

The Professional

Budget edition

Volume 10, Issue 1

28 February 2019

Special points of interest:

- Official interest rate increased with effect from 1 December 2018
- Other SARS interest rates increase with effect from 1 March 2019.

Inside this issue:

Tax tables	2
Retirement	4
REITs and SEZ	6
International tax	7
VAT	8
Interest and dividends	9
Foreign employment	10
Reorganisation	12
Body Corporate talk	14
IAC news	



Social development
R 278.4bn

Learning and Culture
R386.4 bn

Debt service
cost R202.2 bn



Health
R222.6 bn



Community development R208.5bn

Economic development
R 2209.2bn



Peace and security
R211 bn



Personal income tax and special trusts

Rates remains the same. This will lead to bracket creep and effectively higher tax rates.

Taxable income (R)	Rates of tax
R0 - R195 850	18% of each R1 taxable income
R195 851—R305 850	R35 253 + 26% of the amount above R195 850
R305 851—R423 300	R63 853 + 31% of the amount above R305 850
R423 301—R555 600	R100 263 + 36% of the amount above R423 300
R555 601—R708 310	R147 891 + 39% of the amount above R555 600
R708 311—R1.5mil	R207 448 + 41% of the amount above R708 310
R1 500 001 and above	R532 041 + 45% of the amount Above R1 500 000

Rebates and thresholds

2018/19		2019/20	
Primary	R14 067	Primary	R14 220
Secondary	R7 713	Secondary	R7 794
Tertiary	R2 574	Tertiary	R2 601
Tax threshold		Tax threshold	
Below age 65	R78 150	Below age 65	R79 000
Age 65 and over	R121 000	Age 65 and over	R122 300
Age 75 and over	R135 300	Age 75 and over	R136 750

SARS interest rates

Rate of interest (from 1 December 2018)	Rate
Fringe benefits— Interest free or low interest loan (official interest rate)	7.75% p.a.
Rate of interest (from 1 March 2019)	
Late or underpayment of tax	10.25% p.a.
Refund of overpayment of provisional tax	6.25% p.a.
Refund of tax on successful appeal or where the appeal was conceded by SARS	10.25% p.a.
Refund after prescribed period or late payment of VAT	10.25% p.a.
Customs and Excise	10.25% p.a.

Transfer duty

Transfer duty remained the same and is payable at the following rates where property transactions are not subject to VAT.

2019/20	
Property value (R)	Rates of tax
R0 - R900 000	0% of property value
R900 001 - R1 250 000	3% of property value above R900 000
R1 250 001 - R1 750 000	R10 500 + 6% of property value above R1 250 000
R1 750 001 - R2 250 000	R40 500 + 8% of property value above R1 750 000
R2 250 001 - R10 000 000	R80 500 + 11% of property value above R2 250 000
R10 000 001 and above	R933 000 + 13% of property value above R10 000 000

Excise duty

Product	Current excise duty rate	Proposed excise duty rate
Malt beer	R95.03 / litre of absolute alcohol (161.56c / average 340ml can)	R102.07/ litre of absolute alcohol (173.51c / average 340ml can)
Traditional African beer	7,82c / litre	7,82c / litre
Traditional African beer powder	34,70 / kg	34,70 / kg
Unfortified wine	R3.91 / litre	R4.20 / litre
Fortified wine	R6.54 / litre	R7.03/ litre
Sparkling wine	R12.43/ litre	R13.55 / litre
Ciders and alcoholic fruit beverages	R95.03/ litre of absolute alcohol (161.56c / average 340ml can)	R102.07 / litre of absolute alcohol (173.51c / average 340ml can)
Spirits	R190.08 / litre of absolute alcohol (R61.30 / 750ml bottle)	R204.15/ litre of absolute alcohol (R65.84 750ml bottle)
Cigarettes	R15.52 / 20 cigarettes	R16.66/ 20 cigarettes
Cigarette tobacco	R17.44 / 50g	R18.73 50g
Pipe tobacco	R4.94 / 25g	R5.39 / 25g
Cigars	R82.31/ 23g	R89.72 / 23g

Fuel taxes

South Africa has three main fuel taxes that apply to petrol, diesel and biodiesel: the general fuel levy, the customs and excise levy and the RAF levy. These levies fund general government expenditure, support environmental goals and finance the RAF.

- From 5 June 2019, a carbon tax of 9c/litre on petrol and 10c/litre on diesel will become effective. Diesel refunds cannot be claimed against this tax.
- The general fuel levy will be increased by 15c/litre for petrol and diesel from 3 April 2019. The increase is slightly below inflation.
- Government also proposes to increase the RAF levy by 5c/litre from 3 April 2019.



Retirement fund lump sum withdrawal benefit

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal (including assignment in terms of a divorce order). The tax table in respect thereof remained the same as the 2018/19 year's.

Taxable Income (R)	Rate of tax
0—25 000	0% of taxable income
25 001—660 000	18% of taxable income above 25 000
660 001—990 000	114 300 + 27% of taxable income above 660 000
990 001 and above	203 400 + 36% of taxable income above 990 000

Retirement fund lump sum benefits or severance benefits

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to attaining the age of 55 years, sickness, accident, injury, incapacity, redundancy or termination of the employer's trade. Severance benefits consist of lump sums from or by arrangement with an employer due to relinquishment, termination, loss, repudiation, cancellation or variation of a person's office or employment

Tax on a specific retirement fund lump sum benefit or a severance benefit (lump sum or severance benefit) is equal to –

- the tax determined by the application of the tax table to the aggregate of the benefit plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all other severance benefits accruing from March 2011; less
- the tax determined by the application of the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all severance benefits accruing before severance benefit from March 2011.

Taxable Income (R)	Rate of tax
0—500 000	0% of taxable income
500 001—700 000	18% of taxable income above 500 000
700 001—1 050 000	36 000 + 27% of taxable income above 700 000
1 050 001 and above	130 500 + 36% of taxable income above 1 050 000

**The trouble
with retirement
is that you
never get a day
off.
Abe Lemon**



Travel allowance

A person receiving a travel allowance but did not keep record of actual cost of business travel may use the following table in determining the allowable deduction for business travel against an allowance or advance. This table was not adjusted and remain the same as for the 2018/19 tax year.

Value of the vehicle (including VAT) (R)	Fixed cost (R p.a.)	Fuel cost (c/km)	Maintenance cost (c/km)
0 - 85 000	28,352	95.7	34.4
85 001 - 170 000	50,631	106.8	43.1
170 001 - 255 000	72,983	116.0	47.5
255 001 - 340 000	92,683	124.8	51.9
340 001 - 425 000	112,443	133.5	60.9
425 001 - 510 000	133 147	153.2	71.6
Exceeding 510 000	153 850	158.4	88.9

Retirement reforms

Exemption relating to annuities from a provident or provident preservation fund:

Once a member of a retirement fund retires and receives an annuity as a retirement benefit, any contributions to the retirement fund that did not qualify for a deduction when determining the member's taxable income are tax-exempt.

This exemption does not apply to annuities received from a provident or provident preservation fund.

To encourage annuitisation (regular payments in retirement), it is proposed that this exemption be extended to provident and provident preservation fund members who receive annuities.

The exemption would apply for contributions made after 1 March 2016.

Tax treatment of bulk payments to former members of closed funds:

Retirement funds are permitted to make certain extraordinary payments to their members tax free, provided that these payments are approved by the Minister of Finance in a Government Gazette notice.

Some deregistered retirement funds already paid fund administrators, but the amounts were not yet paid to the affected members and/or beneficiaries.

It is proposed that these payments currently held by fund administrators on behalf of deregistered retirement funds qualify as tax-free payments, provided they meet the relevant criteria.

Reviewing the tax treatment of surviving spouse pensions:

Members of a pension fund can deduct contributions to their retirement funds from their taxable income when determining their monthly employees' tax and annual income tax paya-

ble.

Upon the death of a member, the surviving spouse may be entitled to receive a monthly spousal pension from the retirement fund. These spousal pension payments are subject to PAYE by the retirement fund. If the surviving spouse also receives a salary or other income, it is added to the spousal pension to determine his or her correct tax liability on assessment. The result of the assessment is often that the surviving spouse has a tax liability that exceeds the employees' tax withheld by the employer and retirement funds during the year of assessment, since the aggregation of income pushes them into a higher tax bracket. In most cases, the surviving spouse does not foresee the additional tax liability and does not save money to settle the liability.

This creates a cash flow burden and a tax debt for the surviving spouse. It is proposed that:

- Surviving spouses are provided with effective communication relating to tax and financial issues
- The monthly spousal pension be subject to PAYE withholding at a specified flat rate
- Tax rebates should not be taken into account in the calculation of spousal pensions. Any PAYE excessively withheld as a result of this proposal will be refunded upon assessment.

Reviewing the non-resident employer registration requirement:

Every employer who pays remuneration is required to register with the South African Revenue Service (SARS) and submit monthly and bi-annual tax returns for employees' tax to SARS. If the employer is not a resident of South Africa, this requirement applies irrespective of whether the employer is obliged to withhold PAYE. It is proposed that this requirement be reviewed to determine whether an exclusion from registration is warranted for this type of employer.



Real estate investment trusts

A real estate investment trust (REIT) is a company that owns, operates or finances income-producing real estate, for examples properties that are leased to third parties.

and tax treatment of unlisted REITs that are widely held or held by institutional investors, in line with the announcement in the 2013 Budget Review.

It is proposed that the legislation be amended to clarify these inconsistencies.

Government undertakes to review the efficacy of the current REIT regime.

Unlisted REITs

The implementation of the Financial Sector Regulation Act (2017) and the establishment of the Financial Sector Conduct Authority allows regulation of unlisted REITs. It is proposed that government consider the regulation

Inconsistencies with reorganization rules

The current REIT tax regime contains various inconsistencies, including the definition of rental income as applied to foreign exchange differences and the interaction between the REIT tax regime and corporate reorganisation rules.

For more information on REITs, refer to Interpretation Note 97 which sets out the tax treatment of REITs and controlled companies.

**When you are
content to be
simply yourself
and don't
compare or
compete,
everyone will
respect you.
Lao Tzu**

Special economic zones

Some tax provisions relating to special economic zones (SEZ) preceded the implementation of the programme which resulted in some misalignment between the provisions and the stated objectives of the programme.

Government proposes to review these provisions to clarify the policy intent and address unintended misalignment with the Special Economic Zone Act (2016).

Anti-avoidance

Qualifying companies deriving taxable income from within the SEZ regime can benefit from a reduced corporate tax rate of 15 per cent.

To counter potential profit-shifting, a qualifying company cannot claim this benefit if more than 20 per cent of its deductible expenditure or its income arises from transactions with connected persons.

This anti-avoidance measure may harm legitimate business transactions as some business models in SEZ were accepted before the anti-avoidance measure was introduced.

It is proposed that the measure be reviewed and clarified to meet its original intent.

Permanent establishment—OECD

The current definition of permanent establishment in the Income Tax Act is based on the definition developed by the Organisation for Economic Co-operation and Development (OECD).

The OECD however expanded this definition in November 2017. When South Africa signed the OECD multilateral convention, it did not expand the permanent establishment definition.

As a result, South African tax treaties use the narrow definition of permanent establishment. However, the definition in the Income Tax Act uses the expanded OECD definition.



It is proposed that the permanent establishment definition in the Income Tax Act be reviewed to determine whether a limitation is warranted.

Other international tax proposals

Tax relief for blocked foreign funds

The Income Tax Act provides tax relief for South African tax residents when funds are blocked in a foreign country due to currency restrictions or foreign legal limitations.

The resident can claim foreign tax credits for foreign taxes paid on foreign income. These credits are lost if the blocked funds are released more than seven years from the tax year in which the foreign income accrued.

It is proposed that this seven year limitation be reconsidered.

Domestic treasury management company

The domestic treasury management company regime allows qualifying companies to expand into other African countries.

A company is regarded as a domestic treasury management company if it is incorporated in South Africa, deemed to be incorporated in South Africa, or effectively managed from South Africa and is not subject to exchange control restrictions.

In 2017, the Income Tax Act was amended to remove the incorporation requirement. However, the Reserve Bank definition in Circular 5/2013 still includes this requirement. As a result, the 2017 changes are not aligned with the Reserve Bank requirements and it is therefore proposed that the definition of "domestic treasury management company" be changed in the Income Tax Act to reintroduce the incorporation requirement.

Recognized exchanges

The Income Tax Act defines a recognised exchange as a stock exchange licensed under the Financial Markets Act (2012) or a similar exchange in another country that has been recognised by the Minister of Finance in the Government Gazette. Since 2001, the criteria used to recognise foreign exchanges have not been revised. It is proposed that a review of these criteria be considered.

Transfer pricing

The "affected transaction" definition relating to arm's length transfer pricing rules in the Income Tax Act applies to transactions between connected persons. However, in

the OECD Model Tax Convention, the transfer pricing rules apply to transactions between associated enterprises.

Government proposes to review the scope of these rules to determine whether the definition in the act should be changed in line with the OECD definition.

Capital gains tax

Assets disposed of or acquired in foreign currency are subject to taxation under both the foreign exchange transaction rules and capital gains tax rules.

To prevent double taxation of assets, foreign debt is currently excluded from the specific capital gains tax rules.

However, it is unclear how the general rules apply if foreign bonds are disposed at a capital gain or loss. It is proposed that these rules be reviewed to prevent potential double taxation.



**Whoever is
careless with
the truth in
small matters
cannot be
trusted with
important
matters.
Albert Einstein**

What is the OECD?

The Organisation for Economic Co-operation and Development (OECD) is a group of countries that discuss and develop economic and social policy. OECD members are democratic countries that support free market economies. The OECD publishes economic reports, statistical databases, analyses and forecasts on the outlook for economic growth worldwide.

The OECD maintains a so-called "black list" of nations that are considered uncooperative tax havens. The OECD has also issued VAT guidelines as well as base erosion and profit shifting (BEPS) publications.

BEPS refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. Under the OECD/G20 Inclusive Framework on BEPS, over 125 countries and jurisdictions are collaborating to implement the BEPS measures and tackle BEPS.

For more information on the OECD's work on taxes, visit www.oecd.org/tax/





**Waste no more
time arguing
about what a
good man
should be. Be
one.**

**Marcus
Aurelius**



Value-added tax proposals

The following VAT proposals were addressed in the 2019 budget.

E-services

Group of companies

From 1 April 2019, regulations prescribing electronic services will expand the scope of electronic services required to pay VAT in South Africa. These regulations exclude electronic services supplied between companies in a "group of companies", if a non-resident company supplies such services to a domestic company within the same group.

The regulations define "group of companies" to include two or more companies that hold shares in at least one other company such that 100 per cent of equity shares in each controlled company are directly held by the controlling company in the group.

However, this 100 per cent shareholding requirement may exclude companies because of employee incentives or other empowerment programmes.

It is proposed that the definition be changed to reflect this understanding. The change will come into effect on 1 April 2019.

Transfer of long-term reinsurance policies

The VAT Act regards the activities of providing (or transferring ownership of) a long-term insurance policy, or providing reinsurance relating to any such policy as financial services.

However, the act does not specify how to treat the transfer of a long-term reinsurance policy. It is proposed that the act be amended to clarify this treatment.

Insurance

It is proposed that certain definitions referenced in the VAT Act are revised to align with the Insurance Act.

Corporate reorganisation

Currently, the VAT Act provides relief for companies in the same group by treating the supplier and the recipient of goods or services as the same person during corporate reorganisation transactions.

If these transactions take place in terms of sections 42 or 45 of the Income Tax Act, VAT relief is only permitted if the transfer relates to a going concern. However, transfers of fixed property under these sections may not always involve a going concern, especially in sale and lease-back situations. It is proposed that the VAT Act be amended to clarify treatment in these instances.

National housing programme

A vendor (such as a municipality) is deemed to supply services to any public authority (for example, the Department of Human Settlements) if the vendor is paid or makes a payment in line with the National Housing Programme outlined in the Housing Act (1997).

However, it is difficult to interpret the VAT treatment of payments relating to rental stock. It is proposed that the VAT Act be amended to clarify the treatment of rental stock in these instances.

Section 72

Section 72 of the VAT Act gives SARS discretionary powers to apply provisions relating to the calculation or payment of tax or the application of any provision, exemption or zero rate, in cases where "difficulties, anomalies or incongruities have arisen" due to the business conduct of a particular vendor or vendors.

It is proposed that a constitutional review of section 72 of the VAT Act be conducted given the challenges that arose in its application in respect of mandatory wording of the VAT Act.

Foreign donor funded projects

The VAT Act currently provides relief for foreign donor-funded projects if they meet specified criteria.

However, the criteria and the type of projects that qualify are unclear, especially if the project is sub-contracted to different contractors.

It is proposed that these provisions be amended to clarify the policy intention.

Zero-rated supplies

VAT was increased from 14% to 15% with effect from 1 April 2018.

To mitigate the effects of this increase on low-income households, the 2018 MTBPS announced that the list of zero-rated items, would be expanded.

From 1 April 2019, the list will include white bread flour, cake flour and sanitary pads

Dividends and interest

Domestic dividends

Dividends received by individuals from South African companies are generally exempt from income tax, but dividends tax at a rate of 20% is withheld by the entities paying the dividends to the individuals.

Dividends received by South African resident individuals from REITs (listed and regulated property owning companies) are subject to income tax and non-residents in receipt of those dividends are only subject to dividends tax.

Foreign dividends

Most foreign dividends received by individuals from foreign companies resulting from shareholding of less than 10% in the foreign company are taxable at a maximum effective rate of 20%.

No deductions are allowed for expenditure to produce foreign dividends.

Interest

Interest from a South African source earned by any natural person

- under 65 years of age, up to R23 800 per annum, and
- persons 65 and older, up to R34 500 per annum,

is exempt from income tax.

Interest earned by non-residents who are physically absent from South Africa for at least 181 days during the 12 month period before the interest accrues and the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa, is exempt from income tax.



Withholding taxes

Royalties

A final tax at a rate of 15% is imposed on the gross amount of royalties from a South African source payable to non-residents.

Interest

A final tax at a rate of 15% is imposed on interest from a South African source payable to non-residents. Interest is exempt if payable by any sphere of the South African government, a bank, or if the debt is listed on a recognised exchange.

Foreign entertainers and sportspersons

A final tax at the rate of 15% is imposed on gross amounts payable to non-residents for activities exercised by them in South Africa as entertainers or sportspersons.

Disposal of immovable property

A provisional tax is withheld on behalf of non-resident sellers of immovable property in South Africa, to be set off against the normal tax liability of the nonresidents. The tax

to be withheld from payments to the non-residents is at a rate of 7.5% for a nonresident individual, 10% for a non-resident company, and 15% for a non-resident trust that is selling the immovable property.

Reduced tax rate

In limited circumstances the applicable tax rate may be reduced in terms of a tax treaty with the country of residence of a non-resident.

*A quiet
conscience
makes one
strong!*

Anne Frank

Estate duty and donations tax

Estate duty

Estate duty is levied on property of residents and South African property of non-residents less allowable deductions. The duty is levied on the dutiable value of an estate at a rate of 20% on the first R30 million, and at a rate of 25% above R30 million. A basic deduction of R3.5 million is allowed in the determination of an estate's liability for estate duty, as well as deductions for liabilities, bequests to public benefit organisations and property accruing to surviving spouses.

Donations tax

Donations tax is levied at a flat rate of 20% on the cumulative value of property donated not exceeding R30 million, and at a rate of 25% on the cumulative value exceeding R30 million. The first R100 000 of property donated in each year by a natural person is exempt from donations tax.

In the case of a taxpayer who is not a natural person, the exempt donations are limited to casual gifts not exceeding R10 000 per annum in total. Dispositions between spouses and South African group companies, and donations to certain public benefit organisations are exempt from donations tax.





Residence based tax

Residents are taxed on their worldwide income, subject to certain exclusions. The general principle is that foreign taxes on foreign sourced income are allowed as a credit against South African tax payable. This is applicable to individuals, companies, close corporations, trusts and estates.

From 1 March 2020, South African residents who spend more than 183 days in employment outside the country will be subject to South African taxation on any foreign employment income that exceeds R1 million.

To prevent monthly withholding of income tax both in South Africa and the host country, it is proposed that South African employers be allowed to reduce their monthly local pay-as-you-earn (PAYE) withholding by the amount of foreign taxes withheld on the employment income.

Before implementation, a workshop will be held to consult taxpayers on their administrative concerns. Any resulting amendments will be processed during the 2019 legislative cycle

**Integrity is
telling myself
the truth. And
honesty is
telling the truth
to other
people.
Spencer
Johnson**

Foreign employment by South African residents

In the 2017 Budget it was announced that the foreign employment income tax exemption in respect of South African residents would be considered. According to the Annexure C of the Treasury budget document, if a South African resident works in a foreign country for more than 183 days a year, foreign employment income earned is exempt from tax, subject to certain conditions.

This exemption is for employees of private-sector companies. In terms of the residence-based system of taxation, South African residents are taxed on their worldwide income.

However, according to the South African government, this exemption on foreign employment income appeared excessively generous.

If a resident works in a foreign country for more than 183 days with no tax payable in the foreign country, that foreign employment income will benefit from double non-taxation.

It was therefore proposed that this exemption be adjusted so that foreign employment income will only be exempt from tax if it is subject to tax in the foreign country.

Numerous South Africans

currently work and live in so-called tax free countries, including Oman, Bahrain and the United Arab Emirates. These amendments will have a significant impact which needs to be considered.

Double taxation agreements

South African residents living in countries where personal income tax is levied may however make use of the relief granted by double taxation agreements (DTA's) entered into by the relevant country and South Africa.

To date, South Africa has concluded over 80 double tax agreements DTAs. The main purpose of a DTA is to eliminate double taxation of the same income, by allocating taxing rights between the source state and the residence state. The DTA article dealing with taxation of income from employment generally gives a source state a limited right to tax employment income received by individuals from the exercise of employment in the source state. On the other hand, the residence state has exclusive right to tax employment income received by the resident individual in respect of services rendered in a source state if the following conditions are all met:

- the recipient of the income is not present in the source state for more than 183 days in twelve months;
- the remuneration is paid by an employer or on behalf of an employer who is not resident in the source state; and
- the remuneration is not borne by a permanent establishment of an employer in the source state.

If any of the above conditions is not met, the source state has a right to tax the income from employment exercised in the source state. It is important to note that the resident state is not precluded from taxing the same income; if the resident state does tax, it is required to provide relief by way of a foreign tax credit or exemption.

The exemption however creates opportunities for double non-taxation in instances where the host country imposes little or no tax on employment income. This is contrary to the policy intent expressed when the foreign employment income tax exemption was introduced.

For this reason, it was proposed that foreign employment income earned by a resident should no longer be



Foreign employment—continued

fully exempt as is currently provided. Tax residents who spend more than 183 days outside of South Africa rendering employment services will now only be exempted up to the first R1 million of their employment income earned abroad. The R1 million exemption will provide relief for lower to middle income South Africans working abroad. The problem however is that this limited exemption does not take the cost of living nor exchange rates into account.

Any foreign employment income earned over and above this amount will be taxed in South Africa, applying the normal tax tables for that particular year of assessment.

Residents will still be required to have spent a continuous period of at least 60 full days, rendering employment services outside South Africa, during any 12-month period in order to qualify for the exemption.

This amendment will come into effect on 1 March 2020.

IAC tax advisors should therefore be extremely careful in advising clients in this regard as there is currently uncertainty whether financial emigration is required or whether residents can rely on DTA's entered into by the South African Government knowing that some countries do not have personal income tax.

In the 2019 Budget it was indicated that further workshops will be held to discuss the administrative concerns.



Franchise agreements—CSARS v Big G Restaurants

The main issue in this appeal, was whether the income which the taxpayer received from operating a franchise business, included any amount received or accrued in terms of a franchise agreement, as envisaged in s 24C of the Act. The respondent, Big G Restaurants (Pty) Ltd (the taxpayer), is a franchisee that operates restaurants in terms of various written franchise agreements with the franchisor.

The taxpayer was obliged, in terms of the franchise agreement, to pay the franchisor a monthly franchise and service fee of 5% of the gross sales, less VAT attributable to the gross sales, for each of the restaurants it operated. The taxpayer was also required to upgrade/refurbish the restaurant at reasonable intervals determined by the franchisor. The taxpayer claimed certain amounts under section 24C in relation to future expenses.

The court stated that the fact that the income and obligations must originate from the same contract points strongly to the conclusion that the special allowance in s 24C was intended to apply to cases where income earned in terms of (or 'by') a contract is received before expenditure will be incurred to perform obligations under that same contract.

The court upheld the appeal in SARS' favor.

*Never do
anything that
you can't admit
doing, because
if you are that
ashamed of
whatever it is,
it's probably
wrong.
Ashly
Lorenzana*

Donation to a special trust—BPR 306

Background

A person suffering from an early onset of dementia applied for a binding private ruling while the person was still lucid and had the capacity to contract.

The applicant wanted to transfer an amount to a trust in order to provide for her future upkeep and wellbeing. The amount did not represent the applicant's entire estate. The applicant is the primary

beneficiary, and her descendants are the secondary beneficiaries. Both the primary and the secondary beneficiaries are contingent beneficiaries as their rights to receive income or assets are subject to the exercise of the trustees' discretion. The trustees may only exercise their discretion in respect of the secondary beneficiaries on the passing of the primary beneficiary.

The purpose of the trust is to take care of the applicant

when she becomes debilitated by her medical condition, by providing for her care and maintenance.

Ruling

SARS ruled that the amount to be contributed to the trust would not constitute a donation and would therefore not be subject to donations tax.





**URGENT
NOTICE**

ONLINE IAC CERTIFICATES 2019

We are pleased to announce that our outsourced supplier (Limelight Software Solutions) has issued the IAC designation certificate for 2019 to those members who has fully paid their 2019 subscription fees.

You will have received an email with the certificate attached and information on activating your personal vault that contains your certificate as well.

Please Note: If needed, the Android smartphone users must download a QR code scanner application (from the Google play store) to scan the QR code on their certificates. The iPhone has the QR code scanner application by default.

The intention of the QR code scanner function is to view the authenticity of the certificates issued.

Corporate reorganisation

The current corporate reorganisation rules makes provision for the tax-neutral transfer of assets between companies that are part of the same group. However, the provisions do not specify how the exchange items and interest bearing assets should be treated during corporate restructuring.

It is proposed that the legislation provides further clarification regarding the transfer of these items and assets is excluded from the rules.

This is because unrealised values on the date of transfer should be triggered in the transferor companies.

Intra-group transactions

The corporate rollover provisions regarding intra-group transactions contain multiple anti-avoidance measures.

However, it is not always clear how these measures interact with each other. In particular, separate measures often cause punitive tax consequences that are not taken into account if another measure subsequently apply. This could result in potential double taxation. It is proposed that these provisions be refined by clarifying how the measures interact.

Degrouping provisions

If a company leaves a group but retains an asset acquired within the last six years through the relief provided in the corporate reorganisation rules, a degrouping charge applies. This charge is intended to revoke the tax-neutral status of the original transaction and is designed to deem a capital gain to arise in the year of assessment in which the degrouping takes place. How-

ever, provisions relating to controlled foreign companies determine that the year of assessment in which the degrouping takes place starts and ends on the same day. It is proposed that changes be made to harmonise these provisions across the corporate reorganisation and controlled foreign company rules.

Deregistration by operation of law

In some corporate reorganisation rules, to qualify for the tax-neutral transfer of assets, one or more of the companies involved should cease to exist after the transaction. The legislation lists steps that show a taxpayer meeting this requirement. However, the steps do not take into account deregistration by operation of law. It is proposed that the rules be amended to include this option.



Africa Congress of Accountants 2019

THE INSTITUTE OF ACCOUNTING AND COMMERCE SUPPORTS ACOA2019- THE 5TH AFRICA CONGRESS OF ACCOUNTANTS SCHEDULED 19-21 JUNE, MARRAKECH, MOROCCO

THE INSTITUTE OF ACCOUNTING AND COMMERCE is an active and full member of the Pan African Federation of Accountants (PAFA), the continental body representing Africa's Professional Accountants and supporting Professional Accountancy Organisations to build capacity to play their role in influencing policies that enable the utilization of resources and socio-economic transformation for the benefit of all Africa's citizens.

The Pan African Federation of Accountants (PAFA) in conjunction with Royaume du Maroc, Ordre Des Experts-Comptables (OEC) will be hosting the fifth Africa Congress of Accountants 2019 (ACOA2019) from 19-21 June 2019 in Marrakech Morocco. It is anticipated that more than 1000 delegates from Professional Accountancy Organisations across Africa, Government and other stakeholders will attend ACOA2019. The Congress will explore many topics that will be facilitated by leading experts. The overall theme of the congress is FOR A SUCCESSFUL PUBLIC SECTOR PERFORMANCE IN AFRICA. For more details on ACOA 2019, please visit www.ACOA2019.com

The Acting CEO of The Institute of Accounting and Commerce, Mr. Prakash Singh, said ACOA provides a unique opportunity for the accountancy profession and its stakeholders to engage and share experiences on how to shape and strengthen the profession in Africa in order to enhance its contribution in improving lives of Africans. The past four ACOAs have been instrumental to highlighting the critical role that South African Accountants must play in effectively contributing to national socio economic development. This year's ACOA will focus on driving success in public sector performance, which professional accountants in South Africa will continue to strive to improve as demonstrated through participation in such a conference.

The Institute of Accounting and Commerce hereby invites its members and key stakeholders to attend the 5th Africa Congress of Accountants (ACOA2019) on 19-21 June in Marrakech Morocco where we will share our experiences on shaping the accountancy profession in Africa. Register now to claim the early registration discounts through this link or visit

<https://acoa2019.com/en/delegation/congress/international-congress-participant/>.

For further information on the congress kindly contact Ms. Jane Ohadike janeo@pafa.org.za or Ms. Naima Nasr n.nasr@oec.ma.



www.acoa.com

Book Now

5th Africa Congress of Accountants

Marrakech Morocco, 19 - 21 June at the Palais des Congres

FOR A SUCCESSFUL PUBLIC SECTOR PERFORMANCE IN AFRICA



Body Corporate Talk—Part 1

We are proud to introduce a new series dealing with body corporates which was written by IAC Acting CEO, Prakash Singh. This month we set the scene in this short introductory article which will be followed with more detail in subsequent newsletters.

The amendment of 7 October 2016 to the Sectional Titles Scheme Act 8 of 2011 requires that all Body Corporates must be audited, unless all the sections in the scheme are registered in the name of one person.

We note that the auditor cannot be involved in or give advice in the day to day management of the Body Corporate, and is also not allowed to do the preparation / compilation of the Financial Statements of the Body Corporate.

This means that Accounting Officers registered in accordance to the Close Corporation Act 69 of 1984 can still provide services relating to the preparation / compilation of the Financial Statements which must thereafter be audited.



**URGENT
NOTICE**

BELIEVE IT OR NOT!

Some of our members have not paid their 2019 Subscription fees, which was due since **1 January 2019**.

According to our records you have either neglected or by oversight not paid your subscription fees as yet.

Please make payment immediately so that you are not debited with additional interest penalties or have your membership terminated, and be inconvenienced unnecessarily.

**To avoid this unpleasant situation,
please make payment with immediate effect.**



**URGENT
NOTICE**

BELIEVE IT OR NOT!

Some of our members have not yet uploaded their 2018 CPD hours as yet, which was due **31 December 2018**.

You are hereby respectfully reminded that you should upload your 2018 CPD hours with immediate effect.

Please note that the following penalties will apply immediately.

First Penalty - R2, 000
Second Penalty - R5, 000
Third Penalty - R10, 000
Thereafter - Termination of Membership

**Please update this as soon as possible as it is not
our intention to inconvenience you with penalties.**

Welcome to our new members

<u>Financial Accountant in Practice /Certified Tax Practitioner</u>		
<u>Membership Number</u>	<u>Surname</u>	<u>Name</u>
654704 (FAP) *	Colyn	Johanna Elizabeth
<u>Technical Accountant /Certified Tax Practitioner</u>		
<u>Membership Number</u>	<u>Surname</u>	<u>Name</u>
655658 (TA)(CTP)	Latiff	Irshad
655656 (TA)(CTP)	Magona	Simpiwe

Farewell to a Colleague, Friend, Mentor and Leader – Mr. Ehsaan Nagia

Dear IAC Members

As you know, Mr. Ehsaan Nagia retired from his position as CEO of the IAC on the 31st December 2018. I wish to take this opportunity to thank Mr. Nagia for his hard work and dedication, which has made him an important part of our team for many years.

Ehsaan, as you turn this page in your life's story, I join together with the Board, Staff and Members of the Institute in wishing you every success in all your future endeavours. From friendship, to mentorship, to leadership, you have given the Institute a warm kinship in every possible form. If your perseverance and integrity were a contagious disease, everyone at work would be as perfect as you! We thank you for giving the Institute that kind of commitment.

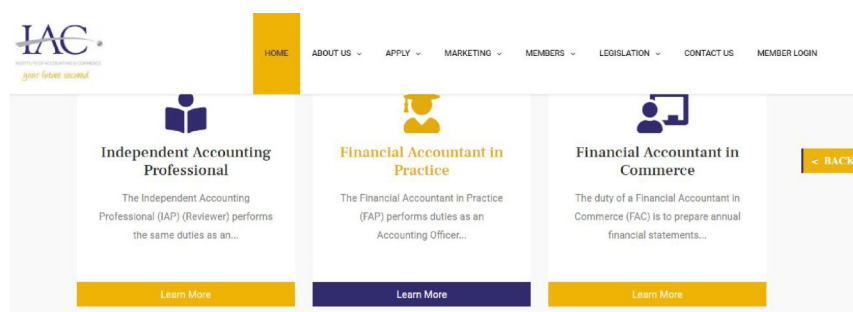
Although Mr. Nagia is leaving the employment of the IAC he will still remain a member of the Institute and I am certain that we will continue to cross paths with him in the future.

Mr. Prakash Singh will be taking over from Mr. Nagia. I would like to wish Mr. Singh well in his new role and I am confident that he will afford the Institute the same level of dedication and service that we have become accustomed to.

Yours Faithfully



Andrew Bezuidenhout
IAC President



**INSTITUTE OF
ACCOUNTING AND
COMMERCE**

252 Rosmead Avenue
Wynberg
7780
Phone: (021) 761 6211
Fax: (021) 761 5089
E-mail: Prakash Singh
ceo@iacsa.co.za

ENQUIRIES

General:

Abeeda Busch
info@iacsa.co.za

Membership

Soraya Busch
members@iacsa.co.za

Compliance

Bronwyn Benjamin
compliance@iacsa.co.za

Finance

Valencia Williams
finance2@iac.co.za

Information Technology

Tasriq Adams
it@iacsa.co.za

Acting CEO & Technical

Prakash Singh
ceo@iacsa.co.za

Office Hours:

Monday - Thursday
08:00 - 16:00
Friday
08:00 - 15:30

www.iacsa.co.za

A dynamic world-class professional accounting institute

PROFILE OF PRAKASH SINGH (Act. CEO – IAC)

I have been a member of the Institute since 1985 (33 years) as an Accounting Officer, and in the past few years as a Certified Tax Practitioner as well.

I studied and qualified as an Accounting Officer through IAC which gave me the leverage to excel in business and was especially very well received by Pioneer Foods who insisted on attaining an IAC Accounting Diploma to be promoted on the financial side of the business.



I have always been a member in good standing with the Institute, and was consistent over the years in paying my subscription fees in full with no default. I met all CPD requirements as required by the Institute, and consistently upheld the covenant & code of ethics of the Institute.

I had a very successful working career with one of the largest Corporate Company, Pioneer Foods, whom I served for 30 years, holding Executive positions for at least 20 of those 30 years.

A summary of the various positions I held is listed below:

Pioneer Foods – Sasko Grain / Nulaid 1985 to 2015

PROFESSIONAL EXPERIENCE (Timeline)

Various Clerical positions (Durban Mill)	1985 to 1991
Assistant Accountant (Durban Mill)	1990 to 1992
Accountant (Durban Mill)	1993 to 1995
Admin Manager (Durban Mill)	1996 to 1998
Financial Manager (KZN – 3 mills, 4 depots)	1999 to 2003
Financial Manager (Sasko Coastal Region)	2004
Financial Manager (Mills Nationally)	2005 to 2006
Operational Manager (3 Mills, 2 Rice Plants)	2007 to 2008
National Operation Manager (Nulaid Pack Stations)	2008 to 2014
Manager Egg Business – KZN	2014 to 2015

Besides studying the IAC Accounting Diploma, I qualified in the Grain & Milling (4 year) production and logistics and was designated as a qualified Flour Miller. I studied the Senior Management Programme (SMP) with Stellenbosch University (1 year) rated with SAQA on a NQF8 level qualification. Last year I studied the Reviewer Course with W Consulting (SAIPA) and now have the designation of an Independent Accounting Professional (IAP) with IAC. I also completed the Assessors course (ETDP 115753) as required by FASSET and recognised by City & Guilds.

Institute of Accounting & Commerce

2015 to Present

POSITION: GENERAL MANAGER

Period Employed: 3 Years +

I was basically in charge of the entire day to day operation of the Institute, i.e., Membership, Compliance, Marketing, IT and Reporting to the CEO. I was employed by the Institute as the GM on the 1 October 2015 (over 3 years ago). During this time, I had the privilege of learning the operation of the Institute, and especially the opportunity to spend quality time with a very experienced CEO, Mr. Ehsaan Nagia, who exposed me fully to the operation of the Institute, including the IAC secretariat function.. During this time, I have built relationships and gained the respect of many IAC Members, Statutory Bodies, Staff and other Stake holders involved in the operation of IAC.