

TAX & EXCHANGE CONTROL ALERT

IN THIS ISSUE

GOOD NEWS FOR LENDERS? FURTHER PROPOSED AMENDMENTS TO THE DOUBTFUL DEBT PROVISIONS

On 17 October 2018, National Treasury (NT) and the South African Revenue Service (SARS), appeared before Parliament's Standing Committee on Finance (SCoF) to provide it with a further update regarding some of the proposals contained in the 2018 draft Taxation Laws Amendment Bill (Draft TLAB), that was published earlier this year.

CUSTOMS & EXCISE HIGHLIGHTS

This week's selected highlights in the Customs & Excise environment since our last instalment.

GOOD NEWS FOR LENDERS? FURTHER PROPOSED AMENDMENTS TO THE DOUBTFUL DEBT PROVISIONS

One of the key proposals related to the doubtful debt provisions in s11(j) and s11(jA) in the Income Tax Act, No 58 of 1962 (Act), regarding which NT received substantial input from the public.

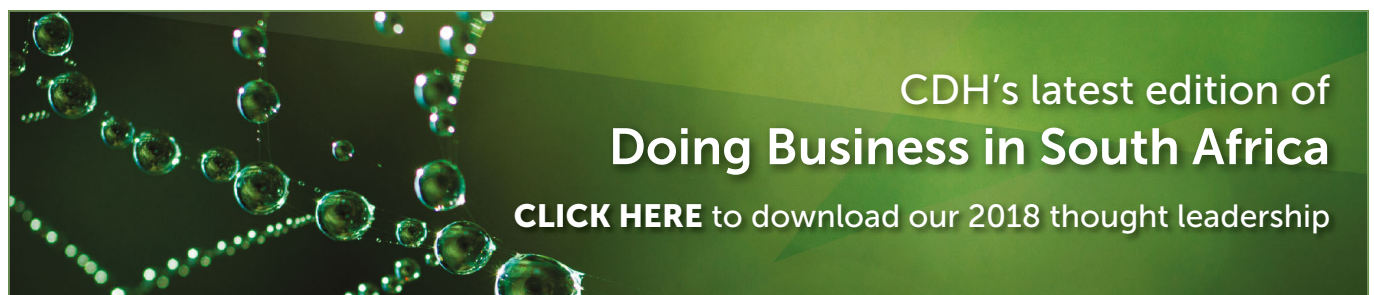
NT and SARS held a meeting with stakeholders on 28 September 2018, to discuss the proposed amendments in the draft TLAB, based on the comments that were received by NT and SARS during the consultation process.

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In terms of the presentation document reflecting NT and SARS' feedback to the SCoF (Feedback Document), it states that following the workshops that took place on 4 and 5 September 2018, NT and SARS held a further meeting with stakeholders on 28 September 2018, to discuss the proposed amendments in the draft TLAB, based on the comments that were received by NT and SARS during the consultation process. Pursuant to this further consultation, NT amended the proposed amendments, as they were contained in the Draft TLAB. Pursuant to this further amendment, the Feedback

Document proposes that the doubtful debt provisions in s11(j) of the Act will now provide for the following:

- If a taxpayer is applying IFRS9 for financial reporting purposes to determine a loss allowance relating to impairment in respect of debt:
- 40% of the IFRS 9 loss allowance relating to impairment that is measured at an amount equal to the lifetime expected credit loss plus bad debt written off that does meet the tax write off requirements; and



GOOD NEWS FOR LENDERS? FURTHER PROPOSED AMENDMENTS TO THE DOUBTFUL DEBT PROVISIONS

CONTINUED

If a taxpayer is not applying IFRS 9 for financial reporting purposes, an age analysis of debt should be used.



- 25% of the difference between the IFRS 9 loss allowance relating to impairment and the IFRS 9 loss allowance in respect of which the 40% tax allowance, is permitted.
- If a taxpayer is not applying IFRS 9 for financial reporting purposes, an age analysis of debt should be used, which will work as follows:
 - 40% of the face value of doubtful debts that are at least 120 days past due date will be allowed as a deduction; and
 - 25% of the face value of doubtful debts that are at least 60 days past due date but excluding doubtful debts that are at least 120 days past due date will be allowed as a deduction.
- Further, it is proposed that on application by a taxpayer, SARS may issue a directive to that taxpayer that the abovementioned 40% be increased to a percentage not exceeding 85% after taking into account the following proposed set of criteria:
 - the history of the debt owed to that taxpayer, including the number of repayments not met, and the duration of the debt;
 - steps taken to enforce repayment of the debt;
 - the likelihood of the debt being recovered;
 - any security available in respect of that debt;
 - the criteria applied by the taxpayer in classifying debt as bad; and
 - such other considerations as the Commissioner for SARS may deem relevant.

The above proposals were included in the Taxation Laws Amendment Bill (TLAB) that was tabled in Parliament on Wednesday, 24 October and these amendments will come into force once the TLAB is passed by Parliament, signed by the President and published in the Government Gazette.

Louis Botha

Who's Who Legal

Emil Brincker has been named a leading lawyer by Who's Who Legal: Corporate Tax – Advisory & Controversy for 2018.

Mark Linington has been named a leading lawyer by Who's Who Legal: Corporate Tax – Advisory for 2018.

Ludwig Smith has been named a leading lawyer by Who's Who Legal: Corporate Tax – Advisory for 2018.

CUSTOMS & EXCISE HIGHLIGHTS

Please note that this is not intended to be a comprehensive study or list of the amendments, changes and the like in the Customs and Excise environment, but merely selected highlights which may be of interest.

In the event that specific advice is required, kindly contact our Customs and Excise specialist, Director, Petr Erasmus.

Herewith below selected highlights in the Customs & Excise environment since our last instalment (the Customs & Excise Act, No 91 of 1964 will be referred to herein as "the Act"):

1. Amendments to Rules to the Act (certain sections quoted from the SARS website):
 - 1.1 Draft forms relating to stills and manufacture of excisable goods for own use have been released for comment. Forms are being amended to provide for the excise administration of stills and the manufacture of excise goods for own use, as follows:
 - 1.1.1 Form DA 185: Application form – Registration/ licensing of customs and excise clients;
 - 1.1.2 Form DA 185.4A14: Registration client type 4A14 – Registered still;
 - 1.1.3 Form DA 185.4A15: Registration client type 4A15 – Manufacture of excisable goods solely for own use by the manufacturer;
 - 1.1.4 Form DA 185.4B11: Licensing client type 4B11 – Distillation of spirits by an agricultural distiller;
 - 1.1.5 Form DA 185.4B12: Licensing client type 4B12 – To own, possess or keep stills; and
 - 1.1.6 Form DA 185.4B13: Licensing client type 4B13 – To manufacture or import stills for sale or to repair stills for reward.
2. Amendments to Schedules to the Act (certain sections quoted from the SARS website):
 - 2.1 Schedule 1 Part 1:
 - 2.1.1 The substitution of tariff subheadings 1001.91 and 1001.99 as well as 1101.00.10 and 1101.00.90 to increase the rate of customs duty on wheat and wheaten flour from 29,85c/kg and 44,77c/kg to 49,07c/kg and 73,61c/kg respectively;



CHAMBERS GLOBAL 2018 ranked our Tax & Exchange Control practice in Band 1: Tax.

Gerhard Badenhorst ranked by CHAMBERS GLOBAL 2014 - 2018 in Band 1: Tax: Indirect Tax.

Emil Brincker ranked by CHAMBERS GLOBAL 2003 - 2018 in Band 1: Tax.

Mark Linington ranked by CHAMBERS GLOBAL 2017- 2018 in Band 1: Tax: Consultants.

Ludwig Smith ranked by CHAMBERS GLOBAL 2017 - 2018 in Band 3: Tax.



CUSTOMS & EXCISE HIGHLIGHTS

CONTINUED

In the event that specific advice is required, kindly contact our Customs and Excise specialist, Director, Petr Erasmus.



3. The Department of Agriculture, Forestry and Fisheries published the following notices in the Government Gazette relating to macadamia nuts (certain sections quoted from the notice):
 - 3.1 Notice 627 of 2018 – Establishment of statutory measure: Registration of macadamia nurseries, growers, processors, consolidators of nut in shell, importers and exporters of macadamia nuts;
 - 3.2 Notice 628 of 2018 – Establishment of statutory measure: Records and returns relating to macadamia trees as well as domestic production, processing, imports and exports of macadamia nuts; and
 - 3.3 Notice 629 of 2018 – Establishment of statutory measure and determination of levies on macadamia nuts.
4. Please advise if additional information is required.

Petr Erasmus



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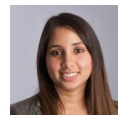
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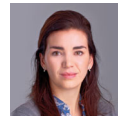
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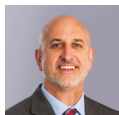
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