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Tax Roundtable
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2026 budget: Tax administration amendments

Progress, pitfalls, and practicalities

The 2026 Budget Speech, delivered by the Minister of Finance, ushered in a few proposed amendments to the Tax Administration Act No, 28 of 2011 (the TAA) that, while technical in nature, are set to have a tangible impact on the day-to-day realities of tax professionals, finance teams, and business leaders. This article explores the key TAA proposals, their potential pitfalls, and what they might mean in practice. catchy

2026 Tax Amendments: Interest relief for voluntary disclosure a possibility

First proposal: Screening of tax refunds

One of the headline proposals is to permit banks to conduct pre- or post-deposit screening of tax refunds before these are paid into taxpayers' accounts. The stated aim is to expedite legitimate refunds and clamp down on fraudulent claims, a goal that's hard to argue with. However, in reality, banks already play a similar role here in terms of section 190(5A) of the TAA, whereby they are obliged to report suspicious refunds to the South African Revenue Service (SARS) and hold these for up to two business days while investigations are conducted.

At this stage, it is not yet clear whether the proposal seeks to formalise and potentially broaden the current bank responsibilities, or if it simply clarifies existing obligations. Greater detail is needed to determine the extent of such changes and how they would be implemented.

There are also several challenges that warrant careful consideration, for instance, if we contemplate the below example:

A large manufacturing company, expecting a substantial value-added tax (VAT) refund, finds the payment delayed not by SARS, but by its bank, which is now required to conduct additional screening. The company's finance team, already accustomed to SARS' verification processes, must now navigate a new layer of oversight. If the refund is flagged, who do they call, SARS or the bank? And if the delay impacts cash flow, what recourse do they have?

This scenario highlights the practical uncertainties that may arise. Further, the increased sharing of taxpayer data between SARS and banks raises legitimate concerns about confidentiality and the risk of unauthorised access. Will there be amplified safeguards to protect sensitive taxpayer information? Furthermore, it remains to be clarified whether this new screening process will duplicate SARS' own checks or serve as an additional layer of oversight. Without clear guidance, there's a risk that legitimate refunds could be caught in a bureaucratic loop, impacting both the cash flow of taxpayers and their trust in the system. Taxpayers and their advisors will need clarity on notification procedures, accountability, and the mechanisms for challenging delays in the release of refunds.

Second proposal: Interest relief for voluntary disclosure

Another significant proposal is to allow taxpayers applying for relief under the voluntary disclosure programme (VDP) to simultaneously apply for the remission of interest on the disclosed defaults, with effect from 1 March 2026. This change responds directly to the Constitutional Court's Medtronic decision (*Commissioner for SARS v Medtronic International Trading S.A.R.L. [2024] ZACC 26*) which highlighted a legislative gap preventing taxpayers from seeking both voluntary disclosure relief and interest remission in tandem.

This is more than a procedural tweak; it is a welcome development that aims to enhance the VDP by removing the financial barrier of accumulating interest on historic defaults. Previously, even those who proactively regularised their tax affairs through the VDP faced the prospect of significant interest charges, which to some extent, undermined the incentive to come forward to SARS voluntarily.

By allowing for the simultaneous application for interest remission, the amendment reduces the overall financial burden on taxpayers, making voluntary disclosure a more attractive and pragmatic option. It is anticipated that this relief will apply only in certain limited cases, particularly where exceptional circumstances exist, although this remains to be confirmed and the qualifying criteria are yet to be provided.

This amendment could potentially foster a more cooperative relationship between taxpayers and SARS, by encouraging greater participation in the VDP, supporting SARS' broader objective of improving overall tax compliance and potentially bringing more taxpayers back into the formal system. Thus, ultimately benefiting the tax system as a whole.

While this amendment marks a clear step forward in incentivising compliance, it is not without nuanced challenges and reservations in respect of the transition. The amendment will not apply retrospectively, therefore, taxpayers who submitted applications to SARS on or before 25 February 2026 (the date of the Budget Speech announcement) will be excluded. This could feel inequitable, particularly for those whose applications are still pending. Accordingly, transitional relief should be considered for applications not yet finalised by the effective date of 1 March 2026.

The practicalities of managing simultaneous applications also remain unclear. From pipeline to processing, it will be important to understand how SARS intends to handle the concurrent submission and assessment of VDP, as well as the interest remission applications. If a single, integrated process is not established and taxpayers are instead required to navigate multiple channels or platforms, there is a risk of confusion, duplication of effort, and administrative bottlenecks.

Such fragmentation could plausibly result in processing delays, especially if there is a surge in applications as taxpayers seek to benefit from the new provision. These delays may not only impact the timelines for finalising VDP applications but could also create uncertainty for taxpayers who are relying on timely resolution to regularise their tax affairs.

The efficiency and clarity of the process will be critical to ensuring that the intended relief is both accessible and effective, and that the system does not inadvertently discourage voluntary compliance through procedural complexity. The above are not simply technical questions, their resolution will help shape the practical application and effectiveness of the proposed amendment.

Third proposal: Tax compliance status during penalty remission

The third major proposal seeks to remedy a notable anomaly within the current tax compliance status (TCS) framework. At present, section 256 of the TAA does not cater for situations where a taxpayer's obligation to pay tax is automatically suspended pending the outcome of a request for remission of penalties under section 215(3).

As a result, taxpayers awaiting a decision on penalty remission may find their TCS marked as "non-compliant," which can have significant operational consequences, particularly for businesses reliant on a TCS clearance for tenders or contracts. The proposed amendment aims to address this gap to see that a taxpayer's TCS is maintained during the remission process.

While this is a positive development, its effectiveness may depend on the readiness of SARS' e-filing system to accommodate the change.

Questions remain as to whether these systems will be updated to implement the proposed amendment automatically, or if manual interventions will be necessary. Furthermore, if taxpayers have difficulties with the relevant e-filing functionality, it may raise concerns about accessibility and support.

Looking ahead

The proposed amendments signal a maturing tax administration framework that seeks to encourage compliance, fairness, and efficiency. However, as always, the drafting of the amendments and practical implementation will need to be precise to avoid unintended consequences, inconsistent application, or the emergence of new grounds for disputes with SARS.

Given the technical nature of the proposed changes coupled with procedural intricacies, and the complexities of navigating SARS' eFiling system, it is more important than ever for taxpayers to seek guidance from trusted tax advisors.

By engaging with trusted tax advisors, taxpayers can better position themselves to access the relief and benefits available under the proposed provisions, while avoiding common pitfalls and procedural missteps.

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Liability of banks to SARS on funds expatriated offshore unlawfully

In the past few years, tax revenues have been increasing steadily but falling short of government projections. As a result, every year, the Minister of Finance had to adjust the tax revenue estimates downwards.

This results in continued pressure on the South African Revenue Service (SARS) to increase its efforts in collecting outstanding tax debts. Some of SARS' collection efforts included specialised campaigns for compromising of tax debts, dedicated units focusing on collection of outstanding tax debts and increased utilisation of SARS collection powers available in the Tax Administration Act, 2011 (TAA).

As part of its collection drive, it seems that South African banks are now also targets in SARS' efforts to collect more tax revenue. This became evident in the Safin case[1], where SARS instituted an action for damages for loss of tax revenue against Sasfin Bank (the bank/Sasfin) in respect of 18 clients of the bank, who were also taxpayers. SARS argued that the 18 taxpayers failed to declare tax for income and supplies for a period from 2013 to 2023 as part of their respective income tax and valued-added tax obligations.

SARS' claims totalling R5.3 billion are based on a legal duty by a bank, as an authorised dealer in foreign exchange that is not yet recognised in law. In support of the legal duty, SARS relies on the Banks Act 94 of 1990 (Banks Act)[2] including regulations published in terms of section 90 thereof, the Financial Intelligence Centre Act (FICA)[3], the Financial Sector Regulation Act (FSRA)[4], and the Currency and Exchanges Manual for Authorised Dealers (Authorised Dealer Manual)[5], as published in terms of the Exchange Control Regulations. According to SARS, Sasfin directly or indirectly assisted the taxpayers and Gold Leaf Tobacco Corporation (Pty) Ltd (GLTC) to unlawfully export undeclared funds.

Sasfin was alleged to have processed the foreign payment transactions without valid supporting documents or based on incomplete supporting documents.

In certain instances, the bank was alleged to have concealed the transactions from SARS and the South African Reserve Bank (SARB) by deleting the transactions in question, not only from the taxpayer's and GLTC's bank statements, but also from the Bank's Balance of Payment to Customer reports (BOPCUS reports). The BOPCUS reports are mandatory reports generated daily and need to be submitted to SARB.

According to SARS' main claims, due to the lapse of time, most of the taxpayers including GLTC, had been deregistered and did not have sufficient resources to settle the tax debts in full. As a result, due to the bank's breach of its legal duty, SARS suffered damages. SARS' alternative claim was that the bank breached section 278 of FSRA and that SARS had, as a result, suffered a loss in the amount of R478.8 million based on the tax value of undeclared funds.

The court held that a bank that faces administrative sanctions in terms of the Banks Act and a common law liability to SARS for the same conduct is exposed to double jeopardy. That statutory remedies under the Banks Act are not available to SARS, but it can be a

[1] Commissioner, South African Revenue Service v Sasfin Bank Limited (134505/2023) [2025] ZAGPPHC 1227 (3 November 2025)
[2] Banks Act 94 of 1990
[3] The Financial Intelligence Centre Act, 38 of 2001
[4] The Financial Sector Regulation Act, 9 of 2017
[5] Currency and Exchange Manual for Authorised Dealers

complainant in proceedings before the prudential authority under the Banks Act aimed at the imposition of administrative penalties.

The court held further that section 186 of the TAA provides SARS with remedies for the repatriation of assets located outside of the Republic in order to satisfy a tax debt and that it cannot be accepted that there are no other adequate remedies available; hence SARS is not a vulnerable creditor.

The court further held that imposition of such a duty to SARS will have a chilling effect on banking in general. It would create a risk of liability when none existed before. The risk in question is one which the bank has limited control over as it pertains to the conduct of its customers.

The consequences of the imposition of a risk of liability in such circumstances could destabilise the banking industry and impose the risk of an increased cost burden that would arise from increased reinsurance cover. Such added costs would ultimately be passed on to the customer, making banking more expensive.

In respect of FICA, the court held that the provisions of FICA have the purpose of monitoring and regulating market conduct with the specific object of avoiding money laundering and funding of terrorist activities. FICA has a very specific and limited scope, which is no doubt in the public interest. FICA provides for its own remedies. Therefore, SARS does not have a remedy in terms of FICA. The court agreed with Harms JA in Oilwell case[6] that the exchange control regulations are for the public interest and not to protect any private interests.

Therefore, it would not be reasonable to impose a duty on a bank which is an Authorised Dealer for foreign exchange purposes, to SARS in respect of tax matters of the bank's customers. This would impose a duty on a bank to vet the veracity of disclosures by its customers to SARS, and to the bank itself, of tax matters at pain of being held liable if the information provided to the bank were untrue.

The court also held that our law is generally reluctant to recognise pure economic loss claims, especially where it would constitute an extension of the law of delict. Wrongfulness must therefore positively be established. In determining whether wrongfulness has been established, it is necessary to take into account the risk of liability of an indeterminate amount for an indeterminate time to an indeterminate class[7].

It is not possible to infer a legislative policy from the Banks Act, FICA and the Authorised Dealer Manual that the duties of a bank in respect of those Acts impose a duty on it to act in the best interests of SARS. By contrast, the Acts create statutory remedies for breaches of the particular statutes, and those remedies protect the interests which the specific Acts intend to serve.

The court further held that the Acts relied upon by SARS for purposes of inferring the duty do not create remedies in favour of SARS. The interests sought to be protected are not specific to SARS. That it would be unreasonable to impose a legal duty on banks to SARS to avoid the unlawful expatriation of undeclared taxable income of its customers. The recognition of the legal duty by a bank to SARS would nevertheless open the door for a further extension to other creditors. That it is objectively reasonable not to open the door in these circumstances.

However, the court also held in favour of SARS in that the legislature permits a claim for damages in terms of section 278 of the FSRA for breach of a financial sector law as from 1 April 2018.

[6] Oilwell (Pty) Ltd v Protec International Ltd and Others 2011 (4) SA 394 (SCA) para 24

[7] Country Cloud Trading CC v MEC, Department of Infrastructure Development, Gauteng 2015 (1) SA 1 (CC) at para [24]

That section 278 provides SARS with statutory damages remedy independent of the common-law delictual claim; it treats regulators (and any person) as potential plaintiffs if they can demonstrate a link between their loss and a breach of a financial sector law (includes the Banks Act and FSRA).
This reflects a legislative choice to broaden accountability for regulatory breaches. As an empowering provision it merely creates a right of action that may result in liability for damages. The section does not create liability. Liability needs to be established.

The Sasfin case serves as a cautionary tale to South African banks that are Authorised Dealers of the potential risk of permitting the expatriation of funds offshore without ensuring that the financial sector laws and Exchange Control Regulations have been fully complied with. It is also a warning to bank clients or taxpayers that next time they need to repatriate funds offshore, they should not be surprised when the Authorised Dealer requires proof of tax compliance such as a Tax Compliance Certificate or a Manual letter of Compliance.

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The Reserve Bank's exchange control circular on income transfers out of the country

In October 2025, the South African Reserve Bank's (SARB) Financial Surveillance Department (FinSurv) released Exchange Control Circular No. 15/2025 (the circular), which included an important update for Authorised Dealers clarifying the rules around income transfers to non-resident entities and individuals.

These changes flowed from representations made by Authorised Dealers, the South African Revenue Service (SARS) and other market participants.

Of particular interest was the change made to Section B.3(B)(i)(b) of the Currency and Exchanges Manual for Authorised Dealers (Authorised Dealer Manual).

The following provision was added as the new (b):

> "*(b) Authorised Dealers may allow the transfer of dividends distributed by a South African company, provided the following is obtained from SARS:*
>
> *(aa) if the beneficiary is not registered on the SARS registered database, a Manual Letter of Compliance - International Transfer; and*
>
> *(bb) if the beneficiary is registered on the SARS registered database, a TCS–AIT PIN.*"

What this addition means is that Authorised Dealers are prohibited from transferring any dividends due to non-resident beneficiaries, which includes companies and private individuals, without the presentation of a Manual Letter of Compliance – International Transfer (MLC) where the beneficiary is not on SARS' registered database or a Tax Compliance Status – AIT PIN (TCS) from SARS where the beneficiary is registered on the SARS database.

This amendment caused quite a stir for non-resident company beneficiaries of dividends from South African companies who had dividends due to them but were not registered with SARS or were not registered taxpayers. The amendment also, equally, posed a problem for the related South African companies who were looking to remit the dividends offshore to these non-residents.

This is because following the release of the circular, some Authorised Dealers were strictly implementing this added requirement and requiring the MLC to be presented by non-resident company beneficiaries (who were not registered with SARS or were not registered taxpayers) when requests of such a nature were coming across their desks.

However, just two months after the circular was released (in December 2025), FinSurv released not one, but two nearly identical guideline notices addressed to the Authorised Dealers (the notices) which effectively rescinded the changes made by the circular, particularly with regards to the requirement of the MLC and TCS to be presented prior to remittance of dividends to non-resident entities.

The notices, however, differed in the case of non-resident private individuals (including those who have ceased being South African tax residents) who are the beneficiaries of dividends from South African companies. The requirement of the presentation of a valid MLC or TCS now shifts to the South African company declaring the dividends. In terms of

the notices, the following will apply where the beneficiary is a non-resident private individual:

- For South African listed companies looking to transfer dividends to non-resident private individual beneficiary, a TCS or MLC is not required to be presented to the Authorised Dealer; the Authorised Dealer merely has to confirm the non-residency status of the beneficiary prior to transferring the dividend to the non-resident abroad.

- Where the dividend is being declared by an unlisted South African company, a valid TCS of good standing from the South African entity must be presented to the Authorised Dealer prior to the dividend being transferred to the non-resident abroad.

Following the circular and notices, in January 2026 and more recently in March 2026, the SARB released updated Authorised Dealer Manuals which reflect some of the changes made by the circular and the notices. However, both the January 2026 and March 2026 versions of the Authorised Dealer Manual do not reflect all the changes made by the notices, particularly with regards to Section B.3(B)(i)(b) and the requirement of the presentation of an MLC for the remittance of dividends to non-resident entities.

The Authorised Dealer Manual currently still requires that an MLC be presented to the Authorised Dealer prior to any approval being granted to South African companies for the remittance of dividends to non-resident entities. This is in clear contradiction to the notices released by FinSurv in December 2025, and to what is practiced by the Authorised Dealers.

So where does that leave non-resident beneficiaries and South African entities now, you may ask? Well as of this article, the Authorised Dealers are seemingly permitted to transfer dividends to non-resident beneficiaries who are not registered with SARS without needing an MLC from SARS to be presented. This is despite the contradiction presented in the Authorised Dealer Manual (which still provides that the MLC must be presented to the Authorised Dealer prior to dividends being remitted to non-resident entities).

These increased measures were most likely an extra compliance measure that the SARB thought it needed to better manage legitimate cross-border income transfers, while providing enhanced tax compliance.

All other documentary requirements required by the Authorised Dealers and rules for remittance of dividends offshore remain unchanged and in force. Further updates may likely be released by the SARB in due course, particularly where there seems to be a contradiction between the SARB's own guidelines and the Authorised Dealer Manual, so keep an eye out for formal communications from the SARB.

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Navigating tax disputes: Lessons from the Kerbyn Cape Case

In the world of tax disputes, procedural compliance is just as crucial as the substantive arguments themselves. Taxpayers often focus on the merits of their case but may overlook procedural steps that can lead to significant delays and added costs.

The *Kerbyn Cape 2 (Pty) Ltd v CSARS* (15899/2023) [2025] ZAWHC (11 July 2025) case, decided in July 2025, serves as a reminder of the importance of following the correct legal processes when challenging tax assessments. This decision reaffirms the principles established in earlier cases, such as *United Manganese of Kalahari Proprietary Limited v Commissioner, SARS and Four Other Cases [2025] (5) BCLR 530 (CC)* emphasizing the necessity of following proper procedures in tax disputes.

In the Kerbyn Case, the taxpayer (Kerbyn) brought a review application in terms of the Promotion of Administration Justice Act 3 of 2000 (PAJA) for the refusal by the South African Revenue Service (SARS) (respondent) to condone the late lodgment of an objection. SARS opposed this application and raised two points *in limine* that, (i) tax matters are generally reserved for the exclusive jurisdiction of the tax court; and that (ii) the taxpayer has failed to exhaust internal remedies as contemplated in section 7 (2) (a) (b) and (c) of PAJA.

Prior to the review application, the taxpayer had lodged multiple objections to the SARS assessments that were disallowed by SARS as:

- invalid as lodged outside the prescribed timeframe;
- no exceptional circumstances were provided;
- the exceptional circumstances were not demonstrated; and
- the assessments had prescribed under Section 99 (1) of the Tax Administration Act, 2011.

The taxpayer, at some point, also escalated the dispute to the Office of the Tax Ombud (Tax Ombud) based on SARS' repeated failures to allow condonation for the late filing of the objection, but it appeared to the High Court that the Tax Ombud did not entertain this complaint significantly other than to refer it back to SARS for its attention.

The High Court held that the taxpayer had:

- failed to even allege that this review application was filed within a reasonable period;
- failed to properly explain the reasons for the delay and length thereof;
- failed to provide for the prospects of success on the merits;
- failed to expand on any prejudice to SARS if a condonation is granted; and
- failed to provide any other relevant factor/s.

The High Court reaffirmed that taxpayers must exhaust their internal remedies before seeking judicial intervention. The taxpayer in this case attempted to challenge SARS' refusal to accept late objections directly in the High Court.

However, the High Court emphasised that the proper forum for such disputes is the Tax Court, and only after exhausting that route can a taxpayer escalate the matter. The High Court further held that if a proper case can be made out by the taxpayer for condonation, that there is a condonation procedure similar to the High Court being one at the Tax Court. There is nothing preventing the applicant from following this procedure.

This ruling highlights a few critical points. First, it underscores the importance of timeliness in lodging objections and appeals. Missing deadlines can limit a taxpayer's options and force them into more complex legal battles. Second, it illustrates the judiciary's preference for resolving tax disputes within the specialised Tax Court system before involving the broader judicial system.

Common procedural pitfalls

Taxpayers can face several procedural pitfalls when dealing with SARS. Missing deadlines for filing objections is one of the most common issues. Taxpayers have a limited window, 80 business days, to lodge an objection after receiving an assessment.

Failing to do so can result in the loss of the right to dispute the assessment, or it can require the taxpayer to apply for a condonation, which is not always guaranteed that it will be granted.
Another pitfall is not providing sufficient documentation or evidence to support their objection. SARS requires clear and convincing proof of errors or omissions or misunderstandings by SARS in its assessment, and without it, the objection may be disallowed. Finally, attempting to bypass the Tax Court and take matters directly to the High Court, as seen in the Kerbyn Cape case, can lead to dismissals, further delays and substantial increase in costs.

The Kerbyn Cape case serves as a valuable lesson for taxpayers and tax professionals alike. It underscores the importance of adhering to procedural requirements and to see that all steps are followed meticulously. By doing so, taxpayers can avoid unnecessary hurdles and focus on the substantive aspects of their disputes.

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