



# **SARS INTERPRETATION UPDATE AND CASES**

## **Session 3**

***Tax Practice on the Move Series***

*YOUR KEY TO THE TAX COMMUNITY*

# About The Presenter



Keitumetse Sesana is the Tax Technical Specialist at the South African Institute of Taxation.

She holds a BCom (Law), LLB and Master of Law (Tax Law). Keitumetse is currently a registered SARS practitioner and holds the designation of Master Tax Practitioner.

Keitumetse has substantial tax advisory experience in international corporate tax matters and related matters. After gaining this experience at one of the “Big Four”, Keitumetse joined the South African Institute of Taxation and is presently mandated to manage stakeholder relations by driving and facilitating meaningful engagement with Government departments regarding legislative design and policy on the varying areas of taxation.

She also actively curates and manages tax technical content on legislative interpretation that is presented to tax practitioners for purposes of their Continuous Professional Development



# AGENDA

- Expanded energy tax incentives
  - Rooftop solar tax incentives 6C; and
  - Renewable energy tax incentives – 12BA
- Query Corner – Top queries received in the month of April/May

# **DRAFT LEGISLATION**

# Publication of the initial batch of the draft 2023 TLAB

- **Rooftop solar tax incentive**

- Individuals will be able to receive a tax rebate to the value of 25 per cent of the cost of any new and unused solar PV panels.
- The solar panels must be purchased and installed at a private residence, and a certificate of compliance for the installation must be issued from 1 March 2023 to 29 February 2024.
- The rebate is only available for solar PV panels, and not inverters or batteries, to focus on the promotion of additional generation.
- It can be used to offset the individual's personal income tax liability for the 2023/24 tax year up to a maximum of R15 000 per individual.

- **Expansion of the renewable energy tax incentive**

- Temporary expanded to encourage rapid private investment to alleviate the energy crisis.
- Under the expanded incentive, businesses will be able to claim a 125 per cent deduction in the first year for all renewable energy projects with no thresholds on generation capacity.
- The adjusted incentive will only be available for investments brought into use for the first time between 1 March 2023 and 28 February 2025.

# Preliminary SALT comments on the initial batch of the draft 2023 TLAB

- **Rooftop solar tax incentive – Section 6C**

- The rebate is only available for solar PV panels, and not inverters or batteries, to focus on the promotion of additional generation but to have a viable solar energy solution, the taxpayer would also need to invest in an inverter and batteries – which tend to be the most expensive part of going solar.
- Benefit should be extended to all components required to have a viable solar energy solution, rather than solely the solar panels. The maximum rand value of R15 000 may remain in order to ensure viability for the fiscus.
- Proposal appears to be aimed at middle class and higher net worth individuals. It does not seem to benefit a person whose taxable income is less than the tax threshold.
- For taxpayers below the tax threshold, another mechanism should be available to incentivise solar installations.

- **Expansion of the renewable energy tax incentive – Section 12BA**

- The adjusted incentive will only be available for investments brought into use for the first time between 1 March 2023 and 28 February 2025.
- However, large renewable projects have long lead times to install and commission projects
- Expanded 12BA allowance be increased from 2 to 5 years – provided that the taxpayer has entered into a contract to acquire the assets by 28 February 2025.
- Taxpayers should be allowed till 28 February 2028 to bring into use for the purpose of trade the new renewable energy asset

# Panellists

## Duncan McAllister



Duncan is a Chartered Accountant and specialises in income tax with particular expertise in capital gains tax and corporate tax. He has 36 years' experience in the tax field, having spent 35 of those years with SARS on a variety of sections in the Durban office: Company Audit, assessing of companies in liquidation, head of individual business, partnership, trust and estates assessing, head of the company assessing section, acting head of the law administration section dealing with all objections and appeals, manager of the tax board, and responsible for all JSC and RSC levy rulings.

From July 2000 he worked for head office on: drafting CGT legislation, presenting seminars on CGT throughout the country, writing numerous guides and interpretation notes and reviewing most of the guides and interpretation notes produced by the Corporate Income Tax Section, participating as an external committee member of the Advance Tax Rulings Section, providing input on selected objection and appeal matters, member of the GAAR committee, and drafting income tax and CGT legislation and reviewing draft tax legislation.

## Delano Abdoll



Delano is a Tax Attorney at Tax Consulting SA. He is an admitted attorney of the High Court of South Africa. Delano holds a BA (Law), LLB and LLM (Procedural Law) degree and specializes in tax law, with a particular focus on tax debt and tax dispute resolution matters.



# Interview panel discussion – Rooftop Solar incentive

1. What is the rationale for limiting the solar energy tax credit to only 25% of the actual cost of the solar photovoltaic (PV) panels, and in aggregate to an amount not exceeding R15 000?
2. Will the actual cost to be calculated be inclusive or exclusive of Value-Added Tax?
3. Why is the solar energy tax credit incentive only limited to the period between 1 March 2023 and 29 February 2024, and would an extension of this period be considered?
4. What is meant by “new and unused” solar PV panels, and is there a difference between a “new” solar PV panel and an “unused” solar PV panel?
5. Why does SARS specifically require a solar installation certificate of compliance in respect of the installation of new and unused solar PV panels, and if it is a requirement, can individuals include the additional cost thereof in the credit to be claimed?
6. How will individuals who install rooftop solar panels, on or after 1 March 2023 and before 1 March 2024, be able to verify whether a solar installer is “accredited” to issue them with a solar installation certificate of compliance?
7. Will solar installers who are compelled to submit third party information to SARS be audited on the number of solar PV panel installations for which an electrical certificate of compliance is to be issued to individuals in terms of the Electrical Installation Regulations, 2009?
8. If more than one person in a household contributes to the cost of solar panels, how is the limitation of R15 000 determined?
9. Can a person claim the incentive if the person has installed solar panels on behalf of another?



# Interview panel discussion – Expanded renewable energy tax incentive

1. What is the rationale for providing a two-year window period within which to claim the enhanced renewable energy tax incentive for businesses, where individuals who claim the rooftop solar energy tax credit are only afforded with a one-year window period?
2. Will a business qualify for the enhanced renewable energy tax incentive where the machinery, plant, implements, utensils and articles used in the production of renewable energy were acquired in any manner other than by means of an instalment credit agreement as contemplated in section 1 of the Value-Added Tax Act? For example, by means of a cash purchase.
3. Are inverters, batteries, fixtures and fittings included in the definition of machinery, plant, implements, utensils and articles used in the production of renewable energy, which qualify for this incentive?
4. Does the “cost incurred” by a business to acquire “the asset” include finance charges and delivery costs?
5. Will the recoupment provision contained in the proposed section 12BA(5) also find application where a business disposes of premises to which the renewable energy installation is affixed?
6. Will rental losses incurred by lessors be ring-fenced under section 23A?
7. Can an individual who runs a home office claim the section 12BA incentive on the cost of a solar installation?

***QUERY CORNER – IN DISCUSSION WITH  
DUNCAN MCALLISTER***

# TOP QUERIES IN THE MONTH OF MAY

1. Who must submit a tax return?
2. Must my client register for income tax?
3. How are capital gains taxed when immovable property is sold in tax year 1 but transfer of ownership occurs in tax year 2?



*YOUR KEY TO THE TAX COMMUNITY*