

## Tax Alert

### To the point ...

#### Latest tax developments in South Africa and beyond

Issue 5/2014  
13 May 2014



Welcome to our Tax Alert newsletter which highlights some of the latest tax developments in Africa.

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## Recent tax developments in South Africa

### South Africa

#### Single registration - Changes to tax & customs registration

The way you register for tax & customs and update your existing details has changed from 12 May 2014. SARS will now have a 'Single Registration' of a taxpayer across all taxes they pay and legal entities they're associated with. From a taxpayer's view, you will only have to register once as a new taxpayer and there-after add only the relevant details when you start paying e.g. VAT. It will also now be easier to update your existing details.

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#### Dividends Tax and IT3 changes

Changes came into effect on 26 April 2014 that will enhance dividends tax and third party data submissions. The good news for taxpayers is that the maximum rate for certain oil and gas profits has been significantly reduced. Also, a late

rebate claim can now result in a refund and six new exemptions have been added allowing more categories of taxpayers to be exempted from paying dividends tax. In terms of IT3 data submissions, the implementation of changes on this date will enable SARS to close any gaps that were experienced in processing data since the new data submission platform and file format were introduced.

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#### **Newly established Tax Ombud**

The Minister of Finance officially launched the South African Tax Ombud on 7 April 2014. The Ombud is intended to be a simple and affordable remedy to taxpayers who have legitimate complaints that relate to administrative matters, poor service or the failure by SARS to observe taxpayer rights.

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#### **High Court Judgment 16360/13 - A Company & Two Others v CSARS**

The judgment concerns the Tax Administration Act, 2011; specifically, in camera hearing; application to retain legal privilege for invoices sought for audit purposes; section 46; fee notes.

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#### **High Court Judgment 12795/14 – Chittendon NO & Another**

The judgment concerns the Companies Act, 2008 and Tax Administration Act, 2011; specifically, business rescue proceedings; issuing of tax clearance certificates.

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#### **High Court Judgment 49017/11 - Medox Limited v CSARS**

The judgment concerns the Income Tax Act, 1962; specifically, section 81 read with section 107A; applicant to first exhaust internal remedies before approaching High Court.

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#### **Binding Private Ruling (BPR) 168 - Corporate rule: Disposal of assets within 18 months of acquisition**

This ruling deals with the effect of section 42(7) on the disposal of assets in terms of an “intra-group transaction” as defined in section 45(1) when the disposal will take place within 18 months of the assets having been acquired in terms of an “asset-for-share transaction” as defined in section 42(1).

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#### **Binding Private Ruling (BPR) 169 - Commercial building allowances**

This ruling deals with the deduction of a commercial building allowance in respect of a unit, as contemplated in the Sectional Titles Act No. 95 of 1986 (the ST Act). This is a ruling on the interpretation and application of section 13 *quin*.

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#### **Binding Class Ruling (BCR) 044 - Repurchase of non-redeemable, non-participating preference shares**

This ruling deals with the tax consequences of a repurchase of non-redeemable, non-participating preference shares.

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#### **Interpretation Note 30 (Issue 3) – The supply of movable goods as contemplated in section 11(1)(a)(i) read with paragraph (a) of the definition of "exported" in section 1 of the VAT Act**

This Note explains the requirements that need to be adhered to; and prescribes the documentary proof, acceptable to the Commissioner, that must be obtained and retained by a vendor; In order to levy VAT at the zero rate on a supply of movable goods under a sale or instalment credit agreement where those goods are consigned or delivered to a recipient at an address in an export country.

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## **Interpretation Note 77 - Taxable benefit – Use of employer-provided telephone or computer equipment or employer-funded telecommunication services**

This Note provides clarity regarding the determination of the value of the taxable benefit arising from the private or domestic use by an employee of employer-provided or employer-owned telephone or computer equipment (including cellular telephones, laptops, tablets, modems, removable storage devices, printers and software) or telecommunication services; and the taxability of any allowance or reimbursement granted by the employer to the employee for the employee's privately-owned equipment or service contract which is used by the employee for purposes of the employer's business.

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## Recent tax developments in the rest of Africa

### Egypt

#### **Draft VAT law under discussion**

Egypt is in the process of introducing a VAT law which will replace the existing general sales tax system. The draft VAT law is currently under discussion between the tax authority and the business community. The standard VAT rate is not determined yet but is expected to range between 10% and 12%. Other Important features of the draft law include: VAT to apply on all goods and services whether produced/rendered locally or imported, a single standard VAT rate instead of the multiple sales tax, operations carried on in Free Zones to be subject to VAT with a special VAT refund mechanism to be introduced for inputs used by Free Zones companies and connected to export operations. In additions, a reverse charge mechanism will be introduced for services rendered by non-resident suppliers and the period during which the accounting records and supporting documents must be retained will be harmonized with the one mentioned in the Income Tax Law (5 years). A zero rate will apply on goods and services intended to be exported; goods imported and intended to be used outside Egypt; goods and services to be used to repair equipments which are imported to Egypt on a temporary basis; goods intended for the exploitation of international transport means; and goods and services intended for military purposes imported by the Ministries of Defence and Interior and by specific national military agencies.

### Gambia

#### **Budget 2014/15**

The Budget for 2014/15 was presented to the National Assembly by the Minister of Finance and Economic Affairs on 2 December 2013. In terms of corporate taxation, the corporate tax rate has been reduced to 31%. In terms of excise duties, excise duty on tobacco products is increased from D 37.50 per kilogram to D 150 per kilogram. Regarding indirect taxes, environmental tax rates on tobacco products has been increased from D 75 per kilogram to D 100 per kilogram and air transport tax has been introduced on the sale of air tickets at the rate of 15%.

### Kenya

#### **Treaty between Kenya and Qatar signed**

On 23 April 2014, Kenya and Qatar signed an income tax treaty, in Doha.

### Lesotho

#### **Revision to treaty between Lesotho and United Kingdom – negotiations**

On 16 April 2014, HM Revenue & Customs (HMRC) has announced details of the UK's tax treaty negotiating priorities for the year to 31 March 2015. According to this update, the negotiations are underway to update the Lesotho - United Kingdom Income Tax Treaty (1997).

### Morocco

#### **Social security agreement between Morocco and Netherlands – negotiations update**

A third round of negotiations to update the Morocco - Netherlands Social Security Treaty (1972), as amended by the 1996 protocol, took place in April 2014 in the Hague. The discussions focused on the unilateral decisions taken by the Dutch government, having resulted in the reduction of allowances of surviving dependents (ANW), partial disability (WGA) and child benefit (AKW) being transferred from the Netherlands to Morocco. The Dutch delegation reiterated its willingness to adapt the bilateral social security agreement with Morocco, by adapting new and draft laws in Dutch social security aimed at reducing or stopping export of certain benefits. Morocco, on the other hand, confirmed its position of refusing any action or decision taken unilaterally affecting the acquired rights of the Moroccan community in the Netherlands and violating the provisions of the bilateral agreement (in particular article 5) between the two countries.

#### **Treaty between Lithuania and Morocco ratified by Lithuania**

On 27 March 2014, Lithuania ratified the Lithuania - Morocco Income Tax Treaty (2013), by way of Decree No. 1K-1650.

### **Reunion**

#### **Extension of the dock dues tax (*octroi de mer*)**

On 16 April 2014, the European Parliament officially decided to extend the *octroi de mer* (dock dues tax) until 31 December 2014. This decision, once finally adopted by the Council, will maintain the *octroi de mer* tax on imports from all destinations (including Metropolitan France and EU countries) applied by the French Overseas Departments of Guadeloupe, Guyane, Martinique and Reunion. The Council Decision 2004/162/CE authorized the *octroi de mer* tax until 1 July 2014. (Note: From 1 January 2014, the *octroi de mer* tax applies to Mayotte according to decision 2004/162/EC).

### **Seychelles**

#### **Procedure to amend a business tax return**

The Revenue Commission has published the procedure that taxpayers must follow to amend their business tax returns. A request must be made by email sent to the Revenue Commissioner; the documents required are the business tax return to which the amendment relates, the business' profit and loss account, relevant accounting records/books, receipts/invoices and any other document which supports the request; and the amendments to the tax return must be made using the form available on the website of the Revenue Commissioner (sections A to E). In general, the request could be refused where: the business is subject to an audit; an amended assessment for the year relating to the request has been issued by the Revenue Commissioner as a result of a previous audit; or the business has received an objection decision from the Revenue Commissioner

#### **Authorities to request bills of entry for VAT exemption on imports**

The Revenue Commission has published the following names of ministries or agencies, before which, importers must request a bill of entry on certain imported goods that are exempt for VAT purposes: Ministry of Education: importation of goods such as educational equipment (excluding motor vehicles), construction materials, reference books (not for sale) and school uniforms; Energy Commission: goods imported to be used in the process of: conservation, generation or production of renewable or environmentally friendly energy sources; Secretary of Environment: goods imported to be used in the process of: conservation of fresh or portable water resources or the re-use or recycling of waste water; and solid waste recycling or reduction or its re-use. CEO of Natural Resources: goods imported by persons engaged in agriculture and fisheries registered with the Ministry of Natural Resources.

The exemption under the VAT Law is only valid if the appropriate bills of entry are endorsed. A copy of the bill of entry must be submitted to the Customs Division in order to apply the exemption.

#### **Treaty between Georgia and Seychelles – negotiations underway**

Negotiations for a tax treaty between Georgia and Seychelles are underway.

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### **Resources**

## **Quick Reference Guide on VAT Ruling Application Procedure \*\* South Africa**

This document is a quick reference guide covering various aspects related to VAT ruling applications and procedure thereof.

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## **VAT 404 – Guide for Vendors \*\* South Africa**

This document is a basic guide for VAT vendors. The information in this guide is based on the VAT Act (as amended) and the TA Act (as amended) as at the time of publishing and includes the amendments contained in the *Taxation Laws Amendment Act 31 of 2013* which was promulgated on 12 December 2013 (as per GG 37158) and the *Tax Administration Amendment Act 39 of 2013* which was promulgated on 16 January 2014 (as per GG 37236).

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## **South African Revenue Service Act No. 34 Of 1997 \*\* South Africa**

This Act (updated to Government Gazette 37185) makes provision for the efficient and effective administration of the revenue collecting system of the Republic. In addition, to reorganize the South African Revenue Service (SARS) and to establish an Advisory Board; and to provide for incidental matters.

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## **2014 Global Transfer Pricing Country Guide \*\* Global**

This Guide provides essential information regarding the transfer pricing regimes in 64 jurisdictions around the world and the OECD.

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## **Events**

### **Capital Gains Tax \*\* South Africa**

Deloitte School of Tax is hosting “Capital Gains Tax” workshops in the following venues:

- Cape Town – 18 June 2014
- Johannesburg – 10 June 2014
- Port Elizabeth – 12 June 2014
- Durban – 11 June 2014

### **The ins and outs of cross border transactions \*\* South Africa**

Deloitte School of Tax is hosting “the ins and outs of cross border transactions” workshops in the following venues:

- Johannesburg – 17 June 2014
- Cape Town – 19 June 2014
- Port Elizabeth – 18 June 2014
- Durban – 20 June 2014

For further details and dates regarding events/training, please refer to the Deloitte School of Tax (DSOT) calendar which can be accessed at: <http://www.deloitte.com/za/schooloftax>.

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Should you require further information regarding this newsletter, kindly contact Moray Wilson on +27 (021) 427 5515 or [morwilson@deloitte.co.za](mailto:morwilson@deloitte.co.za). Should you wish to share your stories, please send your submissions to [za tax publications](#).

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