

Emil Brincker

Practice Head, Director



Professor Emil Brincker is a Director and Head of our Tax & Exchange Control practice. Emil's experience includes the areas of corporate finance, corporate reorganisation and restructuring, exchange control, export finance, funding, general banking and commercial including derivative transactions, empowerment transactions, notional vendor funding, rulings, transfer pricing and tax law including income tax, tax controversy, VAT, securities transfer tax, PAYE, capital gains tax (CGT) and other fiscal statutes.

About Emil

Emil obtained his doctorate during 1992 on company law and his thesis related to the financial assistance by a company in relation to share acquisitions. He was offered a part-time professorship from the University of Johannesburg during 1999.

Emil began his career as a Candidate Attorney at Hofmeyr (now Cliffe Dekker Hofmeyr). He was a Director at Edward Nathan Sonnenbergs and its predecessors for approximately 13 years. Emil joined Cliffe Dekker Hofmeyr as a Director in November 2008.

Credentials

Education

- BCom cum laude, LLB cum laude, LLM cum laude LLD, University of Stellenbosch
- HDip (Tax) cum laude, University of Johannesburg
- Year of admission as an attorney: 1989

Experience

- Emil's experience includes

The areas of corporate finance, corporate reorganisation and restructuring, exchange control, export finance, funding, general banking and commercial including derivative transactions, empowerment transactions, notional vendor funding, rulings, transfer pricing and tax law including income tax, tax controversy, VAT, securities transfer tax, PAYE, capital gains tax (CGT) and other fiscal statutes.

News

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Expertise

[Tax & Exchange Control](#)

[Mining & Minerals](#)

[Agriculture, Aquaculture & Fishing](#)

[Healthcare & Pharmaceuticals](#)

Location

Johannesburg

Language

Afrikaans

English

[Pillar 2 has arrived in South Africa](#)

The release of the highly anticipated discussion document for South Africa pertaining to the implementation of Pillar 2 has not disappointed. Apart from the administrative burden on South African multi-national entities (MNEs), South Africa was one of the more than 130 countries that agreed during October 2021 to implement a minimum 15% corporate tax rate for MNEs with a global turnover in excess of €750 million. This is part of the two-pillar approach that arose out of the Base Erosion and Profit Shifting (BEPS) project of the Organisation for Economic Co-operation and Development (OECD) that aims to end “the race to the bottom” on tax rates that has been published as part of the efforts to tax the digital economy framework.

[The repeal of Practice Note 31 and the impact on the deductibility of interest](#)

Practice Note 31 (PN31), released on 3 October 1994, survived almost 30 years in circumstances where both SARS and taxpayers attacked its validity over time. Ironically, when a taxpayer has relied on the validity of PN31, SARS has queried the legal justification thereof, and vice versa.

[Webinar Recording | 2023 Special Edition Budget Speech Alert](#)

Watch as our experts' give their views on 2023 Budget Speech.

[SARS adopts a very lenient approach when dividends are recharacterised as income pursuant to the issuing of preference shares](#)

The South African Revenue Service (SARS) recently issued a draft interpretation note dealing with the circumstances where dividends in respect of preference shares are recharacterised as income in terms of section 8E of the Income Tax Act 58 of 1962. Section 8E is an anti-avoidance provision that targets shares that have substantial debt features. Should the section be applicable, the dividend is deemed to be an amount of income that is accrued by the holder of the preference shares and not exempt from income tax. The issuer of the preference shares can equally not deduct the amount concerned even though it is recharacterised as income in the hands of the holder of the preference shares.

[Webinar Recording | 2021 Budget Speech Overview](#)

Tax & Exchange Control experts Emil Brincker & Gerhard Badenhorst together with Investec Chief Economist, Annabel Bishop provided a practical overview of the 2021 Budget Speech.

Videos

[Webinar Recording | Overview of the 2024 Budget Speech](#)

[Reactions to budget has been mostly mixed. To talk more on this is Emil Brincker, Director](#)

Reactions to today`s budget has been mostly mixed. To talk more on this is Emil Brincker, Director and National Tax Practice Head.

[All news by Emil Brincker →](#)

Recognition

- **Market recognition**
 - Chambers Global 2003–2024 has consistently ranked him in Band 1 for tax.
 - The Legal 500 EMEA 2017–2024 recommended Emil as a leading individual for tax and named him Lawyer of the Year for tax in 2021.