



Deloitte Africa Tax & Legal Transfer Pricing Alert

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developments impacting your business*

New SARS Draft Interpretation Note on intra-group loans

On Friday, 11 February 2022, the South African Revenue Service (SARS) published a Draft Interpretation Note: Determination of the Taxable Income of Certain Persons from International Transactions: Intra-Group Loans (the Note) for public comment.

The Note aims to align to, and provide additional guidance and detail to reflect, the recent legislative changes (for example, the interaction between section 31 and section 23M, as well as section 23N and the interest withholding tax provisions), and the release of the Organisation for Economic Co-operation and Development Transfer Pricing Guidance on Financial Transactions in 2020.

The Note provides taxpayers with an indication of the factors that will need to be considered from both a third party lender's and borrower's perspective with regards to debt funding. The Note emphasises the fact that the entire arrangement will need to be considered in order to determine whether there is "commercial rationale" for entering into the debt funding arrangement.

Therefore, based on the above, it seems that the Note focuses on the arm's-length conditions of the funding arrangements at the time it was entered into.

The release of the Note is welcomed step and will hopefully provide taxpayers with much needed additional clarification on the treatment of cross border funding arrangements, as the previous Draft Interpretation Note on Thin Capitalisation issued by SARS in 2013 was never finalised.

The Note is now open for public commentary and comments are to be submitted to SARS by no later than Friday, 29 April 2022. A detailed Transfer Pricing Alert on the Note will be provided in due course.

A copy of the Note can be accessed [here](#).

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- [Updates on transfer pricing developments](#)
- [Deloitte's 2021 Guide to fiscal information: Key economies in Africa](#)
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- **Deloitte tax@hand** – Get timely COVID-19 global and regional tax news, information and resources as developed by Deloitte firms around the world. Subscribe and access the site [here](#).

- **COVID-19 Signal Topic Alerts** – Stay up-to-date with the latest government tax and fiscal responses to COVID-19. To sign up to receive Signal Topic Alerts, email signal@deloitte.com.
- **GoWork – COVID-19 Immigration Digital Map** - Provides information in real time, so companies can access the most up-to-date information on travel restrictions, quarantine and immigration in relation to COVID-19.

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