divided by the total distance in kilometres (for both private and business purposes) shown to have been travelled in the vehicle during the year of assessment: Provided that where the vehicle has been used for business purposes during a period in that year which is less than the full period of that year, the fixed cost must be an amount which bears to the fixed cost the same ratio as the period of use for business purposes bears to 365 days;
- (b) where the recipient of the allowance has borne the full cost of the fuel used in the vehicle, the fuel cost; and
- (c) where that recipient has borne the full cost of maintaining the vehicle (including the cost of repairs, servicing, lubrication and tyres), the maintenance cost.

## 3. Cost scale

Where the value of the vehicle –	Fixed Cost R	Fuel Cost c/km	Maintenance Cost c/km
does not exceed R95 000	31 332	105.8	37.4
exceeds R95 000 but does not exceed R190 000	55 894	118.1	46.8
exceeds R190 000 but does not exceed R285 000	80 539	128.3	51.6
exceeds R285 000 but does not exceed R380 000	102 211	138.0	56.4
exceeds R380 000 but does not exceed R475 000	123 955	147.7	66.2
exceeds R475 000 but does not exceed R570 000	146 753	169.4	77.8
exceeds R570 000 but does not exceed R665 000	169 552	175.1	96.6
exceeds R665 000	169 552	175.1	96.6

## 4. Simplified method

Where—

- (a) the provisions of section 8(1)(b)(iii) are applicable in respect of the recipient of an allowance or advance; and (b) no other compensation in the form of a further allowance or reimbursement (other than for parking or toll fees) is payable by the employer to that recipient, that rate per kilometre is, at the option of the recipient, equal to **398 cents per kilometre**.

## 5. Effective date

The rate per kilometre determined in terms of this Schedule applies in respect of years of assessment commencing on or after 1 March 2020.

**Effective date = 1 March 2020**

*This publication is available to you as a Source Document*

## 29. 9 TAX COURT CASES

**Decisions on 9 Tax Court Cases were published by SARS:**

**IT 13798, IT13931 & IT 14294**

### [Link to Case File](#)

- 28-page document
- Date of judgment = 17 September 2019
- Tax Court – JHB
- Re: Income Tax Act & Tax Administration Act

**Issue = Capital gains tax and capital losses – employee share incentive scheme and trust – meaning of ‘asset’ and ‘right’ as defined in the Eight Schedule to the Income Tax Act**

- **Outcome:**
  - (1) The understatement penalties imposed by the respondent in respect of the 2013 year of assessment in the amount of R2 275 206 be and is hereby waved and / or remitted.
  - (2) Save to the extent reflected in para (1) above, the appeals by the appellant against the additional assessments for the tax years 2007 to 2013 are dismissed.
  - (3) Save to the extent reflected in para (1) above, the additional assessments raised by the respondent in respect of the appellant’s 2007 to 2013 years of assessment are confirmed.
  - (4) There shall be no order as to cost, including in relation to the interlocutory application heard by Meyer J in which he handed down an order on the 11th of July 2018 in terms of which the cost of that interlocutory application was reserved.

*Click on the link above to download the full court case file*

**VAT 1390**

### **Link to Case File**

- 23-page document
- Date of judgment = 14 June 2016
- Tax Court – Cape Town
- Re: Value-added tax: sections 7(1)(a), 7(2) and 10; definitions of "consideration", "enterprise" and "supply" in section 1(1)

**Issue = Whether the delivery of food orders to the taxpayer’s customers constitutes a service supplied by it for consideration in the course, or in furtherance, of its enterprise, and hence whether the delivery charges were subject to output tax**

- **Outcome:**

- (a) The appeal is dismissed with costs.
- (b) It is declared that the taxpayer is accountable for value-added tax on the delivery charges (also referred to as 'drivers petrol money') raised against its customers in terms of the invoices presented for payment when food orders were delivered during the taxpayer's 02/2008 – 02/2011 tax periods.
- (c) The matter is referred back to the Commissioner for assessment in accordance with this judgment.

*Click on the link above to download the full court case file*

<b>IT 24819</b>
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[Link to Case File](#)

- 11-page document
- Date of judgment = 19 December 2019
- Tax Court – Cape Town
- Re: Income Tax Act; Loan

**Issue = Whether the Appellant was liable for a late payment penalty for payroll taxes under paragraph 6(1) of the Fourth Schedule**

- **Outcome:**

In the result the appeal is dismissed with costs

*Click on the link above to download the full court case file*

<b>VAT 2063</b>
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[Link to Case File](#)

- 9-page document
- Date of judgment = 15 November 2019
- Tax Court – JHB
- Re: Income Tax Act Section 17(1) and proviso (iii);

Vendor making both exempt and taxable supplies in course of conducting enterprise of, amongst others, providing money-transfer services and mobile phone credit and bureau de change services; vendor consequently having mixed-purpose input tax deductions requiring apportionment under section 17.

**Issue = Whether vendor entitled to retrospective permission to use the transaction count based (TCB) method as opposed to the default standard turnover based (STB) method prescribed in Binding General Ruling 16**

- **Outcome:**

1. The appeal is dismissed.
2. The costs of the application before Binns-Ward J are to borne by the respondent on the scale as between party and party

*Click on the link above to download the full court case file*

**TAdm 00052/2018**

[Link to Case File](#)

- 6-page document
- Date of judgment = 3 May 2019
- Tax Court – JHB
- Re: Income Tax Act Section 99(1)(a) read with section 99(2)

**Issue = Assessment made more than three years after date of original assessment to tax capital gain previously disclosed as income;**

**application for order requiring SARS to provide reasons for assessment in order to enable applicant to formulate its objection to additional assessment;**

**Court holding that not only must SARS show that there was non-disclosure of material facts during the three-year period but that such non-disclosure caused SARS not to tax the relevant amount in the original assessment or during the three years thereafter;**

**Court finding that reasons given in finalisation of audit letter insufficient but that such shortcoming rectified in SARS's answering affidavit.**

- **Outcome:**
  1. Declaring that paragraphs 1.1.1 and 2.3 of SARS' finalisation of audit letter dated 6 March 2018 read with paragraphs 32 and 33 of SARS' answering affidavit in these proceedings constitute the reasons in compliance with Rule 6 sufficient to enable the applicant a formulated objection to the additional assessment for the 2012 year of assessment issued by respondent on 6 March 2018.
  2. Directing respondent to pay the costs

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**TAdm 24643**

[Link to Case File](#)

- 6-page document
- Date of judgment = 3 May 2019
- Tax Court – JHB
- Re: Tax administration; section 223; imposition of understatement penalty of 100%; SARS's grounds of assessment under rule 31

**Issue = Whether such statement lacked sufficient averments necessary to sustain a finding of gross negligence**

- **Outcome:**
  1. It is declared that the statement of grounds of assessment and opposing appeal delivered by the South African Revenue Service on 7 November 2018 lacks averments necessary to sustain a finding of gross negligence and the imposition of an understatement penalty at the rate of 100%.
  2. The respondent is granted 15 (fifteen) days in order to remedy the defect in its Rule 31 statement.
  3. The respondent is to pay the costs of this application

*Click on the link above to download the full court case file*

## VAT 1610

### [Link to Case File](#)

- 11-page document
- Date of judgment = 19 June 2019
- Tax Court – JHB
- Re: Value-added tax; input tax; output tax; whether the Appellant was entitled to input tax and output tax claims relating to reorganising loans and substituting foreign loans; input tax; output tax

**Issue = Whether the Appellant was entitled to input tax and output tax claims relating to reorganising loans and substituting foreign loans**

- **Outcome:**
  1. The appeal is dismissed.
  2. The additional assessments raised by the Commissioner for the tax periods 04/2012, 06/2012, 07/2012, 08/2012 and 10/2012 are confirmed.
  3. The Commissioner is ordered to remit the penalty which has been imposed.
  4. No order is made as to costs

*Click on the link above to download the full court case file*

## 30. 10 HIGH COURT CASES

**Decisions on 10 High Court Cases were published by SARS:**

### [Dragon Freight \(Pty\) Limited and Others v CSARS \(82686/19\) \[2019\]](#)

#### [Link to Case File](#)

- 10-page document
- Date of judgment = 29 November 2019
- Tax Court – Pretoria
- Re: Customs and Excise; section 88(1)(a)

**Issue = Whether SARS entitled to seize containers of clothing because of alleged understatement of declared transaction value. Applicant bringing urgent review application to have such seizure set aside**

- **Outcome:**
  1. The application is heard on an urgent basis in terms of Rule 6(12) and all the requirements with regard to form and service provided for in the Uniform Rules of Court are dispensed with
  2. The non-compliance with the period of 30 days specified in section 96 (1)(a)(i) of the Customs and Excise Act, No 91 of 1964 is condoned.
  3. The Commissioner's decision not to release the 8 containers (EGHU9706330, MSKU9476816, MRKU3495191, TCNU1677060, EITU1526903, DRYU9573963, TEMU6264829 and TEMU8845611) referred to hereunder is reviewed and set aside and, subject to 5 below, the respondent is ordered immediately to release such containers and the goods contained in them.
  4. The Commissioner's decision to seize 3 containers (MSKU1672026, BSIU9249814 & TLLU4768117) is reviewed and set aside and, subject to 5 below, the respondent is ordered immediately to release such containers and the goods contained in them.



5. Release of the goods referred to in paragraphs 3 and 4 of the order is dependent on the applicants paying the customs duties calculated on the transactional values of the goods as assessed in accordance with the documents submitted by them to the respondent, all fees due to the respondent lawfully determined on the basis of any error as to quantities of goods or tariff categorisations made by the applicants and provisional payments being made by the applicants to the respondent in the amounts set out in the schedule (refer to the case file)
6. The respondent is ordered to pay the costs of the first to ninth applicants, such costs to include the costs of two counsel.

*Click on the link above to download the full court case file*

#### **Siphayi and Another v CSARS and Others (34975/2019) [2019]**

##### [Link to Case File](#)

- 5-page document
- Date of judgment = 25 October 2019
- Tax Court – JHB
- Re: Tax Administration; section 184; whether the deducting of funds from the bank account of the first applicant in respect of a tax debt of the second applicant is unlawful and invalid

**Issue = Whether SARS should be ordered and directed to resend notices of intention to hold the first applicant liable for the tax debts of the second applicant**

- **Outcome:**
  - (a) Pending the re-enrolment of this application by either party, the first and second respondents are interdicted from deducting monies from the first applicant's bank account in terms of section 184 of the tax administration act 28 of 2011.
  - (b) The first and second respondents are directed to resend notices of intention to hold the first applicant liable for the tax debts of the second applicant at the following email addresses: (to be supplied).
  - (c) The remainder of the relief sought in this application is postpone sine die.
  - (d) Costs are reserved

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#### **Glencore Operations SA (Pty) Limited v CSARS (11696/18) [2019]**

##### [Link to Case File](#)

- 12-page document
- Date of judgment = 24 October 2019
- Tax Court – Pretoria
- Re: Customs and Excise; section 47(9)(e); Schedule 6

**Issue = Appeal against the decision by SARS to refuse an internal appeal lodged by the applicant against a determination by the Commissioner not to allow certain rebates in respect of distillate diesel fuel purchased and used in mining operations conducted by the appellant**

- **Outcome:**

1. The period of one year referred to in section 96(1)(b) of the Customs and Excise Act, 91 of 1964 is extended until 21 February 2018 in respect of the relief sought in prayers (2) to (5) below;
2. The applicant's appeal against the determination by the respondent contained in Annexure "FA3" to the founding affidavit that the applicant does not qualify for diesel refunds claimed by the applicant under rebate item 670.04 in Schedule 6 to the Customs and Excise Act, be upheld and the determination be set aside;
3. The aforesaid determination be substituted with a determination that the diesel refunds claimed by the applicant qualify under rebate item 670.04;
4. The respondent is to pay the costs, such costs to include the cost of senior counsel.

*Click on the link above to download the full court case file*

**Flordis South Africa (Pty) Limited v CSARS (61689/2015) [2019]**

[Link to Case File](#)

- 15-page document
- Date of judgment = 17 October 2019
- Tax Court – Pretoria
- Re: Customs and Excise; appeal under section 47(9)(e) against tariff determination made under Schedule No 1 to the Act

**Issue = Whether Ginsana capsules should be classified as Foodstuffs under tariff heading TH 2106.90.90 (as contended by SARS) or as Medicaments under TH 3004.90.90 (as contended by applicant)**

- **Outcome:**
  1. The tariff determination 34/2013 dated 6 March 2014 classifying the Ginsana capsules in tariff heading 2106.90.90 of Part 1 of Schedule No 1 to the Customs and Excise Act, 91 of 1964 is set aside.
  2. The Ginsana capsules imported under cover of Bill of Entry No 60401 dated 21 August 2012 is classified in tariff heading 3004.90.90 of Part 1 of Schedule No 1 to the above Act.
  3. The Respondent is ordered to pay the Applicant's costs, inclusive of the costs of Prof du Toit and inclusive of previously reserved costs.

*Click on the link above to download the full court case file*

**Gold Kid Trading CC v CSARS (2016/31842) [2018]**

**NB – There are 2 judgments for this case**

[Link to 1<sup>st</sup> Case File – Leave to Appeal](#)

- 6-page document
- Date of judgment = 21 October 2018
- Tax Court – JHB
- Re: Tax administration; section 7(2) of the Promotion of Administration of Justice Act 3 of 2000; section 17 of the Superior Courts Act 10 of 2013

**Issue = Whether applicant entitled to leave to appeal to the high court in respect of a matter pending before the tax court**

**(1) The jurisdiction of the High Court to entertain ordinary review applications not ousted by the legislative powers given to the Tax Court**

- **Outcome:**

In the premises the applicant's application for leave to appeal is dismissed with costs.

[Link to 2<sup>nd</sup> Case File](#)

- 13-page document
- Date of judgment = 19 July 2018
- Tax Court – JHB
- Re: Promotion of Administrative Justice Act, 2000 & Tax Administration Act, 2011 & Value-Added Tax Act, 1991

**Issue = The jurisdiction of the High Court to entertain ordinary review applications not ousted by the legislative powers given to the Tax Court. The Tax Court has no power to entertain reviews under the Protection of Administration of Justice Act (PAJA). Principles governing failure to exhaust internal remedies envisaged in section 7(2) of PAJA. The court declined to review the decision of SARS pending the outcome of the appeal that the applicant had lodged with the High Court**

- **Outcome:**

In the circumstances the Applicant's application is struck of the roll with costs.

*Click on the links above to download the full court case files*

<b>Agricultural and Industrial Mechanisation (Pty) Ltd v CSARS (21164/2017)</b>
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[Link to Case File](#)

- 9-page document
- Date of judgment = 29 August 2019
- Tax Court – JHB
- Re: Tax administration; sections 197 and 200; taxpayer placed in voluntary business rescue; requesting SARS to compromise and permanently write off an amount it owed to SARS under TA Act; SARS declining applicant's request

**Issue = Whether compromise under Companies Act a compromise under TA Act**

- **Outcome:**

- In this regard I do grant that extension. I make an order in terms of the prayers sought in the notice of motion as to the question of costs section 130 of the TAA deals with costs orders made by a Tax Court. This is a matter of review and not something and I am not sitting as a Tax Court. A Tax Court may in terms of section 130 grant an order for costs in favour of the party if SARS grants an assessment or decisions are held to be unreasonable if the appellant's grounds of appeal are held to be unreasonable and a number of other aspects which relate really to a decision by a Tax Court and not a decision with me sitting as a High Court. Unfortunately, this is not an aspect that was fully traversed by counsel. I did not ask them to traverse it. In a draft order prepared on behalf of the applicant Adv Dreyer did ask that the costs of the application are to be paid by the respondent. She handed up two draft orders the one related to the setting aside of the decision and that the matter be referred back to the respondent for reconsideration with the specific directive that SARS take into account that the business rescue plan dated 19 June 2013 was not a compromise agreement under section 197 and 200 of the Tax Act. As indicated I have not heard argument on the question of costs specifically and it was for that reason that

I reserve the question and costs and direct that the parties must come and argue the question of costs of this application as soon as possible and certainly within the next few weeks before the end of term and it is for that reason that I reserve the costs. The order that I make is contained in the draft order save for the deletion of prayer 6 and the amendment to prayer 5 that the costs are reserved.

- In the result I make an order in terms of the draft where the matter must be referred back to the respondent for consideration and taking into account that I make an order that the approved business rescue plan adopted by the creditors is not a compromise as set out in terms of the TAA.

*Click on the link above to download the full court case file*

#### **Peter v CSARS (3158/2018)**

##### [Link to Case File](#)

- 11-page document
- Date of judgment = 31 May 2019
  - *Citation corrected on 16 January 2020*
- Tax Court – JHB
- Re: Tax administration; section 164; applicant objecting to additional assessments and requesting suspension of payment; such request refused and taken on review; court setting aside decision and remitting to SARS for reconsideration; taxpayer making fresh request but this refused by tier 3 committee

**Issue = Whether tier 3 committee empowered to make decision; whether taxpayer had been frivolous and vexatious**

- **Outcome:**
  - (a) The amendment to the applicant's notice of motion is granted.
  - (b) The applicant is order to pay the costs associated with the amendment on an attorney and client scale
  - (c) The decision by the respondent to refuse the applicant's request to suspend payment of his tax liability for years of assessment 2005, 2006, 2007, 2008, 2009, 2010 and 2011 pending the finalisation of his tax appeal pending before the Tax Court is reviewed and set aside;
  - (d) The applicant's request to suspend payment of his tax liability for years of assessment 2005, 2006, 2007, 2008, 2009, 2010 and 2011 pending the finalisation of his tax appeal pending before the Tax Court is remitted to the respondent for reconsideration;
  - (e) Save as provided for in order (b) above, the respondent is ordered to pay the costs of this application.

*Click on the link above to download the full court case file*

#### **Brits and 3 Others v CSARS (2017-44380)**

##### [Link to Case File](#)

- 7-page document
- Date of judgment = 28 November 2017
- Tax Court – JHB
- Re: Tax administration; value-added tax; Tax Administration Act (section 42); Constitution of the Republic of South Africa (section 32)

- **Issue = Applicant subject of VAT audit; letter of audit findings that all transactions fictitious and that all input tax to be written back; SARS having seized all documentation relating to transactions in question refused to give appellant access to same; Applicant unable to respond meaningfully to audit findings without documentation; applying to court to direct SARS to provide said documentation; court upholding applicant's request**
- **Outcome:**
  1. The application is urgent.
  2. In terms of prayers 1, 2, 3 and 4 (as amended) of the draft order, which I have marked 'X', signed and dated.
  3. The respondent shall pay the applicants' cost of the urgent application

*Click on the link above to download the full court case file*

<b>Canyon Resources (Pty) Ltd v CSARS (68281/2016) [2019]</b>
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[Link to Case File](#)

- *22-page document*
- Date of judgment = 27 March 2019
- Tax Court – JHB
- Re: Customs and excise; rebate item 670.04; "diesel refund"; application for setting aside determination made by Commissioner; "wet rates" and "dry rates"

**Issue = Interpretation of post-recovery and post-mining activities; interpretation of in respect of mining of coa**

- **Outcome:**
  1. The Applicant's application for the setting aside and substitution of the determination by the Commissioner of the South African Revenue Services ("the Commissioner") regarding the diesel refunds claimed by the Applicant under rebate item 670.04 provided for in the Customs and Excise Act No 91 of 1964 in respect of the first two assessment periods of the Applicant's contractor Close-Up as well as the claims in respect of the Applicant's contractors Ni-Da and Minopex, is dismissed and the determination is upheld.
  2. The issue of whether the records of the Applicant and its contractors Close-up (in respect of the third period), Alcedopro and Trollope demonstrate with sufficient particularity the entitlement to a diesel refund and the extent thereof in respect of diesel utilized by the said contractors and whether the Commissioner's determination of a refusal thereof should be upheld or not, is referred for the hearing of oral evidence on a date to be allocated by the Deputy Judge President.
  3. The evidence in respect of the abovementioned referral shall be that of any witnesses whom the parties or either of them may elect to call, subject, however, to the following:
    - a. Save in the case of those witnesses who have already deposed to affidavits in these proceedings, neither party shall be entitled to call any witness unless it has served on the other party at least 20 days prior to the hearing (in the case of the Applicant) and at least 10 days (in the case of the Respondent) a statement on oath wherein the evidence to be given is set out or the Court, at the hearing permits such person to be called despite the fact that no such statement has been served in respect of his or her evidence.
    - b. Either party may subpoena any person to give evidence at the hearing, whether such a person has consented to furnish a statement or not.

- c. The fact that a party has served a statement as envisaged above, shall not oblige such a party to call the witness concerned.
  - d. Within 60 days from date of this order each of the parties shall make discovery on oath of all documents relating to the issue referred for the hearing of oral evidence whereafter the rules of court pertaining to discovery, inspection and production of documents as for trials shall apply. These rules shall also apply in respect of any expert evidence which the parties may wish to present.
4. Prayers 3 and 8 of the Applicant's notice of motion are refused.
  5. No order is made in respect of prayers 2, 4, 5, 6 and 7 of the Applicant's notice of motion.
  6. The incidence of costs (and the scale thereof) incurred up to now are reserved to be determined after the hearing of oral evidence.

*Click on the link above to download the full court case file*

#### **Medtronic International v CSARS (33400/19) [2020]**

##### [Link to Case File](#)

- 14-page document
- Date of judgment = 17 February 2020
- Tax Court – Pretoria
- Re: Tax Administration Act, 2011 & Promotion of Access to Justice Act, 2000 & Supreme Court Act, 1959

**Summary** = Rule 30A(1) of the High Court rules; record of review proceedings is still to be determined by relevance; relevance is not dependant upon the pleaded issues in the initial review application; relevance remains to be determined by the decision sought to be reviewed.

**Issue** = **Whether CSARS should have included internal e-mail correspondence between staff as part of the record in a Rule 53 review application**

##### • **Outcome:**

The application in terms of Rule 30A dated 23 August 2019 is dismissed with costs.

*Click on the link above to download the full court case file*

## **31. SUPREME COURT OF APPEAL CASE**

### **CSARS v South African Breweries (Pty) Ltd (442/2017) [2018]**

Classification of products for determination of excise duty rate

##### [Link to Case File](#)

- 17-page document
- Date of judgment = 27 June 2018
- Tax Court – JHB
- Re: Revenue; section 47 of the Customs and Excise Act 91 of 1964

**Summary** = **Classification of products for determination of excise duty rate; general rules of Interpretation restated; classification of goods primarily on explanatory notes incorrect; appeal dismissed**

*Click on the link above to download the full court case file*

## 32. COVID-19 NOTICES

[Notices](#) relating to COVID-19 has been published:

- COVID-19 Export Control Regulation
- ITAC Certificate – SARS Essential Goods List
- VAT 412.11 Mapping

Click the link above to access more detail.

### SARS hub for Covid-19 tax relief measures

*Accounting Weekly article – 29 April 2020*

SA Revenue Services (SARS) has issued a [consolidated page](#) detailing the various tax relief measures introduced in response to the Covid-19 lockdown.

We are reproducing it here for convenience, as well as the various explanatory notes and press releases issued by SARS.

Useful links:

- ❑ [For Tax relief measures only for COVID-19, click here.](#)
- ❑ [For Customs relief measures only for COVID-19, click here.](#)
- ❑ [Apply for Small Business Relief through the Department of Small Business Development.](#)
- ❑ [Apply for UIF through the Department of Employment and Labour.](#)
- **25 April 2020 – [Draft explanatory notes– Further COVID-19 tax measures](#) and [Draft notices for urgent public comment – Expanding access to living annuities](#)**

Following queries received, National Treasury and SARS publish, for urgent comment, explanatory notes on further COVID-19 tax measures, and notices relating to expanding access to living annuities. Because of time constraints to have these notices signed into law with immediate effect, the comment period is open for a very limited time.

- **24 April 2020 – [Tax Relief measures: Three-month deferral for filing and first payment of carbon tax](#)**  
In line with the economic stimulus package announced by President Cyril Ramaphosa, the filing requirement and the first carbon tax payment which was due by 31 July 2020 will be delayed to 31 October 2020.
- **24 April 2020 – [FAQ's for Employers detailing the process to follow for PAYE deferment, SDL payment holiday and the extended Employment Tax Incentive](#)**

On 21st April 2020 President Ramaphosa announced additional measures to assist employers to provide financial stability to their employees. One of these measures includes a 35% deferral on the monthly PAYE liability owed to SARS for the months of April, May, June and July. In addition, SARS will not impose any penalty or interest on the deferred PAYE liability amount. This means that employers are still liable to pay the remaining 65% as per normal.

- **24 April 2020 – Update: [Frequently Asked Questions on Tax Relief Measures](#)**
  - ETI amounts increased from R500 to R750

- Gross income increased from 50 to 100 million for businesses qualifying for tax relief
- **24 April 2020 – [Update to the 9 April post of what other countries are doing during the COVID 19 Pandemic \(Eswatini and Lesotho\)](#)**
- **23 April 2020 – Press release from Treasury: [Further Tax Measures to combat the COVID-19 pandemic](#)**
- **22 April 2020 – Dealing with Tax Exemption Unit (TEU) during lockdown**
  - **New applications to register as a Public Benefit Organisation (PBO)**  
New applications to register as a Public Benefit Organisation (PBO) cannot be submitted through email as they are very bulky, rather, taxpayers are encouraged not to submit new applications during this period.
  - **Emergency registrations (disaster management related activities organisations)**  
For emergency registrations taxpayers can send an email to make a drop-off arrangement – [teu@sars.gov.za](mailto:teu@sars.gov.za).
  - **Supporting documents for applications**  
Requested supporting documents may be submitted through [TEU@sars.gov.za](mailto:TEU@sars.gov.za), clearly identifying the case number and income tax number for ease of linking to the original case.
  - **Submission of returns**  
IT12EI income tax return must be emailed to [teu@sars.gov.za](mailto:teu@sars.gov.za).  
Support documents for returns – where taxpayers have been requested to submit supporting documents for assessments, they may send them via email, clearly indicating the tax reference number of the taxpayer so that the supporting documents case can be directed correctly.
  - **TEU switchboard**  
TEU switchboard will not be active, taxpayers can send follow-up queries via email, [TEU@sars.gov.za](mailto:TEU@sars.gov.za).
- **22 April 2020 – [Frequently Asked Questions \(FAQs\) relating to essential goods, clearance and movement of goods, and services rendered by Customs under the COVID-19 lockdown](#)**
  - [Disaster Management Act 57 of 2002](#)
- **20 April 2020 – Update: [Frequently Asked Questions on Tax Relief Measures](#) (will be updated on a regular basis)**
- **19 April 2020 – [Update: Customs measures relating to COVID-19 – Impact on Customs of new Government regulations](#)**  
(This replaces the notes of 6 and 7 April relating to Transportation of Cargo)
  - [Remarks by the Minister of Cooperative Governance and Traditional Affairs, Dr Nkosazana Dlamini-Zuma on the amended regulations – 16 April 2020](#)
  - [Government Notice – 16 April 2020](#)
- **17 April 2020 – Requests for duty deferment payment relief**  
Kindly note that SARS has received a number of requests from traders for payment relief or extensions in respect of the April 2020 Customs duty deferment period as a result of the Covid-19 pandemic and the impact which it has had on economic activity under lockdown conditions. [Please see the response from SARS to all stakeholders](#).
- **14 April 2020 – VAT Reference Guide for Foreign Donor Funded Projects in the light of COVID-19**  
The South African government may enter into international donor funding agreements with foreign



governments or other international entities in terms of which goods or services must be supplied for the benefit of people in South Africa. The purpose of this reference guide is to provide certainty to taxpayers on the VAT treatment of foreign donor funded projects implemented by an implementing agency. For more info, see the [VAT Reference Guide for Foreign Donor Funded Projects](#).

- 14 April 2020 – Application of Origin proof requirement during the COVID-19 crisis under the SADC-EU-EPA**  
 South Africa and the European Commission has relaxed the requirement to insist on the presentation or submission of original certificates of origin to prove the originating status of goods at the time of clearance. Instead, copies or electronic versions of proof of origin will be accepted in an attempt to curb the spread of the COVID-19. In South Africa, the relaxation of the rules is subject to the submission of the original certificates within 12 months after being issued in the European Union (EU). While Article 26 to Protocol I of the SADC-EU Economic Partnership Agreement (EPA) requires the submission of an original proof of origin within ten (10) months, SARS will honour or accept copies or electronic versions of certificates of origin while awaiting the submission of the original versions within twelve (12) months after being issued in the EU. Traders are encouraged to register for the generous Approved Exporter Scheme, within the meaning of Article 25 to Protocol I of the SADC-EU EPA, which allows an Origin Declaration to be presented in the importing country no longer than two (2) years after the importation of the products to which it relates. Kindly direct all enquiries in relation to this matter to Mr Alfred Ramoroka at [aramoroka@sars.gov.za](mailto:aramoroka@sars.gov.za).
- 9 April 2020 – Goods qualifying for import VAT exemption under item 412.11 – COVID-19 measures (Updated the 3 April 2020 message to reflect additional exclusion communicated by ITAC, with effect from 8 April 2020)**

SARS wishes to clarify that “essential goods” as defined in Regulation R.398 in *Government Gazette* No 43148 of 25 March 2020, other than the goods mentioned below, are exempt from VAT on importation under item 412.11/00.00/01.00 to Schedule 1 of the Value-Added Tax Act, 1991, read with section 13(3) of that Act. Goods that are not exempt from VAT on importation are goods that the International Trade Administration Commission (ITAC) has indicated are:

- 1) *DUTIABLE (AND NO ITAC CERTIFICATE UNDER ITEM 412.11 OF SCHEDULE NO. 4 OF THE CUSTOMS AND EXCISE ACT, 1964, HAS BEEN ISSUED);*
- 2) *SUBJECT TO THE DUTIES REFERRED TO IN 1) BUT ARE ENTERING SOUTH AFRICA DUTY FREE BECAUSE OF A PREFERENTIAL TRADE AGREEMENT OR OTHER AGREEMENT, SUCH AS A CUSTOMS UNION;*
- 3) *THE SUBJECT OF APPLICATIONS FOR DUTY SUPPORT THAT ARE CURRENTLY PENDING BEFORE ITAC; AND*
- 4) *MANUFACTURED BY DOMESTIC INDUSTRY AND ITAC HAS DETERMINED SUCH INDUSTRY IS BEING OR IS LIKELY TO BE INJURED BY IMPORTS.*

See the [illustrative mapping of essential goods to their relevant tariff headings](#). The illustrative mapping has been prepared at a high level and may include non-essential goods. e.g. Chapters 28 and 29 contain chemicals that are not used for essential goods. Importers must ensure that only essential goods are cleared under item 412.11 to avoid penalties.

Goods excluded from the import VAT exemption under 1) are those goods that are subject to an ordinary customs duty, as set out in Schedule No. 1, or trade remedies (anti-dumping, countervailing or safeguard duty), as set out in Schedule No. 2 to the Customs and Excise Act, 1964. Goods excluded under 2) are also set out in these Schedules. A list of goods excluded under 3) and 4) is available in the relevant ITAC certificate. Click here for the [ITAC import VAT certificate](#) dated 30 March 2020. Click here for the [ITAC import VAT certificate](#) dated 8 April 2020.

Goods that qualify for VAT exemption and are not dutiable fall under the certificate issued by ITAC in this regard and no individual applications need be submitted to SARS or ITAC.

Importation will follow the normal procedure described in the external policy SC-CF-55 – Clearance declaration external policy. The VAT exemption is only valid for direct importations and not to be cleared into bond or

warehousing. CPC A 14 must be used for importations from outside SACU and CPC A 12 for importations from the BLNS, with measure 412.11/00.00/01.00.

During the COVID-19 pandemic, SARS Customs has also set up a command centre to deal with escalations that may have not been dealt with at branch level. Your existing call reference number, transaction (SSM/LRN) can then be sent to [osc@sars.gov.za](mailto:osc@sars.gov.za). To save duplication and time, clients are reminded that queries must be sent to the relevant branch/processing centre.

Please note that the VAT treatment of the local supply of goods by an importer or any other vendor is unaffected by the import VAT exemption. The normal provisions of the Value-Added Tax Act, 1991, apply.

- **9 April 2020 – [SADC Guidelines on Harmonisation and Facilitation of Cross Border Transport Operations across the Region During the COVID-19 Pandemic](#) (Updated on 15 April with neighbouring countries details)**

Domestic, interstate and international travel have proven to be one of the main ways the COVID-19 virus is spreading among communities, nations and globally. There is therefore a need to limit travelling and freight movements to the absolutely essential only.

- Botswana: [Extraordinary Gazette 02-04-2020](#) and [Extraordinary Gazette 05-04-2020](#)
- [Lesotho](#)
- [eSwatini](#)

- **9 April 2020 – [Notice No. R.458 in Government Gazette No. 43222](#)**

Rule amendment to substitute Rule 24.03 to provide for the exemption of foreign-going ships or aircraft from the payment of duty on stores consumed on such ships in any port in the Republic, or on an aircraft on a flight between any places in the Republic for the duration of the national state of disaster. With retrospective effect from 23 March 2020.

- **8 April 2020 – [Frequently Asked Questions on Tax Relief Measures](#)**
- **8 April 2020 – [Media statement from Treasury – Call to Suppliers](#)**

Due to the shortage of Personal Protective Equipment (PPE) to curb the spread of COVID-19, the National Treasury in support of the Department of Trade, Industry, and Competition (DTIC) calls on all compliant, particularly local, suppliers providing commodities listed below to direct their offers to the PMO set up for this purpose. The submissions will be assessed by the support team responsible for coordinating the process, exclusively for the identified commodities.

- **8 April 2020 – [Disaster Management Tax Relief for Employees' Tax, ETI and Provisional Tax](#)**

This video focuses on the Disaster Management Tax Relief for Employees' Tax, ETI and Provisional Tax. Government has proposed certain tax relief measures aimed at alleviating cash flow problems during the COVID-19 outbreak. These Tax Relief Bills, includes tax relief for businesses in respect of provisional taxes, employees' tax and an expansion of the employment tax incentive. The video is segmented into three areas focusing on the three main categories.

- **3 April 2020 – Goods qualifying for a full rebate of customs duty and import VAT exemption under 412.11 – COVID-19 measures**

Importation of supplies critical to the national state of disaster necessitated by the COVID-19 pandemic can be done free of duty and VAT into South Africa.

Importers are required to apply to ITAC for a certificate to use that qualifies them to import under rebate item 412.11.

Qualifying products referred to as "critical supplies" are listed on the [ITAC website](#), as is the application form and the SOP.

The importation of these goods will follow the normal Customs procedure described in the external policy SC-CF-55. The rebate item is only valid for direct importations and no bonded or warehouse clearances will be permitted under this rebate item. CPC A 14 must be used for importations from outside SACU and CPC A 12 for importations from the BLNS, with measure 412.11/00.00/01.00.

If requested to provide supporting documents to Customs, the client would need to upload the certificate issued to the importer by ITAC, along with the standard set of supporting documents to substantiate the import declaration.

During the COVID-19 pandemic, SARS Customs has also set up a command centre to deal with escalations that may have not been dealt with at branch level. Your existing call reference number, transaction (SSM/LRN) can then be sent to [osc@sars.gov.za](mailto:osc@sars.gov.za). To save duplication and time, clients are reminded that queries must be sent to the relevant branch/processing centre.

- **3 April 2020 – Treatment of timeframes during period of national lockdown**

Please Note that the [Disaster Management Tax Relief Administration Bill, 2020 has been published on the SARS website for public comment](#). The closing date for comments is 15 April 2020. In terms of proposed clause 5(2)(a)(i) of the Bill, certain time periods prescribed in terms of the Customs and Excise Act, 1964, are suspended for the duration of the national lockdown as defined in clause 1 of the Bill. The time periods that are not extended during the national lockdown are dealt with in clause 5(2)(a)(ii). In respect of these time periods, the current provisions of the Customs and Excise Act, 1964, will apply. Current provisions in terms of the Customs and Excise Act in relation to interest and penalties will continue to apply in respect of non-compliance.

- **3 April 2020 – [Frequently Asked Questions on Tax Relief Measures](#)** (will be updated on a regular basis)
- **2 April 2020 – COVID-19 Export Control Regulation**

SARS has been requested by the Department of Trade and Industry to add the listed goods to its prohibited and restricted list (P&R list) for purposes of export control. It is not a ban. Traders may apply to the International Trade Administration Commission (ITAC) for an export permit, and if granted the goods may be exported. See the [Notice R.424](#) for more information.

- **2 April 2020 – Processing of Rules of Origin certificates during lockdown**

Customs clients submitting Certificates of origin, including: Form A, EUR1, SADC, MERCOSUR and AGOA, will continue to do so at their local branch as per communiqué dated 26 March 2020 (using an appointment process). However, clients in Durban and Cape Town are advised that Certificates of origin will only be processed during the lockdown period on the following days: Monday, Wednesday and Friday. A skeleton staff complement will be deployed to these two Customs hubs to assist on the abovementioned days for limited hours. Please note that receipt and collection of the certificates is to be done between 08:00 and 12:00PM on those three days only.

The hubs are situated at:

- Durban: Albany House  
61/62 Margaret Mncadi ave
- Cape Town: SARS Project 166  
22 Hans Strydom Avenue

- **1 April 2020 – Draft Disaster Management Tax Relief and Relief Administration Bill**

Following the media statement issued by the Minister of Finance on 29 March 2020 on Tax Measures to Combat the COVID-19 pandemic, the National Treasury and the South African Revenue Service (SARS) today publish, for public comment, the 2020 Draft Disaster Management Tax Relief Bill and the 2020 Draft Disaster

Management Tax Relief Administration Bill. These draft Bills provide the necessary legislative amendments required to implement the COVID-19 tax measures. The measures contained in these draft Bills will take effect on 1 April 2020:

- [Media Statement: Publication of COVID-19 Draft Tax Bills for public comment](#)
- [Draft Disaster Management Tax Relief Bill – 1 April 2020](#)
- [Draft Disaster Management Tax Relief Administration Bill – 1 April 2020](#)
- [Draft Explanatory Memorandum on the Draft Disaster Management Tax Relief Bill – 1 April 2020](#)
- **31 March 2020 – Rebates for the manufacturing of hand sanitisers**

SARS Excise – SARS has published a streamlined temporary registration process for traders to register as rebate users in the manufacturing of disinfectants for the duration of the national state of disaster.

  - For more information, see the SARS letter [COVID-19 communication – clarity regarding the use of ethyl alcohol in the manufacturing of hand sanitisers](#).
  - The process is documented in the [Government Gazette No. 43156 No. R.411](#).
- **30 March 2020 – Small Business relief**

For Small Businesses in need of financial support during this difficult time, refer to the Debt Relief Finance Scheme offered by the Department of Small Business Development, [click here](#).
- **29 March 2020 – The Minister of Finance announced exceptional tax measures**

The Minister of Finance has announced the following exceptional tax measures as part of the fiscal package outlined by President Cyril Ramaphosa on 23 March 2020 in his speech on the Escalation of Measures to Combat COVID-19. These measures are over and above the tax proposals made in the 2020 Budget on 26 February 2020. The tax adjustments are made in light of the National State of Disaster and due to the significant and potentially lasting negative impacts on the economy from the spreading of the COVID-19 virus. There is a critical need for government interventions to assist with job retention and assist businesses that may be experiencing significant distress:

  - [Media statement: COVID-19 Tax Measures](#)
  - [Explanatory Notes on COVID 19 Tax measures](#)
- **28 March 2020 – Letter to taxpayers regarding Debt SMS's issued**

Dear Taxpayer, during these challenging times SARS continues to provide the essential service of collecting tax revenue that our Government more than ever before needs to deal with amongst others COVID19 & helping the economy. Many distressed taxpayers also anxiously await their refunds thus requiring SARS to continue its essential services.

SARS confirms that an sms was issued today to taxpayers about amounts payable on 31 March 2020. SARS remains available to continue to provide essential service during this difficult time. Thanking you in advance & kind regards.
- **27 March 2020 – [Clarity relating to processing of cargo and travellers during national lockdown period](#)**

All borders of the Republic are closed during the period of lockdown, except for transportation of fuel and essential goods. On 25 March 2020, the Department of Transport issued a statement by the Minister of Transport, Fikile Mbalula. Click on the above link for more information on air, sea and land related points on cross-border movement of cargo and travellers.
- **27 March 2020 – SARS Contact Centre operating hours during lockdown**
  - Weekdays: 9:00 – 16:00

- Closed on weekends and Public Holidays.

OUR CONTACT NUMBERS ARE 0800 00 7277 AND FOR INTERNATIONAL CALLERS: +27 11 602 2093.

- **27 March 2020 – VAT exemption for essential goods on importation (29 March – Updated to reflect scope of customs duty rebate and 3 April – Updated with contact details)**

Due to the measures put in place under the Disaster Management Act 57 of 2002, “essential goods” as defined in Regulation R.398 in *Government Gazette* No 43148 of 25 March 2020 will be subject to a VAT exemption on importation during the COVID-19 pandemic, under Item 412.11/00.00/01.00 of Schedule 1 to the Value Added Tax Act 89 of 1991. A full rebate of customs duty under rebate item 412.11 of Schedule No. 4 to the Customs and Excise Act 91 of 1964 is available where ITAC has approved the rebate for the goods concerned.

- Visit the [ITAC website](#) for information relating to the full rebate of customs duty under Covid-19 Rebate Item 412.11
- Queries specific to classification may be addressed to Selloane Molebatsi at [SMolebatsi3@sars.gov.za](mailto:SMolebatsi3@sars.gov.za) and [Lmadileng@sars.gov.za](mailto:Lmadileng@sars.gov.za).

- **26 March 2020 – [Timeframe for the export of goods by vendors and qualifying purchasers affected by COVID-19](#)**

Binding General Ruling 52 has been issued to address the Export Regulations and Interpretation Note 30 (IN 30) which prescribes the time periods to export movable goods, apply for a refund from the VAT Refund Administrator and obtain the relevant documentary proof of export. The Export Regulations and IN 30 respectively allow for an extension of the aforementioned time periods, where these periods cannot be met, because of circumstances beyond the control of the qualifying purchaser or the vendor. In light of the COVID-19 pandemic, and the measures put in place by the President of the Republic, regarding the pandemic, qualifying purchasers and vendors will have a difficulty in meeting the aforementioned prescribed time periods set out in the Export Regulations and IN 30.

- **26 March 2020 – [Rebate Item 621.08 – Special conditions for certain recipients of partially or undenatured ethyl alcohol](#)**

For the purposes of item 621.08, the special conditions shall apply to recipients and users of partially denatured or undenatured ethyl alcohol for the manufacture of disinfectant classifiable in heading 38.08 of Part 1 of Schedule No. 1 for the duration of the national state of disaster declared in terms of section 27(1) of the National Disaster Management Act, 2002 (Act No. 57 of 2002), by Government Notice No. 313 of 15 March 2020.

- **26 March 2020 – [Arrangements for Customs services during lockdown](#) and [Customs Branch Managers contact details](#)**

Procedures that SARS Customs has put in place during the period 27 March 2020 until 16 April 2020, focusing primarily on facilitating trade in essential services for Services at Customs offices, Registration, Licensing and Accreditation, Applications for Embargoes, Special Attendance, Degroup Removal in Bonds, etc. and Physical Inspections.

- **25 March 2020 – [Letter to Taxpayers – Message from Commissioner Edward Kieswetter](#)**

Dear Taxpayer,

As you are aware, we are entering an unprecedented period in our history as a young democracy. It is a time in which we need to show social solidarity by taking care of ourselves and all South Africans.

The President of South Africa Mr Cyril Ramaphosa has announced a nationwide lockdown with effect from midnight on Thursday 26 March 2020 in view of the escalating COVID-19 pandemic.

Taking into account the devastating economic impact of this pandemic, the President also announced a number of measures to help tax compliant companies in distress and their affected employees, especially Small, Medium and Micro Enterprises (SMMEs).

To give effect to the President's lockdown instructions and to minimise face-to-face contact, I wish to inform you that SARS has taken a decision to ensure that alternative processes are in place so that you can engage with SARS, [read more](#).

- **25 March 2020 – [SARS Customs letter to Trade on the impact of COVID-19](#)**

During this lockdown period, SARS Customs wishes to advise you of the following:

- As an essential service, SARS Customs will continue to administer cross-border movement of goods at all land, sea, airports, and permissible travel in line with applicable restrictions.
- SARS Customs is putting in place measures to ensure uninterrupted rendering of Customs services, and the protection of our officers and clients.

SARS Customs will ensure that the following capabilities remain available throughout the lockdown period:

- Licencing and Registration for the manufacturing of essential products such as sanitisers. A central capacity will be created to process these applications;
- A minimum service capability will be available when required at all Customs offices;
- The processing of declarations will proceed as normal;
- Physical inspections of goods will continue as normal and priority will be given to essential goods. Other inspections will continue on an appointment basis;
- Border operations will proceed as normal with limited staff.

- **25 March 2020 – [SARS Customs 12-13th Deferments Payment at the end of the financial year 2019/2020](#)**

*FOLLOWING THE ANNOUNCEMENT OF THE NATIONAL LOCKDOWN AND A TELECONFERENCE HELD WITH KEY CUSTOMS STAKEHOLDERS THIS WEEK, A DECISION WAS MADE TO BRING FORWARD THE 13TH DEFERMENT PAYMENT FOR THE 2019/20 FINANCIAL YEAR-END.*

*THE STATEMENT PERIOD FOR THIS FINANCIAL YEAR (2019/2020) 13TH DEFERMENT PAYMENT WILL NOW CLOSE 25 MARCH 2020 AT 17H00 AND PAYMENT MUST BE MADE BY NO LATER THAN 15H00 ON FRIDAY 27 MARCH 2020. THE E-STATEMENTS WILL BE AVAILABLE AS AT 17H01 ON 25 MARCH 2020 FOR ACCOUNT HOLDERS WHO ARE ON EFILING. ACCOUNT HOLDERS NOT ON EFILING WILL BE EMAILED THEIR STATEMENTS BY THE RESPECTIVE BRANCHES. THEY WILL ALSO BE AVAILABLE FOR COLLECTION AT THE RESPECTIVE CUSTOMS BRANCHES THROUGH PRIOR ARRANGEMENT.*

- **20 March 2020 – [SARS Customs – impact on the Registration of Cargo Reporters](#)**

*THIS WEEK SARS ANNOUNCED THAT IT IS TAKING MEASURES TO ENSURE THE SAFETY OF ITS STAFF AND CLIENTS, INCLUDING ENCOURAGING SOCIAL DISTANCING AND LIMITING THE NUMBER OF PEOPLE VISITING SARS OFFICES. AS A RESULT, IF CUSTOMS CLIENTS WISH TO REGISTER AS A CARGO REPORTER, INSTEAD OF COURIERING THEIR REGISTRATION DOCUMENTS OR HANDING THEM IN AT SARS HEAD OFFICE IN PRETORIA, THEY ARE ASKED TO SCAN THEM AND MAIL THEM TO [NLEGODI@SARS.GOV.ZA](mailto:NLEGODI@SARS.GOV.ZA). FOR QUERIES, YOU CAN CALL 012-422 8388.*

- **18 March 2020 – [Suspension of Tax Mobile Units and Tax workshops](#)**

*DUE TO THE NOVEL CORONAVIRUS (COVID-19) OUTBREAK ALL TAX WORKSHOPS AND MOBILE TAX UNITS HAVE BEEN SUSPENDED UNTIL FURTHER NOTICE.*

- **17 March 2020 – [No need to go to a SARS branch, see our online services](#)**

Service offerings available on eFiling:



- Enquire on debt outstanding and make a payment
- Enquire on returns outstanding
- Tax Compliance Status
- Notice of Registration (IT150)
- Filing your Income Tax Return
- Update personal details (including Bank Details)
- Request Statement of Account
- Register for Income Tax (Completed by your employer on eFiling)
- Submission of Supporting Documents for an audit case

If you are not an eFiler, [click here to register](#).

- **17 March 2020 – [Letter to Trade – Impact of Corona virus on Trade and the list of closed ports](#)**

*DURING PRESIDENT CYRIL RAMAPHOSA'S ADDRESS TO THE NATION ON SUNDAY NIGHT HE DECLARED A STATE OF DISASTER AND ANNOUNCED VARIOUS MEASURES TO ADDRESS THE THREAT OF THE CORONAVIRUS. THIS INCLUDED THE CLOSURE OF VARIOUS PORTS OF ENTRY, INCLUDING TWO SEA PORTS AND 35 LAND PORTS, AS OF 16 MARCH 2020. THE SEA PORTS ARE MOSSEL BAY AND SALDANHA BAY, WHILE THE LAND BORDERS ARE ALEXANDER BAY, SENDELINGSDRIFT, ONSEEPKANS, MCCARTHYS REST, MIDDELPUNT, RIETFontein, GEMSBOK; TWEE RIVIEREN; BRAY; MOKOPONG; MOKGHIBISTADT; SWARTKOPFontein; DERDEPOORT; STOCKPOORT; PLATJAN; PONDRIFF; ZANZIBAR; PAFURI; GIRIYONDO; EMAHLATINI; BOTHASHOOP; WAVERLEY; NERSTON; JOSEFSDAL; KOSI BAY; ONVERWACHT; SANI PASS; BOESMANSNEK; TELLEBRIDGE; ONGELUKSNEK; RAMATSILISO; MONONSTHAPASS; PEKA BRIDGE; MAKHALENG AND SEPHAPHUSGATE.*

- **17 March 2020 – [Message from the Commissioner, Edward Kieswetter, on the impact of COVID-19 on SARS Operations](#)**

*DEAR TAXPAYERS*

*BY NOW YOU HAVE HEARD AND ASSIMILATED THE ANNOUNCEMENT BY PRESIDENT CYRIL RAMAPHOSA ON SUNDAY 15 MARCH, WHERE HE DECLARED A NATIONAL STATE OF DISASTER FOLLOWING THE OUTBREAK OF THE COVID-19 WHICH HAS ALSO BEEN DECLARED A PANDEMIC BY THE WORLD HEALTH ORGANISATION (WHO).*

*THE PRESIDENT CALLS ON ALL OF US AS SOUTH AFRICAN'S FOR AN EXTRA-ORDINARY RESPONSE AND AS SARS WE ARE TAKING THIS OPPORTUNITY AT ALL TIMES TO PROVIDE CLARITY AND CERTAINTY TO OUR TAXPAYERS IN HOW WE MOVE FORWARD IN TERMS OF OUR SERVICE OFFERINGS.*

*AS SARS, WE HAVE TO BALANCE THE IMPORTANT WORK WE DO TO COLLECT REVENUE, FACILITATE SERVICE TO TAXPAYERS, TRAVELERS AND TRADERS, WHILST AT THE SAME TIME TAKING REASONABLE MEASURES TO PROTECT OURSELVES AS SARS OFFICIALS AND YOURSELVES AS CITIZENS OF THE REPUBLIC.*

*FOLLOWING THIS, WE WILL BE ADHERING TO STRICT GENERAL HYGIENE AS WELL AS SOCIAL DISTANCING TO REDUCE THE SPREAD OF THE COVID-19. WE NEED TO INFORM YOU OF THE FOLLOWING CHANGES TO OUR OPERATIONS, [READ MORE](#).*

- **08 March 2020 – [Media release on SARS takes COVID-19 precautions at SARS branches and Ports of entry](#)**

*PRETORIA, SUNDAY 8 MARCH 2020 – SOUTH AFRICAN REVENUE SERVICE (SARS) HAS ANNOUNCED THAT IT HAS TAKEN SEVERAL PRECAUTIONARY MEASURES IN RESPONSE TO RISK OF INFECTION FROM THE NOVEL CORONAVIRUS (COVID-19).*

COMMISSIONER EDWARD KIESWETTER SAID SARS TAX, CUSTOMS AND EXCISE OPERATIONS WOULD CONTINUE AS NORMAL AT ALL SARS BRANCHES, OFFICES AND PORTS OF ENTRY. THESE MEASURES ARE ALIGNED WITH AND IN SUPPORT OF OTHER INITIATIVES TAKEN BY THE DEPARTMENT OF HEALTH. ALL SARS BRANCHES WILL MAKE HAND SANITIZERS AVAILABLE TO TAXPAYERS WHO VISIT OUR BRANCHES. SARS WILL ALSO ENSURE THAT ALL WORKING AND SERVICE AREAS THAT ARE MOST FREQUENTLY TOUCHED ARE KEPT CLEAN WITH SPECIALIZED DETERGENTS. INFORMATION WILL ALSO BE SHARED WITH TAXPAYERS ON BASIC STEPS TO PREVENT THE SPREAD OF COVID-19.

IN ADDITION, THE SARS COMMISSIONER SAID THAT, "IN THE PAST FEW WEEKS, SARS HAS MADE AVAILABLE IT'S PERSON PROTECTIVE EQUIPMENT TO CUSTOMS OFFICIALS AT ALL PORTS OF ENTRY, INCLUDING MASKS, GLOVES AS WELL AS HAND SANITIZERS IN LINE WITH NATIONAL GOVERNMENT GUIDELINES". SARS CUSTOMS OFFICIALS WILL ALSO BE SUPPORTED BY HEALTH OFFICIALS WHO WILL SCREEN TRAVELERS ENTERING SOUTH AFRICA.

SARS OFFICIALS ARE ALSO IN CONTACT WITH CUSTOMS AUTHORITIES FROM NEIGHBOURING STATES TO SHARE INFORMATION REGARDING THE COVID-19 OUTBREAK AND STEPS TO MITIGATE THE RISK OF INFECTION.

"I CALL ON ALL TAXPAYERS AND TRADERS TO TAKE NOTE OF THE INFORMATION AVAILABLE TO TAKE STEPS TO PROTECT THEIR HEALTH AND WELL-BEING. OUR CORE MESSAGE TO OUR EMPLOYEES, AS WELL AS TAXPAYERS, TRADERS AND TRAVELERS IS TO NOT PANIC, BUT TO PRACTICE SELF-CARE AND CONSIDERATION TO OTHERS.

"IN THIS REGARD, TO PRACTICE HIGH LEVELS OF PERSONAL HYGIENE, ESPECIALLY TO REGULARLY AND THOROUGHLY WASH HANDS; MINIMIZE HANDSHAKES AND TRAVEL AND REMAIN INDOORS SHOULD THEY EXPERIENCE SYMPTOMS OF FLU."

"WE WANT TO REASSURE ALL TAXPAYERS, TRADERS AND TRAVELERS THAT SARS, ALONG WITH OTHER GOVERNMENT DEPARTMENTS, IS PLAYING ITS PART IN RESPONDING TO THE COVID-19 VIRUS." SARS WILL PROVIDE FURTHER COMMUNIQUÉS WHEN NECESSARY.



## MODULE 4: IRBA COMPLIANCE UPDATE

### 1. IRBA 2019 PUBLIC INSPECTIONS REPORT

#### IRBA issues its 1<sup>st</sup> Public Inspections Report in the 7<sup>th</sup> Inspections Cycle

*IRBA Communique – 17 March 2020*

The Independent Regulatory Board for Auditors (IRBA) recently released its 2019 Public Inspections Report which covered the first year of the IRBA's Seventh (7th) Inspections Cycle, introducing numerous enhancements to the IRBA's inspections process. The IRBA has performed firm-wide and individual assurance engagement file inspections at various firms during the year to give effect to its mandate and strategy to promote audit quality and help restore confidence in the auditing profession.

The **objective** of the report is to promote audit quality at a broader level by highlighting significant themes arising from firm-wide and individual assurance engagement file inspections reported on in 2019. The report, which highlights the most prevalent deficiency themes reported to firms, is **aimed at auditors and those responsible for quality management/control systems within firms**, as well as other relevant stakeholders such as audit committees, investors, oversight bodies, company directors and financial accountants who are responsible for the integrity of financial information.

In 2019, the IRBA issued inspection reports on a total of 116 inspections performed at 44 firms. These reports include 14 firm-wide and 102 individual engagement file inspections.

The 2019 results of positive inspection outcomes declined compared to the previous year, and generally, the frequency of findings in South Africa remains higher compared to other jurisdictions as per the latest global inspection survey results released by the International Forum of Independent Audit Regulators (IFIAR).

There are instances where previously reported deficiencies have not been effectively remediated by firms, despite following a formal remedial action process, which has forced the IRBA to increase its focus on firms' remediation and improvement practices and to take stronger action against firm leadership.

There has, however been significant improvement observed at a few firms, where considerable investments were made into quality management, underpinned by leadership's sound tone, time and hands-on approach to create and sustain a culture and an enabling environment that consistently produce sustainable high-quality assurance work.

In 2019 the IRBA continued to focus on audits with a higher public interest exposure that included audits of listed entities, other public interest entities (PIE) and state-owned companies. The majority of the engagement file inspections were performed at firms that were accredited with the Johannesburg Stock Exchange (JSE) Ltd, and the report provides a further breakdown of inspection outcomes at these firms.

Despite our focus on firms and audits with greater public interest exposure, our current mandate goes beyond listed entities and PIEs. Therefore, small to medium-sized practices and firms that audit non-PIEs cannot be overlooked. The IRBA follows a risk-based inspections approach, supplemented by random selection, when selecting firms and engagements for inspection, which is in line with international best practice.

#### Contents:

- BACKGROUND & FOCUS6
  1. The current Landscape & IRBA's response
  2. Background to the Inspections Process
  3. Focus Areas
- INSPECTION OUTCOMES FOR 2018/2019
  1. Firm-wide Quality Control Inspection Results

2. Individual Audit File Inspection Results
  3. Inspection Results of Firms Accredited by the Johannesburg Stock Exchange (JSE)
  4. Concluding Remarks
- KEY INSPECTION THEMES
    1. Definition of a Finding/Deficiency
    2. Firm-wide Inspection Themes
      - Leadership responsibilities for quality within the firm
      - Engagement performance and Internal Quality Reviews
      - Monitoring
    3. Individual Audit Engagement Inspection Themes
      - Significant estimates and judgements
      - Revenue
      - Financial Statement Disclosure
      - Risk Assessment
      - Cash flow statement
  - REMEDIAL ACTION PROCESS
    1. Activities
    2. Root Cause Analysis
    3. Remedial Action Plan
    4. Top 5 Root Causes
    5. Conclusion
  - FUTURE OUTLOOK

**Lettie Janse van Vuuren will be hosting a webinar in detail on 12 May 2020 on the contents of this Inspections Report.**

*This report is available to you as a Source Document*

## 2. IRBA NEWSLETTER

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Issue 49

*22-page document*

January to March 2020

*To support government efforts to navigate the economic challenges presented by the COVID-19 crisis, the profession needs the right measures and proper technology to keep delivering the necessary services*

### **Contents:**

- From the CEO's desk
- Standards
- Ethics

- Investigations
- Legal
- Registry
- Inspections
- Operations
- Education and Transformation
- Communications
- General News

*This newsletter is available to you as a Source Document*

### 3. IRBA GUIDE: ENGAGEMENTS ON LEGAL PRACTITIONERS' TRUST ACCOUNTS (REVISED MARCH 2020)

#### **Guide for Registered Auditors: Engagements on Legal Practitioners' Trust Accounts (Revised March 2020)**

*IRBA Communiqué – 28 April 2020*

The Independent Regulatory Board for Auditors (IRBA) Committee for Auditing Standards (CFAS), at its meeting on 4 March 2020, approved the issue of the *Guide for Registered Auditors: Engagements on Legal Practitioners' Trust Accounts (Revised March 2020)* (this Revised Guide) for use by registered auditors (auditors). This Revised Guide replaces the previous *IRBA Revised Guide for Registered Auditors: Engagements on Attorneys' Trust Accounts*, which has been withdrawn.

This Revised Guide provides guidance to auditors in the special circumstances applicable to engagements on legal practitioners' trust accounts, as required by the Legal Practice Act, No. 28 of 2014 (the Act) and the South African Legal Practice Council Rules made under the authority of Sections 95(1), 95(3) and 109(2) of the Act (the Rules), including an auditor's responsibility to report a reportable irregularity. This Revised Guide is also relevant for legal practitioners in understanding the nature of the engagement, and the respective responsibilities of the parties.

#### **Effective Date**

This Revised Guide is effective for financial periods commencing on or after **1 March 2019**.

**This Revised Guide is available for downloading in both PDF and Word formats** on the IRBA website ([www.irba.co.za](http://www.irba.co.za)). Should you have any further queries, please do not hesitate to contact the Standards Department by email at [standards@irba.co.za](mailto:standards@irba.co.za).

**Imran Vanker**

**Director: Standards**

#### **About the IRBA**

*The objective of the IRBA is to endeavour to protect the financial interests of the South African public and international investors in South Africa through the effective and appropriate regulation of audits conducted by registered auditors, in accordance with internationally recognised standards and processes.*

*The statutory responsibilities of the CFAS are to assist the IRBA to develop, maintain, adopt, issue or prescribe auditing pronouncements; to consider relevant international changes by monitoring developments by other auditing standard-setting bodies and sharing information where requested; and to promote and ensure the relevance of auditing pronouncements.*

*This newsletter is available to you as a Source Document*

## 4. COVID-19 RESOURCES

*Lettie Janse van Vuuren will be presenting a series of webinars on this in more detail – watch your inbox for details!*

### COVID-19

<https://www.irba.co.za/guidance-for-ras/general-guidance/covid-19>

The purpose of this webpage is to create a central resource of available guidance on the implication of COVID-19 relating to audits of financial statements.

- **Links to related communication**

- IRBA **Newsletter**: [20 March 2020: IMPLICATIONS OF THE COVID-19 OUTBREAK ON AUDITS AND AUDITORS](#)
- IRBA Communique: [20 March 2020: IMPLICATIONS OF THE COVID-19 OUTBREAK ON AUDITS AND AUDITORS](#)
- IRBA Communique: [23 March 2020: IRBA response to COVID- 19 and Alignment to State of National Disaster Declared by the President](#)
- IRBA Communique: [26 March 2020: Implications of the COVID-19 outbreak on audits, audit firms and regulatory requirements](#)
- IRBA Communique: [1 April 2020: Response to Accountants and Auditors wanting their services to be designated as essential](#)
- IRBA Communique: [3 April 2020: General Extension on Financial Reporting Periods](#)
- IRBA Newsletter: [16 April 2020: The Impact of COVID-19 on the Auditor's Report: Going Concern](#)
- IRBA Communique: [16 April 2020: THE IMPACT OF COVID-19 ON THE AUDITOR'S REPORT: GOING CONCERN](#)
- IRBA Communique: [21 April 2020: COVID-19: HIGH-QUALITY AUDITS AND ITS IMPLICATIONS FOR REPORTING DEADLINES](#)
- IRBA Communique: [23 April 2020: COVID-19 and Its Impact on File Assembly \(Archiving\)](#)
- Terms of Reference: [COVID-19 Task Force](#)

- **Links to other South African regulatory communication**

- [JSE - Announcement: General Extension of Financial Reporting Periods](#)
- [JSE - Letter: COVID-19 Extension of Financial Reporting](#)
- [FSCA - Communication 15 of 2020: Impact of COVID-19 on Compliance with Various Requirements of the Financial Markets Act, 2012, \(Act No. 19 of 2012\) \("FMA"\)](#)

- **Links to available guidance**

- IFIAR Website: [COVID-19 Updates](#)
- IAASB Website: [Guidance for auditors during the coronavirus pandemic](#)
- SAICA Website: [COVID-19](#)
- [The Impact of Coronavirus on Financial Reporting and the Auditor's Considerations AASB-AUASB JOINT FAQ MARCH 2020](#)
- [AUASB COVID-19 Guidance: Additional COVID-19 FAQs](#)
- [PCAOB Update on Operations In Light of COVID-19](#)
- [FRC: Guidance on audit issues arising from the Covid-19 \(Coronavirus\) pandemic](#)

- [FRC: Advice to companies & auditors on Coronavirus risk disclosures](#)
- [ICAEW Guide: The Financial Reporting Implications of Coronavirus Under UK GAAP](#)
- [HKICPA Impact of Coronavirus Outbreak on Audits and Auditor – February 2020](#)
- [HKICPA Financial reporting implications of coronavirus – March 2020](#)
- [Center for Audit Quality \(CAQ\) COVID-19 Resource: Key Auditor and Audit Committee Considerations](#)
- [FRC: Gathering Evidence through Remote Means](#)
- [FRC: Modifications of Independent Auditor’s Opinions and Reports](#)
- [FRC: Podcast in conversation with Mark Babington on audit guidance during COVID-19](#)
- [PCAOB Spotlight: COVID-19: Reminders for Audits Nearing Completion](#)
- [Center for Audit Quality \(CAQ\): Managing Fraud Risk, Culture, and Skepticism During COVID-19](#)
- **Guidance for Those Charged with Governance**
  - [IDSA: Guidance for Boards - Crisis Management](#)

## MODULE 5: UPDATE ON OTHER LEGISLATION

### 1. AMENDED REGULATIONS IN TERMS OF THE BCEA

*Worksman's article*

#### **New BCEA summary to be displayed in the workplace**

- On 22 January 2020 the Minister of Employment and Labour amended the Regulations in terms of the Basic Conditions of Employment Act.
- One of annexures affected is annexure BCEA 1A, the summary of the BCEA to be kept by the employer which must be displayed in the workplace.
- The new summary now provides for 'parental leave', 'adoption leave' and 'commissioning parental leave'.
- Employers should obtain copies of the new summary

**Refer to the 8 pages in GG notice 42965 for the information that must be in the new summary – as per Schedule 1A of the GG notice**

*The GG notice is available to you as a Source Document*

#### **Summary of previous BCEA amendments**

**The following was included in the MCLU for January 2020:**

**Paid parental leave for dads kicked in on 1 January 2020**

**Cosatu hails the extension of leave for parents of newborns**

*30 December 2019*

The law providing for paid parental leave for parents of new-born children, which takes effect on Wednesday, has been welcomed by trade union federation Cosatu.

**From January 1 2020 all parents will now be entitled to 10 days' paid parental leave when their children are born.** This does not apply to mothers who have given birth, because they are already entitled to paid maternity leave. It covers fathers of new-born children and mothers of children born through surrogacy.

Parents will be entitled to take paid parental leave once a calendar year and will be required to apply for leave from their employer.

"This is a historic and long fought for victory for workers, parents, children and families across SA," Cosatu parliamentary co-ordinator Matthew Parks said Monday.

"This is now an act of parliament, assented by the president and promulgated. It is not a matter of negotiations or concessions by employers. It is law," he said.

"Employers are asked to embrace the progressive spirit of the law. Those who seek to behave like rogue Neanderthals will be treated accordingly, named and shamed, taken to the CCMA [Commission for Conciliation, Mediation and Arbitration] and labour courts and forced to abandon their backwardness."

Parks explained that in terms of the law workers will be entitled to claim payments from the Unemployment Insurance Fund (UIF) should their employers refuse to pay them their full salary for the leave period. **The UIF will pay those workers 66% of their salary up to the earnings cap of R205,433.30 a year, as laid down in the Basic Conditions of Employment Act.**

#### **Legal Summary:**

## INTRODUCTION

On 23 December 2019 a proclamation was published in terms of which sections 1, 2, 3, 4, 5, 6, and 7 of the Labour Laws Amendment Act 10 of 2018 ("LLAA") became effective as of 1 January 2020.

This is in addition to those provisions of the LLAA which came into effect on 1 November 2019. While those prior amendments impacted the Unemployment Insurance Act 63 of 2001 ("UI Act"), by providing for the payment of unemployment insurance benefits for parents who are on parental leave, the recent amendments impact, mainly, the Basic Conditions of Employment Act 75 of 1997 ("BCEA").

## AMENDMENTS: EFFECTIVE 1 JANUARY 2020

The LLAA amends the BCEA by:

- inserting definitions into the BCEA, which include: 'adoptive parent,' 'adoption order' and 'prospective adoptive parent.' The additional terms are defined in accordance with their respective definitions in the Children's Act 38 of 2005 ("CA");
- providing that an employee, who is a parent of a child, is entitled to at least ten consecutive days' parental leave. The parental leave may commence on the day that the employee's child is born or whichever is earlier: the date that the adoption order is granted; or the date that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child;
- providing that an employee, who is an adoptive parent of a child who is below the age of two, is entitled to adoption leave of at least ten weeks consecutively or the parental leave referred to above;
- providing that an employee, who is a commissioning parent in a surrogate motherhood agreement is entitled to a commissioning parental leave of at least ten weeks consecutively or the parental leave referred to above. The definition of 'commissioning parent' as well as 'surrogate motherhood agreement' has the meaning assigned to it in the CA; and
- providing that a collective agreement concluded in a bargaining council may alter, replace or exclude any basic condition of employment if the collective agreement is consistent with the purpose of the BCEA and the collective agreement does not reduce an employee's entitlement to parental leave, adoption leave, and to commissioning parental leave.

## SO WHAT DO THE AMENDMENTS MEAN FOR EMPLOYERS?

The amendments are of significant importance in that it provides employees with the right to the above-mentioned leave and, conversely, imposes an obligation on employers to provide same. It is important for employers to adequately cater for these provisions in their policies and procedures.

## MODULE 6: UPDATE ON OTHER REGULATORS

### 1. SAICA GUIDE – DUTIES OF COMMISSIONER OF OATHS (UPDATED)

*Updated guide released in January 2020*

*16-page document*

- Deals with those aspects related to the powers of Commissioners of Oaths and the administering of an oath or affirmation
- Also includes some information on the certification of documents

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#### **10. Oaths and Affirmations outside the RSA**

#### **Appendix I: Examples of Wording**

*This Revised Guide is available to you as a Source Document*

### 2. SAICA RESOURCES COVID-19 FAQs

Follow the link to access [Frequently Asked Questions: The impact of COVID-19 on audit considerations](#)

SAICA issued 11 FAQs that address challenges that auditors face as a result of the COVID-19 pandemic and provide practical guidance on how to overcome these challenges.



### 3. SAICA GUIDE ON SOFTWARE TOOLS

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Follow the link to access [software tools to assist in running your business](#).

SAICA issued a document with a list of software tools to assist in running a business. Whether you are already operating in the cloud or planning on moving your business to a virtual environment, this document contains some of the software tools (not an exhaustive list) already used by some of our members.

### 4. SAICA's COVID-19 HUB

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<http://www.accountancysa.org.za/covid-19/>

- IFRS
- Regulated Industries
- Audit & Assurance
- Legislation, Ethics and Governance
- Public Sector
- SMPs
- SMEs
- Tax and Tax Legislation
- SAICA Training Offices
- SMME Support
- Examinations
- UIF

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