9 APRIL 2020

TAX & EXCHANGE CONTROL **ALERT**

IN THIS **ISSUE**

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Expectations exceeded? SARS releases revenue data for 2019/2020

While the 2020 budgeted revenue for this past fiscal year was R1,359 billion, SARS collected a net amount of R1,356 billion.

On 1 April 2020, the South African Revenue Service (SARS) issued a media statement announcing the preliminary revenue outcomes for the 2019/2020 financial year (Media Statement).

According to the Media Statement, while the 2020 budgeted revenue for this past fiscal year was R1,359 billion, SARS collected a net amount of R1,356 billion. This is an increase of 5.3% in net collections from the 2018/2019 financial year and comprised a gross collection of R1,647.8 billion, which was set off against refund payments by SARS amounting to R291.9 billion.

Even though the Media Statement indicates that there was an increase of 5.3% in net collections in this financial year, these collections indicate a deficit of R66.2 billion (being 4.7%) when measured against the budget presented in 2019, and a deficit of R3.1 billion (being 0.2%) measured against the budgeted figures presented in 2020.

The Media Statement indicates that the following were the main sources of revenue for the 2019/2020 financial year:

- Personal Income Tax (PIT), constituting 39% of the net collections;
- Value Added Tax (VAT), constituting 25.6% of the net collections;
- Company Income Tax (CIT), constituting 15.8% of the net collections; and
- Customs duties, constituting 4.1% of the net collections.

From the figures disclosed by SARS, it is evident that revenue collection has continued with the trend of being increasingly dependent on the collection of PIT in order to meet the budgeted figures. The Media Statement indicates that this is due to tax policy changes implemented by National Treasury, in particular the introduction of partial fiscal drag relief.

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Expectations exceeded? SARS releases revenue data for 2019/2020

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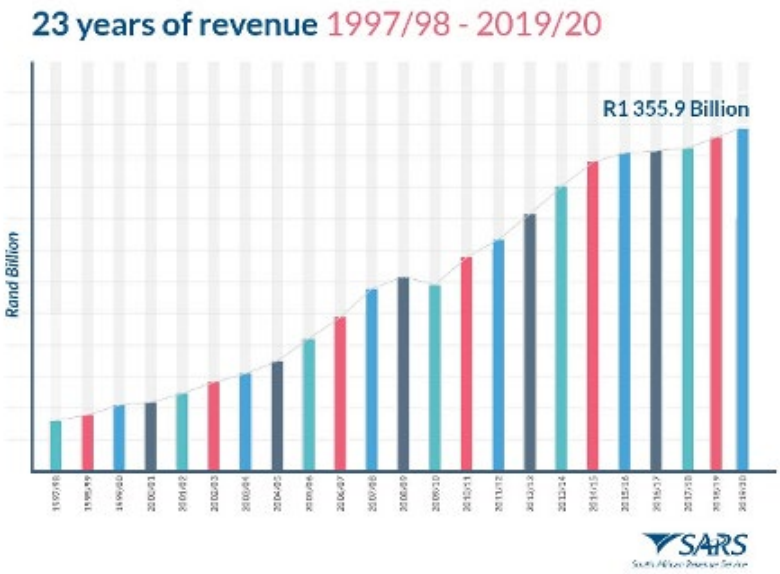
It is promising that the yearly revenue collection appears to at least be systematically increasing.

The Media Statement further states that the impact of weak economic growth and lower consumer and investment spending in South Africa's economy is evident in the overall collection of VAT and import duties, which have continued to decrease in terms of their relative contribution to the total tax revenue collected. In addition, the CIT collected in the 2019/2020 financial year also evidences the impact of the struggling economy on businesses, as the CIT collected decreased from 16.6% of the total revenue collected in 2018/2019 to 15.8% of the total revenue collected in 2019/2020.

SARS has indicated that these results are preliminary and will be subject to detailed financial reconciliation and a final audit.

Comment

Despite the deficit in the total revenue collected in the 2019/2020 financial year, it is promising that the yearly revenue collection appears to at least be systematically increasing. The graph below (published by SARS) is indicative of the upward trend of revenue collection in recent years, notwithstanding the perceived plateau that stemmed from the 2014/2015 to 2017/2018 financial years.



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Expectations exceeded? SARS releases revenue data for 2019/2020

...continued

It remains to be seen what the ultimate impact of the COVID-19 pandemic and the downgrade in South Africa's credit rating will be on SARS' revenue collection for the 2020/2021 fiscal year.

In keeping with this trend, the 2020 Budget estimated that revenue collections for the 2020/2021 fiscal year will amount to approximately R1,430 billion, an increase of 4.9% from the previous year. The 2020 Budget also seeks to reduce the main budget expenditure baseline by R156.1 billion over the course of the next three years.

However, recent events, both locally and internationally, may have a detrimental effect on the abovementioned positive trend in revenue collection and these optimistic 2020 budgeted figures.

The COVID-19 pandemic has resulted in a national lockdown in South Africa, placing significant strain on the economic activity in the country. In particular, from a tax perspective, the income producing capacity of the majority of businesses and individuals has been limited in some or other respect, with the potential result being lower than projected revenue collection by SARS in the 2020/2021 fiscal year.

This is aggravated by the recent downgrade of South Africa's sovereign credit rating to "*junk*" status by ratings agency Moody's Investors Service.

It remains to be seen what the ultimate impact of the COVID-19 pandemic and the downgrade in South Africa's credit rating will be on SARS' revenue collection for the 2020/2021 fiscal year.

Louise Kotze

Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act

In the 2012 year of assessment tax return, Telkom claimed a deduction in the amount of R3,961,295,256 as a foreign exchange loss in terms of section 24I of the ITA. SARS disallowed the said deduction and issued an additional assessment in terms of which SARS assessed Telkom for tax in the amount of R425,188,643 as a foreign exchange gain.

In the recent Supreme Court of Appeal (SCA) judgment, *Telkom SA SOC Limited v The Commissioner for the South African Revenue Service* [2020] ZASCA 19 (25 March 2020), the SCA dealt with two separate legal issues stemming from an appeal and a cross-appeal brought by the respective parties to the case.

In the Tax Court, the issue pertaining to the application of section 24I of the Income Tax Act 58 of 1962 (ITA) was decided in favour of the Commissioner for the South African Revenue Service (SARS), whereas the findings pursuant to the dispute regarding section 23H of the ITA favoured Telkom SA SOC Limited (Telkom). As a consequence, Telkom brought an appeal against the findings of the Tax Court regarding the section 24I findings and SARS brought a cross-appeal against the findings in terms of section 23H of the ITA.

The Appeal

Facts

During the period 2007 to 2009, a subsidiary of Telkom acquired 100% of the issued share capital of a telecommunications company that was resident in Nigeria (Nigerian Company). In order for the Nigerian Company to become financially viable, Telkom advanced numerous shareholder loans amounting to USD877,022,900.86 to it.

By 2011, USD346,000,000.00 of the loans had been converted into preference share equity while the remainder of the loans in the amount of USD531,022,900.86 were outstanding on the loan account. During Telkom's 2012 year of assessment, the equity interests of Telkom and its subsidiary in the Nigerian Company were sold to a third party. Telkom's rights in respect of its loans to the Nigerian Company were also sold to the third party for USD100.

In the 2012 year of assessment tax return, Telkom claimed a deduction in the amount of R3,961,295,256 as a foreign exchange loss in terms of section 24I of the ITA. SARS disallowed the said deduction and issued an additional assessment in terms of which SARS assessed Telkom for tax in the amount of R425,188,643 as a foreign exchange gain.

Judgment

In coming to its findings, the SCA stated that the resolution of this dispute was to be found in the interpretation of the provisions of section 24I of the ITA. This section provides for the tax treatment of gains or losses incurred by taxpayers on foreign exchange transactions and requires that any such gain or loss must be included in or deducted from the income of a taxpayer to the extent that the provisions apply thereto.

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Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act*...continued*

It was Telkom's submission that the proviso to the definition of RER applied to the facts and that a rate other than the spot rate at the date on which the loan was realised stood to be used to determine the foreign exchange gain or loss.

Section 24I contains many definitions to which regard must be had in applying the section. For the present matter, the crucial definition was that of *"ruling exchange rate"* (RER). The pertinent aspects of the definition of *"ruling exchange rate"* are set out in section 24I(1) as follows:

> *'"ruling exchange rate" means, in relation to an exchange item, where such exchange item is –*
>
> *(a) a loan or advance or debt in a foreign currency on –*
>
> *(i) transaction date, the spot rate on such date;*
>
> *(ii) the date it is translated, the spot rate on such date; or*
>
> *(iii) the date it is realised, the spot rate on such date:*
>
> *Provided that where the rate prescribed in respect of a loan or advance or debt in terms of this definition is the spot rate on the transaction date or the spot rate on the date on which such loan or advance or debt is realised, and any consideration paid or payable or received or receivable in respect of the acquisition or disposal of such loan or advance or debt was determined by applying a rate other than such spot rate on transaction date or date realised, such spot rate shall be deemed to be the acquisition rate or disposal rate, as the case may be."*

At issue between the parties was the determination of the RER on the realisation date of the loan, which rate would ultimately dictate the extent of the gain or loss that was to be included in, or deducted from, Telkom's income.

It was Telkom's submission that the proviso to the definition of RER applied to the facts and that a rate other than the spot rate at the date on which the loan was realised stood to be used to determine the foreign exchange gain or loss. It was argued that the USD100 received by Telkom as consideration for the disposal of the loan was clearly not determined by applying the spot rate at the time to the transaction, as a consequence of which it was apparent that *"a rate other than [...] the spot rate"* had been utilised.

Telkom contended that the pertinent question to be answered was whether the consideration of USD100 was determined by applying a *"rate"*. It was submitted that *"rate"* should be taken to mean *"the price paid or charged for a thing or class of things"*, with the result being that the consideration of USD100, having been agreed upon by the parties to the transaction, fell within the meaning of

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Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act...*continued*

The SCA agreed that section 24I is not intended to deal with the tax consequences of commercial losses and that its operation is limited to gains and losses arising out of currency fluctuations.

"*rate*". The basis of this argument was that the context of the word "*rate*" indicated that the word did not refer to an exchange rate between currencies, but rather to an agreement as to value or worth. Ultimately, Telkom concluded that the consideration of USD100 was determined using a rate other than the spot rate, and that the proviso to the definition of RER had to be applied to the transaction.

The SCA, in agreeing with the findings of the Tax Court and the submissions made by SARS, found that Telkom's arguments stood to be rejected for the following reasons:

1. Section 24I deals with losses or gains caused by foreign exchange fluctuations and is not applicable to a 'business' loss of the kind incurred by Telkom.
2. When the proviso to the definition of RER is interpreted in the context of the section as a whole, the use of the word 'rate' means an exchange rate which reflects the value of a particular currency. It is a currency exchange rate, and not a discount rate, that is contemplated by the proviso.
3. In order to satisfy the requirement in the proviso that the consideration must be 'determined' by 'applying' the rate, the consideration would have had to be the result of a process of calculation which utilised the 'rate' as a factor to produce that result. The only type of rate that would have been able to perform this function was one which compared two items against one another, such as a currency exchange rate. It was apparent that the consideration for the loan of USD100 was agreed by reference only to the perceived value of the loan and that currency exchange ratios played no role in the determination of the price.

The SCA agreed that section 24I is not intended to deal with the tax consequences of commercial losses and that its operation is limited to gains and losses arising out of currency fluctuations. In the result, the SCA dismissed Telkom's appeal with costs.

The Cross-Appeal

Facts

In the 2012 year of assessment, Telkom made a "*cash incentive bonus*" payment to Velociti (Pty) Ltd (Velociti) in the amount of R178,788,421 in respect of the connection of initial subscriber contracts relating to special tariff plans. These connections were made by Velociti on behalf of Telkom and the amount paid by Telkom as the cash incentive bonus was claimed as a deduction. However, SARS only allowed a portion thereof as a deduction and added back the remainder in terms of section 23H(1)(b)(ii) of the ITA.

Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act*...continued*

The SCA concurred with the submissions of SARS that the true benefit derived by Telkom was the monthly subscriber payments over the anticipated 24-month period and that the term of the contracts therefore represented the periods in respect of which the benefit was derived by Telkom.

Judgment

Section 23H of the ITA limits the deductions claimable in a year of assessment in respect of certain expenditure that has been incurred in advance, and makes provision for the said expenditure to be claimed over a period to be determined in accordance with the provisions of the section.

At issue in the cross-appeal was whether SARS was entitled to apply section 23H to limit the deduction in the 2012 year of assessment, with the result that the balance paid was spread out over a number of years. The SCA embarked on an inquiry into the benefits derived by Telkom from the expenditure incurred, specifically when and how the benefit was enjoyed by Telkom, and agreed that the period to which the expenditure relates must be the period during which the benefit was enjoyed.

It was submitted on behalf of SARS that Telkom did not incur the cash incentive bonus expenditure merely to establish the new connections with customers, but rather that the benefit was derived by Telkom by means of the subscription fees paid by the customers over the fixed term period of the contract. In this manner, Telkom only derives a benefit from the expenditure incurred when the connection turns into fee income, and this only happens over the period of the contract when subscription fees are paid by customers.

It was contended by Telkom that the cash incentive bonus was paid to Velociti in respect of the connections that had to have been made prior to 30 September 2011 and that the benefit therefore did not extend past the 2012 year of assessment, resulting in section 23H not being applicable. Furthermore, it was contended that the fact that Telkom paid a separate commission to Velociti for the benefit that it derived from the subscription fees over the period of the contracts was indicative that the cash incentive bonus was paid solely in respect of the connections that had been made and did therefore not relate to the fees paid by customers over the contract periods.

The SCA concurred with the submissions of SARS that the true benefit derived by Telkom was the monthly subscriber payments over the anticipated 24-month period and that the term of the contracts therefore represented the periods in respect of which the benefit was derived by Telkom. It was held that:

> *"Although the conclusion of the contract benefitted Telkom, the enjoyment of that benefit was spread out over the period of the contract, so that the period to which the expenditure related could not be limited to the first year."*

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Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act*...continued*

The findings of the SCA in the Telkom matter are binding. However, Telkom has announced that it intends appealing the adverse findings of the SCA to the Constitutional Court, the outcome of which may influence the application of section 24I and section 23H in similar circumstances.

Lastly, in response to the submission by Telkom that it paid a separate ongoing commission to Velociti over the subscription period and that this commission, and not the connection bonus, was the *quid pro quo* for the subscription fees, the SCA stated that the pertinent question was whether Telkom derived a benefit from the connections over the contract period. The SCA answered this question in the affirmative and held that the fact that another payment was made by Telkom did not render this fact irrelevant. In the result, the SCA upheld the cross-appeal and found that section 23H was to be applied to the cash incentive bonus paid by Telkom.

Comment

The findings of the SCA pertaining to the interpretation of the provisions of section 24I are significant in light of the current economic climate in which South African taxpayers find themselves. The recent downgrade of South Africa's sovereign credit rating to "*junk*" status by rating agency Moody's Investors Service, the increasingly negative impact of the COVID-19 pandemic on South Africa's economy, and the overall weakening of the rand, have had negative repercussions for South African entities.

To the extent that the Rand continues to weaken, South African entities may face substantial losses, including those arising from foreign exchange items.

At present, the findings of the SCA in the Telkom matter are binding. However, Telkom has announced that it intends appealing the adverse findings of the SCA to the Constitutional Court, the outcome of which may influence the application of section 24I and section 23H in similar circumstances.

While the timelines in which Telkom must lodge its appeal to the Constitutional Court are determined by the rules applicable to that court, taxpayers who are involved in audits or dispute resolution proceedings with SARS should take note of the effect that the lockdown (pursuant to the COVID-19 pandemic) will have on certain time periods prescribed in the Tax Administration Act 28 of 2011 (TAA).

On 1 April 2020, the Draft Disaster Management Tax Relief Administration Bill, 2020 (Bill) was published for public comment. The Bill contains a proposal regarding the extension of certain time periods prescribed in the TAA and provides that the period of the national lockdown be regarded as *dies non* for those specified time periods listed in the Bill.

Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act*...continued*

The days of the lockdown period will be excluded from any calculation regarding the time period during which either SARS or a taxpayer is required to do those things that are listed in the Bill.

Dies non is a day (or days) that has no legal effect and which will not be counted for purposes of the calculation of the time periods listed in the Bill. As such, the days of the lockdown period will be excluded from any calculation regarding the time period during which either SARS or a taxpayer is required to adhere to those obligations that are listed in the Bill.

The sections (prescribing the time periods to which *dies non* will apply) that are listed in the Bill are stated below. *Dies non* will apply:

a) in respect of a notice under section 47 of the TAA if the notice requires a taxpayer to attend an interview on a date within the national lockdown period;

b) in respect of a notice under section 48(1) of the TAA if the date of the field audit in the notice is on a date within the national lockdown period;

c) for a notice to appear at an inquiry under section 53 of the TAA if the date of appearance is on a date within the national lockdown period;

d) under section 60(3) in respect of a warrant of search and seizure issued under section 60 of the TAA;

e) in respect of a ruling under Chapter 7 of the TAA;

f) under section 99(1) of the TAA (dealing with the issuance of assessments and prescription);

g) in relation to section 100 of the TAA (dealing with the finality of assessments); and

h) in respect of dispute resolution under Chapter 9 of the TAA, including the dispute resolution rules under section 103 (dealing with objections and appeals).

The Explanatory Memorandum to the Bill explains that the purpose of this proposal is to *"provide individuals and businesses impacted by COVID-19 with additional time to comply with selected tax obligations or due dates that are affected by or fall within the lockdown period"*. It should, however, be noted that these extended time periods do not apply to the filing of tax returns or the payment obligations of taxpayers.

A similar proposal has been made in the Bill regarding specified time periods prescribed in the Customs and Excise Act, 91 of 1964.

Foreign exchange and local change: The Supreme Court of Appeal considers section 24I of the Income Tax Act and the effect of COVID-19 on time periods in the Tax Administration Act...*continued*

The public is invited to submit written comments on the proposed legislation to the National Treasury's tax policy depository at 2020AnnexCProp@treasury.gov.za and Adele Collins at acollins@sars.gov.za by close of business on 15 April 2020.

The following example illustrates how a taxpayer may be affected by these proposals in the Bill, should they come into effect, without further amendment: A taxpayer is issued with an additional income tax assessment on 27 February 2020 and the taxpayer intends lodging an objection in respect thereof. In terms of Rule 7 of the Tax Court Rules promulgated in terms of section 103 of the TAA, the taxpayer has 30 days in which to lodge the objection. In the absence of the national lockdown, the taxpayer would have had to lodge the objection by 9 April 2020. However, due to the resultant exclusion of the days falling within the lockdown period, the taxpayer will only have to lodge the objection by 4 May 2020.

The public is invited to submit written comments on the proposed legislation to the National Treasury's tax policy depository at 2020AnnexCProp@treasury.gov.za and Adele Collins at acollins@sars.gov.za by close of business on 15 April 2020.

Louise Kotze

CDH CLIFFE DEKKER HOFMEYR

Donations and funds established to assist with the COVID-19 disaster relief efforts: The special tax dispensation

In order to prevent the tax leakage that may arise due to the various funding structures and mechanisms that will be used by private donors to assist with COVID-19 relief measures, Government proposes a streamlined special tax dispensation for funds established to assist with COVID-19 relief measures.

In our Tax & Exchange Control Alert of 3 April 2020, we briefly discussed the proposed tax relief in relation to COVID-19 disaster relief funds and the making of donations to such funds, which is provided for in the 2020 Draft Disaster Management Tax Relief Bill (Draft Tax Relief Bill). We discuss this relief measure here in more detail.

In the President's announcement on 23 March 2020 regarding the lockdown, he indicated that private donors have also pledged funding with the aim of providing assistance to the public. The Explanatory Memorandum on the Disaster Management Tax Relief Bill, 2020 (Draft) (Draft EM), states that the pledge funding envisaged by private donors may take the following forms:

- Loan funding by a fund to SMMEs on favourable terms. The terms attached to the loans range from an initial zero interest with interest only being charged in later years to long-term repayment periods.
- Financial assistance provided to SMMEs, but the amount will not be paid directly to the SMMEs but paid in terms of weekly allowances directly to the employees of approved SMMEs in order to ensure that jobs are retained, while the loan obligation remains with the SMMEs.

In order to prevent the tax leakage that may arise due to the various funding structures and mechanisms that will be used by private donors to assist with COVID-19 relief measures, Government proposes a streamlined special tax dispensation for funds established to assist with COVID-19 relief measures. The streamlined special tax treatment for funds will be similar to the current special tax dispensation applicable to public benefit organisations (PBOs) that provide disaster relief as envisaged in sections 10(1)(cN) and 30 read together with Part I and Part II of the Ninth Schedule to the Income Tax Act 58 of 1962 (Act).

Currently receipts and accruals of a PBO, other than from certain business undertakings or trading activities, are exempt from income tax. Donations made to a PBO are exempt from donations tax and donations made to the PBO may be tax deductible in the hands of the donor, where the donation complies with section 18A of the Act. However, the amount of tax that is deductible in respect of the donations in any year of assessment is limited to 10% of the taxable income of that donor. These special tax dispensations for PBOs are not automatic and are subject to a pre-approval process by the South African Revenue Service (SARS).

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Donations and funds established to assist with the COVID-19 disaster relief efforts: The special tax dispensation*...continued*

The receipts and accruals of COVID-19 disaster relief funds will be exempt from income tax and donations made by to or by the COVID-19 disaster relief funds will be exempt from donations tax.

COVID-19 disaster relief funds deemed to be PBOs

In terms of section 10(1)(cN) of the Act the receipts and accruals of any PBO approved by the Commissioner for the SARS (Commissioner) in terms of section 30(3) are exempt from normal tax. The receipts and accruals are exempt to the extent that they are derived otherwise than from a business undertaking or trading activity, or from any undertaking or activity if the undertaking or activity is integral and directly related to the sole or principal object of that PBO.

A PBO is defined in section 30 of the Act as any organisation which is a non-profit company or trust or an association of persons of which the sole or principal object is carrying on one or more public benefit activities. Such activities must be carried on in a non-profit manner and with an altruistic or philanthropic intent. No such activities should be intended to directly or indirectly promote the economic self-interest of any fiduciary or employee of the organisation other than by way of a reasonable renumeration payable.

The Draft EM states that for a period of four months beginning from 1 April 2020 until 31 July 2020, COVID-19 disaster relief funds will on application and approval by the Commissioner be deemed to be PBOs as contemplated in sections 10(1)(cN) and 30 of the Act, subject to the criteria contained in these sections. This means that the receipts and accruals of COVID-19 disaster relief funds will be exempt from income tax and donations made to or by the COVID-19 disaster relief funds will be exempt from donations tax.

Deduction in respect of donations made to COVID-19 disaster relief funds

In terms of section 18A of the Act, any taxpayer may deduct from its income so much of the sum of any *bona fide* donation in cash or of property made in kind which was actually paid or transferred during a year of assessment to a PBO which carries on in South Africa any activity contemplated in Part II of the Ninth Schedule to the Act. In terms of Part II of the Ninth Schedule to the Act, one of the listed public benefit activities is the provision of disaster relief. Once a COVID-19 disaster relief fund is on approval deemed to be a PBO in terms of section 30, section 18A will be applicable to the COVID-19 disaster relief fund.

The Draft Tax Relief Bill provides "*that there must be allowed to be deducted, in accordance with section 18A in the determination, for the purposes of that Act, of the taxable income, as defined in section 1 of that Act, of any taxpayer, as defined in that section, so much of any bona fide donation by that taxpayer in cash which was actually paid during the year of assessment by that taxpayer to a COVID-19 disaster relief trust*".

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Donations and funds established to assist with the COVID-19 disaster relief efforts: The special tax dispensation*...continued*

Donations made to COVID-19 disaster relief funds will qualify for a tax deduction in the hands of the donor, subject to the section 18A limitation. The limitation being that the donor may deduct in any year of assessment the amount of the donation made limited to 10% of the taxable income of that donor before a section 18A deduction or section *6quat* deduction.

This means that for the period of four months, donations made to COVID-19 disaster relief funds will qualify for a tax deduction in the hands of the donor, subject to the section 18A limitation. The limitation being that the donor may deduct in any year of assessment the amount of the donation made limited to 10% of the taxable income of that donor before a section 18A deduction or section 6quat deduction.

What is important to note is that the Draft Tax Relief Bill refers to cash donations and not donations of property in kind. Only once the final legislation is adopted by Parliament will there be certainty as to whether donations other than in cash made will also be provided for under the proposals.

Loans advanced to SMMEs by COVID-19 disaster relief funds

Where loans are made by a COVID-19 disaster relief fund to SMMEs and the amount of the loan is not paid directly to the SMME but is paid in terms of weekly advances to the employees of the SMME, it would be difficult for the SMME to withhold employees' tax in respect of the allowances paid to its employees.

In terms of the Draft Tax Relief Bill it is proposed that for a period of four months, *"any amount received or accrued from a COVID-19 disaster relief trust, must be deducted or excluded from remuneration, as defined in... [the Fourth] Schedule, in calculating the balance of remuneration as referred to in... [paragraph 2(4) of the Fourth Schedule]".*

This means that the allowances paid by the COVID-19 disaster relief fund will not result in employees' tax withholding obligations by the SMME. The payments made to the employees will be treated as income in the hands of the employees and the payments will be subject to tax in the hands of the employees in accordance with the applicable tax brackets on assessment. The loan obligation will remain with the SMME. The reason for this measure is to ensure that the jobs of the employees of the SMMEs are retained.

Status of COVID-19 disaster relief funds at the end of the four-month period

At the end of the four-month period, the provisions set out in the Draft Tax Relief Bill will cease to apply to COVID-19 disaster relief funds. In terms of the Draft Tax Relief Bill, any COVID-19 disaster relief funds that are not dissolved and the assets thereof not distributed on or before 31 July 2020 will be deemed to be a small business funding entity in terms of section 30C of the Act.

Members of the public still have until 15 April 2020 to make submissions on the tax relief legislation, including the issues dealt with in the article.

Aubrey Mazibuko and Louis Botha

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 1 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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