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In the pipeline: Davis Tax Committee's recommendations on trusts

The conduit and distributive mechanisms of trusts have posed numerous challenges for the South African tax authorities in recent years. These include concerns ranging from the use of trusts by corporates in share incentive schemes to estate duty planning tools by high net worth individuals. A revision of trust taxation in South Africa has been on the cards for a number of years. A reform of the taxation of trusts was suggested in the 2013 Budget Review. Not much however happened in this space following that announcement. During July 2015 the Davis Tax Committee (DTC) released its draft report with its recommendations on estate duty and trusts for public comment. This has revived many discussions on what taxpayers who have existing trust structures stand to do. This article cannot answer that question, but aims to provide some views to consider this question in an informed manner.

Overview of the recommendations

The DTC's recommendations in relation to wealth taxes involve an improvement and tightening of the existing measures (estate duty and capital gains tax) as opposed the introduction of new capital transfer or wealth taxes. It appears as if the primary theme of the recommendations is that the contribution of estate duty and collection capital gains tax may be improved by amending the trust tax regime. The recommended changes to the trust tax regime centre around the fact that a trust should be taxed on the income that accrues to it, without having the ability to distribute the tax liability to its beneficiaries, who may be low taxed, or attributing it to the donor of its assets, who may not mind paying tax if the accrual of the wealth remains outside his estate. This effectively means that income earned by a trust will be taxed at the flat rate of 41% while capital gains on the disposal of trust assets will be subject to capital gains tax at a rate of 27,3%. The view of the DTC appears to be that taxpayers need to make a choice as to whether amounts are taxed in their owns hands and form part of their estates or to hold wealth in a trust outside the estate but have the amounts taxed at the trust tax rates. The argument goes that this choice will eventually persuade some taxpayers to hold assets in their own name, which in turn will increase estate duty and capital gains tax collection on death.

In addition to the recommendations on trusts, the DTC also suggested certain amendments to be considered in relation to estate duty and donations tax that may be closely related to trusts in an estate planning exercise. In relation to estate duty, the repeal or limiting of the exemption for bequests to spouses is proposed. In line with this recommendation, a limitation of the exemption granted in respect of donations made to spouses is proposed. This proposal specifically suggests that fixed property and shares should be excluded from the exemption. In addition, a narrowing of the exemption for donations aimed at maintenance of certain persons is proposed by limiting the expenditure covered by these donations to specific costs.

What remains in place?

A discretionary interest in a trust will remain outside a taxpayer's estate unless the taxpayer retains control over the asset, in which case section 3(3)*(d)* of the Estate Duty Act will remain a risk. Foreign resident trusts (trusts not established or effectively managed from South Africa) remain outside of the South African tax net except to the extent that it derives South African source income or certain capital gains from a South African source. As such, foreign sourced income that accrues to such a trust would not necessarily be affected by the recommendations, except possibly when it is distributed to a South African resident beneficiary. The advent of entity taxation of South African resident trusts may result in foreign trusts becoming more attractive as a vehicle to accumulate wealth, even though the residence and place of effective management of these trusts may remain a contentious issue.

Dangers of hasty changes

The recommendations of the DTC are only recommendations at this stage. Even though the draft report suggests implementation with effect from 1 March 2016, this seems highly unlikely given that no changes were announced in the 2015 Budget Review nor were such changes included in the draft tax law amendment bills that were released in July 2015. Indications are that the changes may therefore only come into effect in 2017, even though there is no guarantee of this. Taxpayers should be aware of the fact that most attempts to unwind current trust structures are likely to result in significant capital gains and other transfer tax arising, without a realisation of cash flow to fund this tax.

Concluding thoughts

In my view, taxpayers should wait to see what the detailed actual amendments are, whether some form of transitional relief may be afforded and evaluate the options available thoroughly and in an informed manner at that stage. One may find that a trust structure still remains a workable option depending on the specific needs and circumstances.

In the pipeline: Draft interpretation note on contingent liabilities

The tax treatment of contingent liabilities transferred, as part of a sale of a business has long been a contentious unresolved matter. An attempt to address the concerns relating to the transfer of contingent liabilities in the tax legislation during the 2011 amendment cycle did not progress beyond being draft legislation that did not make it into the final bill. At the time the reason advanced for not following through with the legislation was that the problem should be solved based on general principles and does not require specific legislation. Following this, SARS issued a discussion paper late in 2013 that was met with some criticism. The latest development in this space is the publication of a draft interpretation note on the matter that appears to be largely based on the discussion document.

Background to the issue

In order to deduct expenditure in the determination of taxable income, such expenditure must meet the requirements of the relevant deduction provision (e.g. section 11(a) or an allowance provision). A long line of case law support the position that a taxpayer only incurs expenditure once the obligation on the taxpayer becomes unconditional. As such, provisions or contingent liabilities are generally not deductible until the underlying expenditure realises.

In the context of a transfer of such contingent liabilities, it is important to understand the reason for the uncertainty and its relevance before considering the views in the interpretation note. In a sale of business, the purchaser can pay the seller by means of a cash consideration, in some instances by issuing shares to it or lastly by the assumption of the seller's liabilities. The seller will be willing to accept the assumption of a liability as a form of payment for the business as it benefits from being relieved of the obligation to pay such a liability. Similarly to liabilities, parties often also transfer contingent liabilities, such as bonus provisions, post retirement employee benefits or environmental rehabilitation provisions to a purchaser who would assume these as part of the consideration for the transaction.

As the seller benefits from the transfer of such a contingent liability, the value of the contingent liability should in principle be included in the proceeds from the sale of the business like any other form of non-cash consideration. The difficulty that however arises is that the purchaser is still in the same position as the seller prior to the transfer – i.e. it has not yet incurred an obligation; it has merely taken over a possible obligation from the seller. As such, the deductibility of the contingent liability assumed is contentious in the hands of the purchaser. The concern that arises from this scenario is that it is likely that at the best of times a timing mismatch will arise between the timing of when the seller is taxed on the benefit and when the purchaser can deduct the expenditure, if at all. The interpretation note deals with the views of SARS on the application of tax principles in the context of the transaction described above.

Main aspects of the draft interpretation note

Nature of contingent liabilities covered by the draft interpretation note

Like the discussion paper, the interpretation note distinguishes between contingent liabilities that are free-standing and those that are attached to an asset and deplete the value of the asset, for example a mining rehabilitation provision that impacts on the value of the mining assets. The draft interpretation note only applies to freestanding contingent liabilities.

It appears as if the SARS view is that the effect of the assumption of such an embedded contingent liability is reflected in the reduced proceeds received for the asset and that no further adjustment to proceeds for the relief of this obligation by the purchaser is required. Some however argue that the mere fact that a contingent liability is attached to a specific asset does not necessarily make it conceptually different from a freestanding contingent liability, but this view does not seem to be shared by SARS. The difference in views may be significant as the non-inclusion in proceeds and eventual deduction of the closure expenditure when it incurs the costs may be more favourable than the view in relation to freestanding contingent liabilities as discussed later.

In addition, these two types of contingent liabilities are distinguished from impairment provisions that mere reflect a decrease in the value of an asset from an accounting perspective. This distinction is arguably theoretically correct.

Freestanding contingent liabilities transferred: Seller perspective

In line with the judgment in *Ackermans Ltd v C: SARS* the draft interpretation note confirms that the transfer of a free-standing contingent liability, which effectively reduces the cash consideration received by the seller for the business assets sold, is not a realisation of the expenditure in question. As such, the contingent liability still does not represent expenditure actually incurred and cannot be deducted by the seller. In contrast to the seller claiming a deduction, the relief obtained from the obligation is a benefit to the seller from the transaction, which should be included in the amount of proceeds received. This view is essentially that the treatment of the assumption of a contingent liability should be similar to that of the assumption of any other unconditional liability by the purchaser that is included in the proceeds on the sale.[1]

The valuation of this benefit may be challenging. In this regard, the draft interpretation note states that the amount of the benefit will generally be equal to the amount of the free-standing contingent liability which has been negotiated and agreed by the seller and purchaser and that has been stipulated in the agreement of sale. It may also be acceptable if no value has been placed on the contingent liability to not allocate value to it. It however appears that where value was attached to it (or should have been attached to it), but is not reflected in the agreements, a consideration adjustment may be required.

SARS acknowledge that in some circumstances an alternative transaction, such as a receipt of cash of the full value of the assets by the seller followed by a payment from the seller to the purchaser to assume the contingent liability may in certain fact specific instances provide an outcome that reflects the realisation of the expenditure by the seller.

Freestanding contingent liabilities transferred: Purchaser perspective

While the seller is relieved from the potential obligation as part of its consideration for the sale of its assets, the purchaser assumes this contingent liability as part of the payment for these assets. The challenge that the purchaser faces is that at the time that this potential obligation is assumed by it, it is exactly that – just a potential obligation. As such, the purchaser has not yet incurred an unconditional obligation, which is required for expenditure to actually be incurred. Where the tax law requires that the purchaser must have actually incurred expenditure or cost in order to become entitled to a deduction, this requirement is not yet met. It may be met in future when the contingent liability realises into an actual liability. It will only be at that stage that the purchaser will be entitled to a deduction for the portion of the cost of the assets paid by assuming the contingent liability. Where the asset qualifies for allowances, SARS suggests catch-up allowances in the year of realisation, even though no allowance provision specifically makes provision for this. It may be important from an allocation perspective to determine which assets are settled by the assumption of the contingent liability.

The counterargument to this treatment would be that the contingent liability is priced into the cost of the asset from its acquisition by the purchaser at the amount included in the proceeds of the seller. This view is not supported by SARS in the draft interpretation note.

SARS, correctly so in my view, states in the draft interpretation note that the payment of the contingent liability, for example, a bonus provision, should not be considered for deduction by the purchaser from the perspective of paying a bonus (which at face value is a normal operating type of expense) but rather a form of payment for the asset acquired by assuming the contingent liability. The operational element of this expenditure arose during and relates to the trade of the seller, as opposed to the purchaser.

Rollover treatment of contingent liabilities

The transfer of contingent liabilities poses certain problems from a rollover relief perspective. Firstly, the question arises whether these contingent liabilities are debt for purposes of provisions like section 42(8) and 44(4). Doubt in this regard, causes uncertainty as to whether the transaction fully qualifies for rollover treatment. Secondly, in light of the cost rollover of the assets transferred, it becomes relevant whether the deduction characteristics of the transferor company are transferred to the transferee when the expenditure realises in its hands.

In relation to the first issue, the draft interpretation note states that the contingent liability is accepted as 'debt' by SARS. Even though perhaps not technically correct, it is submitted that this view results in a conceptually sound outcome in a rollover transaction. Similarly, in the case of the second issue SARS confirms that it is of the view that the deductibility of the expense that realises must be considered in light of the going concern rather than the fact that the transferor assumed this as consideration for the assets acquired. Once again this view is perhaps not strictly speaking supported by the legislation, but makes sense conceptually in the context of rollover relief. It is submitted that in the case of these exceptions to the normal meaning of terms or principles it may be best to draft these exceptions into the legislation given the limited authority of an interpretation note.

Concluding thoughts

Concerns are likely to continue to exist mainly relate to the fact that the seller will be taxed on the benefit immediately (prior to realisation of the contingency) while the seller has to wait for a deduction until the contingency realises. This timing difference results in an inequitable outcome, though not completely unheard of in the Income Tax Act.

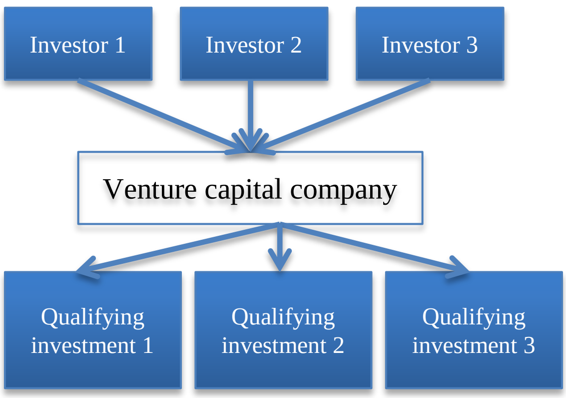
[1] In this regard, refer to para 35(1)*(a)* of the Eighth Schedule

Use of venture capital companies and the related tax concessions (BPR205)

Section 12J of the Income Tax Act (hereafter the Act) has generally been perceived as an ineffective incentive that there has not been much take up for from taxpayers. Over the years the provisions of the section have been revised and in recent times it appears as if taxpayers are increasingly starting to consider the concession in their planning. The proposed transaction in binding private ruling 205 (BPR205) deals with a structure that involves a venture capital company to which section 12J would apply and some of the interpretational issues around the criteria for this provision to apply. This article starts by providing a summary of the requirements and benefits that section 12J may hold. Following this, the ruling and specific aspects addressed are considered.

Section 12J in a nutshell

The model of section 12J essentially views the venture capital company (hereafter VCC) as a vehicle that will collect funds from investors and then on-invest these funds into various qualifying companies. As such, the VCC's role in the structure is that of an investment making and investment management company. This model can be illustrated as follows:



The primary benefit of the establishment of a venture capital company to which section 12J applies is that an investor is allowed to deduct the capital investment made in such entity for income tax purposes. If such shares are held for more than 5 years before it is disposed of, no recoupment will arise in respect of this deduction allowed on acquisition.

This concession is however limited to investments made from the investor's own funds that would be at risk if unsuccessfully on-invested by the VCC. As a result, investments made from borrowed funds that would expose the financier, as opposed to the investor, to the risk of failed ventures would generally not qualify for the section 12J deduction.

The deduction is furthermore limited to investments in VCCs that are not connected to the investor following the investment. This effectively caps the interest of a single investor in a VCC to be such that it does not trigger a connected person relationship.

In order to qualify as a VCC the approval of the Commissioner is required under section 12J(5). In this regard, it is required that the company be a resident, must have the sole purpose of managing investments in qualifying companies, have all its tax affairs in order and be licensed in terms of section 7 of the Financial Advisory and Intermediary Services Act (FAIS Act). A qualifying company (investee) is defined as a resident company that is unlisted or listed as a junior mining company, is *not* a controlled company in any group of companies. In addition, the company should not earn more than 20 per cent of its gross income from investment income as defined in section 12E(4). Such company must furthermore not carry on certain activities that are classified as impermissible in section 12J(1).

In order to retain its approval, the VCC is provided with a three-year grace period before its investments will be evaluated. Following a three-year period from the first issue of shares by the VCC the following thresholds must be met:

- At least 80 per cent of the expenditure incurred by the VCC must have been to acquire qualifying shares (defined to exclude certain hybrid debt-like shares) of qualifying companies (see above).
- Each such qualifying company must hold assets with a book value not exceeding R500 million in the case of a junior mining company or R50 million in the case of any other company.
- In addition, no more than 20 per cent of the amounts received from the issue of the shares of the VCC must have been invested in shares of a single qualifying company.

Failure to meet these criteria and to rectify non-compliance has the potentially severe implication of a recoupment at a rate of 125% of the original expenditure deducted in the hands of the VCC investor.

Proposed transaction in BPR205

BPR205 deals with a proposed structure that will be set up by a company that supplies and markets movable goods to customers (referred to as Company A in the ruling, hereafter referred to as the Supplier in this article), a VCC as well as another investor (referred to as Investor in this article). The parties wish to set up a new entity that will enter into medium term lease transactions with the customers of the Supplier. The new entity is referred to as RentalCo in the ruling. The unique features of the proposed transaction are the following:

- RentalCo will issue three classes of ordinary shares to the respective investors. The VCC will take up the Class A shares, while the Supplier and Investor will subscribe for Class B and Class C shares respectively.
- The VCC will contribute 75 per cent of the value of all issued shares in RentalCo (i.e. capital) but this will only represent 20 per cent of the total number of ordinary shares issued across all three classes. All ordinary shares however carry the same voting rights despite the investment mismatch mentioned above.
- Each class of share will have certain distribution rights. Class A will have a first right to distributions equal to its investment and a return of prime plus 2% on this investment. Once these distributions have been made to Class A, Classes B and C will have a second distribution right to their capital invested with a return of prime plus 2% on this investment. Following fulfilment of these distribution rights, all classes of shares will rank *pari passu*.

Ruling

The ruling relates to the requirements for the investee company (RentalCo) and investment made in this entity to constitute a qualifying company. This will ultimately also impact on the ability of the VCC to qualify as such under section 12J.

The ruling confirms the following aspects:

- The Class A shares issued to the VCC will be equity shares, as contemplated in section 1(1), for purposes of determining whether these are qualifying shares in RentalCo.
- RentalCo will not be a controlled company in relation to the VCC based on the fact that the VCC will only hold 20 per cent of the number of issued shares of RentalCo notwithstanding the fact that it will contribute more than 70 per cent of the investment.
- The rental income generated by RentalCo will not be investment income as contemplated in section 12E(4)(c).

Analysis of the ruling issued

Definition of equity shares

The classification of a share as an equity share is of critical importance for a number of provisions of the Act, for example, the rollover relief in sections 41 to 47. The views expressed in relation to the meaning of this term in the ruling may therefore be of relevance in other contexts as well.

The term 'equity share' is defined in section 1(1) as follows:

> "**"equity share"** means any share in a company, excluding any share that, neither as respects dividends nor as respects returns of capital, carries any right to participate beyond a specified amount in a distribution" (own emphasis added)

The potential issue with the application of this definition to the three classes of shares may be that while a specific class of shares is entitled to a distribution at a particular point in time, while the other is not. Similarly, the fact that the rights to distributions are defined up to a certain limit (i.e. capital plus returns) may be of concern. Both of these factors may be interpreted as a limitation in the right to participate beyond a specified amount in a distribution. It would however appear from the ruling as if SARS must be of the view that the requirement relating to rights to share in distributions beyond a specified amount should be applied at an overall basis for the instrument, as opposed to a distribution-by-distribution basis. In this case, the *pari passu* rights following the distribution of the initial investments together with returns thereon should achieve the outcome that the overall rights to distributions by all classes of shares are not limited to a specified amount.

This is however only one of the aspects that need to be considered to determine whether a share is a qualifying share for purposes of section 12J. The other is that the share does not fall into one of the following categories:

> "any share which—…
>
> (b) would have constituted a hybrid equity instrument, as defined in section 8E (1), but for the three-year period requirement contemplated in paragraph (a) of the definition of "hybrid equity instrument" in that section; or
>
> (c) constitutes a third-party backed share as defined in section 8EA (1)"

If one considers the requirements of section 8E, shares with compulsory redemption terms or redemption at the option of the holder of the instrument, the intention of the taxpayers to withdraw the amounts invested that would effectively constitute something similar to loan funding may border on the provisions of section 8E. It would however appear as if the investment will be structured in a manner that would provide preference of payment at certain stages to the respective shareholders but without an obligation on RentalCo to make such payments. The fact that the decision to make a repayment resides with the company, even though the counterparty and order of payments has been predetermined, is a characteristic of an equity instrument that should keep these shares outside the scope of section 8E.

Definition of controlled group company

One of the requirements for an investee company to be a qualifying company is the following:

> "the company is not a controlled group company in relation to a group of companies"

The term 'controlled group company' stems from the definition of a group of companies in section 1(1) which reads:

> "**"group of companies"** means two or more companies in which one company (hereinafter referred to as the **"controlling group company"**) directly or indirectly holds shares in at least one other company (hereinafter referred to as the **"controlled group company"**), to the extent that—
>
> (*a*) at least 70 percent of the equity shares in each controlled group company are directly held by the controlling group company, one or more other controlled group companies or any combination thereof; and
>
> (*b*) the controlling group company directly holds at least 70 per cent of the equity shares in at least one controlled group company"

The uncertainty addressed by the ruling relates to the determination of the "70 per cent of the equity shares" threshold referred to in this requirement. In the ruling SARS confirms the following view in relation to the shareholding of the VCC in relation to Rentals:

> "will not constitute a "controlled group company" for so long as the number of equity shares held by the Applicant constitutes less than 70% of the *total number of equity shares in issue*, notwithstanding that the Applicant invests more than 70% of the aggregate *share capital*". (own emphasis added)

This should be a favourable view from a tax planning perspective as it bases the group threshold on the number of shares issued, which may not necessarily be linked to value if different classes are involved, as is the case here. Had the requirement been interpreted as referring to share capital value, it is submitted that this would have been a much more difficult threshold to structure into or out of.

Similarly to the concept of equity shares, the concept of group companies is also used extensively in the Act, again a good example of which may be in the case of sections 41 to 47. Even though the ruling clearly qualifies the statement by stating that this is the view for purposes of the definition of 'qualifying interest' in section 12J, there should in principle be no reason why the interpretation in the context of section 12J should be different from the rest of the Act.

Definition of investement income in section 12E

The term investment income is defined in section 12E as amongst other income from rental derived from immovable property or income of a similar nature. The ruling essentially just confirms that rentals of movable property in this instances would not be income of a similar nature to the items listed in the definition. Given the limited use and references to this term elsewhere in the legislation, this is probably the least relevant of the definitions considered for purposes of other provisions of the Act.

Concluding thoughts

It is my view that the ruling firstly provides a useful reminder of the role that a VCC may play in certain funding structures. In addition, it is submitted that the views expressed, in particular the views on the determination of the 70 percent threshold and the interpretation of the definition of an equity share, may be of value in other planning and structuring opportunities.

Documentation to claim input tax (VAT Case 1129)

The judgment of a tax court case dealing with documentation to claim input tax was published in September as VAT Case 1129. Even though the judgment does not necessarily shed new light on the matter of input tax deduction and the documentation required, it serves as a useful reminder of the compliance requirements that a VAT vendor needs to adhere to. This article briefly reviews the judgment and the relevant provisions of the VAT Act.

VAT Case 1129

The taxpayer in this case was involved in the construction industry. Over a six-month period he claimed input tax amounting to approximately R900 000. When requested by SARS to provide documentary proof of the purchases, he provided the following:

- Unstamped bank deposit slips;
- Quotes from suppliers;
- Invoices issued to other persons and his construction business (company);
- Invoices not reflecting the name of the purchaser for cash sales; and
- Invoices of goods not normally used in a construction business but rather for private use.

The taxpayer claimed that the original invoices, of which he did not keep copies, were provided to a SARS official who then misplaced them. As part of an explanation of the process followed by SARS to scan documentation and return it to the taxpayer, it appears as if a SARS official suggested to the taxpayer to visit his suppliers to obtain the relevant invoices for purposes of claiming input tax.

In short, the judge concluded that the taxpayer clearly did not comply with the requirements of the VAT Act and that if he allowed these invoices to disappear it would be grossly negligent. This last observation may be relevant for purposes of determining the understatement penalties, even though this was not considered in this judgment.

Requirements to claim input tax

The definition of input tax in section 1 together with the provisions of section 17 of the VAT Act contains the purpose requirements in relation to input tax. The requirement in relation to documentation required to substantiate the input tax deduction is set out in section 16(2). This section reads as follows (only relevant parts):

"(2) No deduction of input tax in respect of a supply of goods or services, the importation of any goods into the Republic or any other deduction shall be made in terms of this Act, unless—

(*a*) a *tax invoice* or debit note or credit note in relation to that supply has been provided *in accordance with section 20 or 21* and is *held by the vendor making that deduction at the time that any return in respect of that supply is furnished*; …

(*f*) the vendor, in *any other case, except as provided for in paragraphs (a) to (e)* is in possession of documentary proof, as is acceptable to the Commissioner, substantiating the vendor's entitlement to the deduction at the time a return in respect of the deduction is furnished…" (own emphasis added)

The requirement to claim input tax in normal circumstances where goods or services are acquired from another vendor is clear from section 16(2)(a) as being that a tax invoice must be have been obtained by the taxpayer. This tax invoice must meet the requirements to be a valid tax invoice in terms of section 20. That provision has numerous requirements relating to vendor details, VAT numbers, etc. In addition, the tax invoice must be held during the period when the VAT return is submitted. As such, had the taxpayer obtained the invoices from the suppliers at the time of the SARS enquiry (as opposed to when the supplies were made), it may arguably only have deducted the input tax in the period during which such invoice was obtained provided that this still fell within the 5 year period since the invoice was first issued.

Where taxpayers have not obtained or retained the necessary documentation as required by section 16(2)*(a)*, they often tend to attempt to make use of section 16(2)*(f)* which opens the door for other documentation acceptable to SARS to be presented. In Interpretation Note 49 SARS however indicates that this provision only applies to transactions where no invoices are required (sections 16(3)*(c)* to *(n)*) rather than being an override for the requirements of sections 16(2)*(a)* to *(e)*. This provision would therefore not be of use in a case such as the one referred to above.

Concluding thoughts

Despite many taxpayers being aware of the requirements relating to documentation to claim input tax, requests for such documentation by SARS often still indicate compliance shortfalls. This case should serve as an important reminder of the compliance duties to be adhered to when claiming input tax in any business context.

About PvdZ Consulting (Pty) Ltd

Pieter van der Zwan consults a wide spectrum of clients on tax and IFRS matters through PvdZ Consulting (Pty) Ltd. He qualified as a chartered accountant in 2009, finishing first and second in the respective SAICA and IRBA qualifying exams. He holds a masters degree in taxation from the University of Pretoria and is currently the co-ordinator and presenter of the master's programme in taxation at the North-West University, where he is an associate professor.

PvdZ Consulting (Pty) Ltd provides the following services:

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- Assistance with ad hoc tax queries on a retainer basis;
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- Assistance in drafting correspondence for purposes of objection, appeal or other requests to SARS;
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Financial reporting in terms of IFRS or IFRS for SMEs

- Assistance with ad hoc IFRS queries on a retainer basis;
- Review of financial statements for compliance with the relevant reporting framework;
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