South African Institute of Taxation

Tax Practice: *On the Move*
Legislative Interpretation

SAIT Webinar
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YOUR KEY TO THE TAX COMMUNITY

WITH YOU TODAY

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Agenda

In this webinar, we will cover the following topics:

- Legislation and policy
  - Reactive submissions
    - SARS draft documents for public comment
- Court cases of interest and tax importance
  - *Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)*
  - *Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)*
  - *Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) [2022] ZASCA 97 (21 June 2022)*

Presenters

- Keitumetse Sesana: (Tax Technical Specialist at SAIT)
- Thomas Lobban: (Tax Legal Manager at Tax Consulting SA)
- Delano Abdoll: (Tax Attorney at Tax Consulting SA)

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SAIT Submissions - SAIT response to call for comment on draft interpretation note – Section 37A

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Recent activity

Draft document for comments:

- Draft Interpretation Note – SAIT response to call for comment on draft interpretation note – Section 37A

  Submission date: 24 June 2022

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Draft Interpretation Note – SAIT response to call for comment on draft interpretation note – Section 37A

Purpose and background

- The draft IN provides guidance on the interpretation and application of section 37A which deals with payments made by persons to a mining rehabilitation company or trust where that company or trust has been established for the purposes of conducting rehabilitation upon the closure of a mine and the cessation of mining activities.

- The draft IN also discusses the special tax relief provided for persons contributing cash to a mining rehabilitation company or trust, as well as specific anti-avoidance rules designed to prevent misuse or abuse of those provisions.

- Financial provision for environmental rehabilitation is regulated by NEMA and administered by the DMR.

- NEMA provides that in the event that a mining right holder fails to rehabilitate or to manage any impact on the environment, or is unable to undertake such rehabilitation, the Minister may use all or part of the financial provision (funds and assets) of a mining rehabilitation company or trust to rehabilitate the affected areas.

Draft Interpretation Note – SAIT response to call for comment on draft interpretation note – Section 37A

Purpose and background (continued)

- The aim of section 37A is to align tax policy with environmental regulation.
- Section 37A – Closure rehabilitation company or trust.
- Section 37A contains strict rules for the distribution of the assets and funds of a mining rehabilitation company or trust and imposes harsh penalties under circumstances where such funds are used for purposes other than those provided for under section 37A(1)(a).

SAIT commentary

Specific comments – Rehabilitation and timing

- The word “rehabilitation” is not defined
- The draft IN proposes to use “its ordinary meaning as applied to the subject matter in relation to which it is used.”
- However, on the basis that the entire tax regime of section 37A is based on the obligation to rehabilitate, the ordinary meaning does not seem sufficient, and consideration should be given to the context and purpose of the tax legislation and in particular the context and purpose of the legislation imposing the rehabilitation obligations.
- Without the certainty as to what constitutes rehabilitation, the remainder of the framework of the tax regime is ambiguous.

SAIT commentary

Specific comments – Rehabilitation and timing (continued)

- The draft IN, under section 37(1) of the MPRDA, the principles set out in section 2 of NEMA apply to all prospecting and mining operations and any matter or activity relating to such operations and serves as guidelines for the interpretation, administration, and implementation of the environmental requirements of the MPRDA.

- NEMA requires an Annual Rehabilitation Plan and a progress report to be submitted to the DMRE. Our view is that this *suggests* an expectation of concurrent or annual rehabilitation that will ultimately contribute to rehabilitation at closure and financial provisioning should be made for rehabilitation both annually and at closure.

- It therefore appears that any rehabilitation activity that falls within the direction given above should qualify to be funded, in terms of the contribution and in terms of the extraction of the reserve from the rehabilitation fund.

- Any rehabilitation falling within the parameters above should qualify notwithstanding the issuing of a closure certificate by the DMRE under section 43(1) of the MPRDA.

SAIT commentary

Specific comments - Rehabilitation and timing (continued)

- It would be appreciated if confirmation of this interpretation can be stated directly in the draft IN.

- Furthermore, we disagree with distinction drawn in the interpretation of the following words:
    - *"the sole object of that company or trust is to apply its property solely for rehabilitation upon premature closure, decommissioning and final closure, and post closure coverage of any latent and residual environmental impacts on the area covered in terms of any permit, right, reservation or permission contemplated in paragraph (d)(i)(aa) to restore one or more areas to their natural or predetermined state, or to a land use which conforms to the generally accepted principle of sustainable development;"* against so-called ongoing or concurrent rehabilitation.

- We believe that there is no reason to infer a timing requirement that determines when the rehabilitation must occur or must be planned to occur in order to qualify as generating the requisite deduction for a contribution, or qualify as proper extraction of funds.

SAIT commentary

Specific comments - Rehabilitation and timing (continued)

- Should there be a total impasse in interpreting section 37A in line with the provisions of the MPRDA and the provisions of the NEMA, National Treasury should consider amendments to section 37A to make the section practically enforceable.

- The necessity of ensuring that the facilitation of the rehabilitation expenditure through the tax regime is effective, is critically important in a period where any non-qualifying expenditure have to come out of day-to-day cashflow and operating expenses, in cases where mines are undertaking their very real rehabilitation obligations due to shaft and pit closures, etc.

- It does not appear to be in anyone's interest to have a punitive interpretation that hinges on a timing requirement that does not follow from the legislation creating the initial obligations.

SAIT commentary

Specific comments - Rehabilitation and timing (continued)

- Should there be a total impasse in interpreting section 37A in line with the provisions of the MPRDA and the provisions of the NEMA, National Treasury should consider amendments to section 37A to make the section practically enforceable.

- The necessity of ensuring that the facilitation of the rehabilitation expenditure through the tax regime is effective, is critically important in a period where any non-qualifying expenditure have to come out of day-to-day cashflow and operating expenses, in cases where mines are undertaking their very real rehabilitation obligations due to shaft and pit closures, etc.

- It does not appear to be in anyone's interest to have a punitive interpretation that hinges on a timing requirement that does not follow from the legislation creating the initial obligations.

SAIT commentary

Specific comments - Disclosure

- Section 37A(10) of the ITA requires that a company or trust must within three months after the end of any year of assessment submit a report to the Director-General of the National Treasury in respect of that year of assessment providing the Director-General of the National Treasury with information comprising—
  - the total amount of contributions to the company or the trust;
  - the total amount of withdrawals from the company or the trust; and
  - the purposes for which any amount of those withdrawals were applied.

- It is proposed that the section 37A(10) report be submitted together with the rehabilitation fund return in order to assist with disclosure and allow SARS to ask the appropriate questions within a shorter timeframe.

- At present, National Treasury does not have a dedicated email address that can facilitate acceptance of the section 37A(10) reports.

SAIT commentary

Specific comments – Insurance premiums

- In terms of section 37A(6) of the ITA, only certain permissible investments may be made by the rehabilitation fund.
- Currently, one of the permissible assets is an insurance policy.
- The result is that no insurance policies currently qualify as a permissible asset.
- It is unclear if this is the intention of the legislature or an unintended outcome of other amendments.

SAIT commentary

Additional considerations

- Value-Added Tax

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Recent court cases

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Recent court cases:

- *Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)*
- *Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)*
- *Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)*

Sookoo and Others v CSARS and Another (Case No: 490048/21) (03 May 2022)

Background

- Following a preservation application launched by the South African Revenue Service (SARS), on an *ex parte* basis, the Pretoria High Court (the Court) granted a provisional preservation order on 27 October 2021, which in part, related to the preservation of the assets of the applicants, with a return date of 28 February 2022.

- SARS contended that the preservation order was required to secure the collection of tax debts from the respondents cited therein, which emanated from questionable awards made by the South African Police Service as part of the procurement of Personal Protective Clothing during the National Disaster caused by the Covid-19 pandemic.

- In the preservation order, only the first applicant, Vishen Sookoo (VS), and the second applicant, Spirit of Africa (Pty) Ltd (SOA), were cited as respondents. VS was, however, a director of the third applicant, On Track Mobile (Pty) Ltd (OTM), when the preservation order was granted.

Sookoo and Others v CSARS and Another (Case No: 490048/21) (03 May 2022)

Background

- Whilst the preservation order remained in place, the applicants provided security to the curator in the value of approximately R6 million from which the hold on the bank accounts of the applicants were released on 7 December 2021.

- Subsequently, on 27 January 2021, the curator wrote to VS's attorney, indicating that he was still awaiting information previously requested from the applicants on 2 December 2021.

- On 28 February 2022, the parties had extended the return date to 23 May 2022, by agreement, and the applicants reverted to instituting the present urgent application after the curator again froze certain bank accounts on 24 March 2022.

- The relief sought by the applicants included *inter alia* the declaration of the preservation of the assets of OTM as unlawful, and applied for the assets to be released.

Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)

Issues before the Court

- The main issues which the Court had to determine was whether the *curator bonis* unconditionally lifted the hold on the two entities' bank accounts and whether the lifting of the hold was conditional on VS and SOA providing information to the curator.

Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)

The applicants' case

- The applicants challenged SARS' preservation application and asked for its discharge, citing the allegation of unlawful conduct on the part of the *curator bonis*. In this regard, the applicants had claimed that the curator acted unlawfully because he froze bank accounts which he was not lawfully permitted to freeze in the first instance and refroze it again simply because he had been refused information that he was not entitled to.

- The applicants further contended that the provisional preservation order should not have been granted against them in the first place as SOA had no assets, which in the applicants' view, was a fact SARS could be assumed to have been aware of when SARS had initially applied for the preservation order.

Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)

SARS' case

- SARS submitted that the curator's conduct was irrelevant in determining whether a provisional preservation order should be discharged or not. In this regard, submitted that the allegations of hardships or harm suffered by VS and SOA could in any event be alleviated through an order varying the preservation order instead.

- SARS further contended that the applicants failed to comply with section 11(4) of the Tax Administration Act No. 28 of 2011 (TAA), and further failed to give written notice to SARS of their intention to institute the present application.

- Lastly, SARS disputed that the application was urgent and averred that it was inappropriate for the applicants to saddle the Court on such basis, particularly with disputes relating to a complex investigation in circumstances where the audit investigation into an elaborate scheme of tax evasion was not yet complete.

Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)

The curator's case

- The curator claimed that he was entitled in terms of the powers granted in the preservation order to request the information he sought.

- The curator further explained that he indicated that he was prepared provisionally to agree to R6 million security being provided after which the bank accounts would be unfrozen, but indicated that the process still had to be followed. In this regard, the curator stated that the information he sought was directly related to the preservation order, and because the applicants failed to provide him with the information, he was entitled to freeze the accounts again in respect thereof.

Sookoo and Others v CSARS and Another (Case No: 49048/21) (03 May 2022)

Findings of the Court

- At the outset, the Court found that there were no exceptional circumstances present that could justify the applicants anticipating the return date of the preservation order handed down on 27 October 2021 and extended on 22 February 2022, on an urgent basis.

- The Court further found that the underlying issues were complex, and the discomfort and alleged harm suffered by VS and SOA needed to be considered within the broader interest protected by the preservation order. As to this, the Court highlighted that section 163(7)(d) of the TAA provided for a variation of the preservation order and empowers the Court to make ancillary orders regarding how the assets must be dealt with.

- The Court further declared *inter alia* that the preservation of assets of OTM was unlawful, thus ordering the second respondent to release such assets forthwith.

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Background

- In terms of section 11(1)(f) of the Value-Added Tax Act No. 89 of 1991 (VAT Act) the supply of gold to the South African Reserve Bank (the SARB), the South African Mint Company (Pty) Ltd (Mintco) or any registered bank (jointly the listed entities) in certain unwrought forms is zero rated.

- The applicant sources gold from coins, second-hand jewellery and similar sources which it supplies to the listed entities after refinement thereof.

- SARS was of the opinion that the gold so supplied by the applicant is precluded from zero rating by a proviso in section 11(1)(f) of the VAT Act that the gold supplied should not have undergone a refining or manufacturing process other than the refining or manufacturing process for purposes of supply to the listed entities.

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Background

- The applicant disputed that the gold supplied by it had undergone a prior refining and manufacturing process before the refining and manufacture for purposes of supply to the listed entities, and was therefore precluded from being zero rated for VAT.

- The applicant therefore sought a declaration to the contrary.

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

The relief sought by the applicant

- After the debate which ensued during the hearing of the application, the applicant sought the following relief (contained in prayers 2.1, 2.3 and 2.4 of its Notice of Motion):

> *"That a declaratory order be issued in terms whereof it be declared that:*
>
> *2.1 The word "gold" in section 11(1)(f) of the Value-Added Tax Act 89 of 1991 refers to, and only applies to gold (in any of the unwrought forms permitted in the subsection) refined to the grade of purity required for acquisition by the South African Reserve Bank (SARS), the South African Mint Company (Pty) Ltd (Mintco) or by any bank registered under the Banks Act, 94 of 1990 ("bank").*
>
> *...*
>
> *2.3 The phrase "which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of" in section 11(1)(f) of the VAT Act, precludes the zero rating of gold:*

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

The relief sought by the applicant

(i) not being in one of the eight unwrought forms identified in the subsection and
(ii) that has undergone further manufacturing or production processes once it has reached the state of purity required for acquisition by SARB, Mintco or a bank.

2.4 The phrase "which has not undergone any manufacturing process other than the refining thereof or the manufacture or production of in section 11(1)(f) of the VAT Act, refers to any manufacturing process(es) carried out by the vendor supplying gold to the SARB, Mintco or a bank, and does not refer to any process(es) to which gold may have been subjected to historically, prior to being refined to the grade of purity required for acquisition by the SARB, Mintco or a bank."

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Arguments before the Court

- SARS pointed out that section 11(1)(f) of the VAT Act should be interpreted in the context of the Act as a whole, which point the Court accepted as correct.

- SARS further stated in its answering affidavit that section 11(1)(f) "*... was promulgated ... with the specific intention to provide the mining industry with a favourable tax regime. This favourable tax regime was intended to promote and enhance the economic viability of gold mining in South Africa, to extend the lifespan of the mines, including marginal mines, within the context of this highly capital intensive industry. The mining industry plays a vital role in the South African Economy, being a major employer and a significant contributor to the Gross Domestic Product*".

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Arguments before the Court

- In reply, the applicant baldly denied SARS' statement, without furnishing any basis for the denial apart from the argument that SARS' contentions "*are bare, unsubstantiated and are inconsistent with what is expressly stated in the subsection*."

- The applicant further contended that the "gold" referred to in section 11(1)(f) ought to be interpreted as "referring to the gold being supplied to the closed-list recipients" and not the gold initially sourced prior to the supply to Rand Refinery, i.e., the supplied product and not the source product.

- Moreover, that "refining" is not to be interpreted in a limited extent, but should include the concept of "re-fining". The thrust of the applicant's argument being that the subsection under consideration never intended nor required an investigation into the source of the gold or its historical processes.

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Findings of the Court

- The Court found that the words used in the section under consideration did not comprise of technical terms or spell out certain jurisdictional requirements for a sale of gold to qualify to be zero rated.

- The Court found further that upon a simple reading of the words used in the subsection the requirements appeared to be as follows:

    1. The sale must be to a prescribed list of purchasers;
    2. The gold must be in one of eight prescribed forms; and
    3. The gold must not have undergone a process other than that of the refining, manufacturing or production of the eight prescribed forms, i.e., bars, ingots and the like.

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Findings of the Court

- In looking at the route the gold which the applicant supplied to the listed entities took, the Court pointed out that:

    1. It was mined at some stage, then refined (at either Rand Refinery or elsewhere), thereafter it had undergone a manufacturing or production process whereby it became jewellery, coins or scrap gold as a result of these manufacturing processes.
    2. The applicant, as a gold trader, then acquired this gold and in-house refined, melted and manufactured it into lesser-purity gold bars.
    3. Thereafter these bars were delivered to Rand Refinery where it was yet again refined and then manufactured into one of the eight categories of gold mentioned in section 11(1)(f) (in this case, bars of pure gold) before it was sold to Absa.

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Findings of the Court

- Pursuant to the above line of reasoning, the Court found that the gold did in fact undergo an initial "refining" and subsequent "manufacturing or production" process before being refined and manufactured by Rand Refinery for the second (or even third) time.

- Further to this, the Court emphasised:

> *"… the fact that Rand Refinery cannot, after the final refining and manufacturing process identify which of its depositors' gold ended up in each subsequently produced gold bar, does not detract from this…. Simply put, the section simply conveys the message that when gold is sold to the SARB, Mintco or the banks, in whatever purity they may require, that gold should not have previously undergone a refinement or manufacturing process prior to it being refined or manufactured into golds bars, ingots and the like."* (emphasis added)

Lueven Metals (Pty) Ltd v CSARS (Case No: 31356/2021) (19 May 2022)

Findings of the Court

- In conclusion, the Court found that the interpretation of section 11(1)(f) of the VAT Act advanced by the applicant was incorrect and it was therefore not entitled to the declaratory order sought.

- The result of the finding being that section 11(1)(f) is interpreted to encompass the following jurisdictional requirements for the supply of gold to be zero-rated for VAT:

    1. A supply to SARB, Mintco or any bank registered under the Banks Act No. 94 of 1990;
    2. of gold;
    3. in the form of bars, blank coins, ingots, buttons, wire, plate, granules or in solution;
    4. which gold has not undergone any manufacturing process other than:
        - the refining thereof; or
        - the manufacture or production of such bars, blank coins, ingots, buttons, wire, plate, granules or solution, and
        - the vendor has obtained and retained such documentary proof as the Commissioner may require to substantiate the vendor's entitlement to apply the zero-rate.
    5. The supply of gold which is derived from gold which had previously been refined and subsequently undergone any manufacturing process before being refined or manufactured in the prescribed eight unwrought forms for purposes of supply to the listed recipients, is therefore excluded from zero-rating.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Background

- The facts concerned the unsecured lending business of Capitec Bank Limited (Capitec), in terms of which Capitec advanced credit in the form of personal loans to customers under term loan contracts.

- In terms of clause 13 of a standard loan contract entered into between Capitec and its customers, Capitec provided its customers with loan cover, the proceeds of which were applied to settle or reduce the outstanding loan amount due to Capitec in the event of death or retrenchment.

- During the period from November 2014 to November 2015, Capitec claimed R71 520 811.85 as a deduction, which constituted the tax fraction of the total insurance payouts (R582 383 753.66) recovered by Capitec from its insurers and which Capitec used to settle the outstanding loans owed by its customers with respect to the loan cover.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Background

- On 15 February 2018, SARS disallowed the amount R71 520 811.85 which was claimed by Capitec as a notional input tax deduction in its November 2017 VAT return.

- The Tax Court, Cape Town (the tax court) held that Capitec was entitled to deduct the amount from its VAT liability by virtue of section 16(3)(c) of the VAT Act and it set aside the additional assessment for the November 2017 VAT return and directed SARS to refund the amount to Capitec.

- With the leave of the tax court, SARS then sought an order on appeal from the Supreme Court of Appeal (SCA), with costs, against the judgment and order of the tax court.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Arguments before the Court

- SARS disallowed the deduction claimed by Capitec and contended that the loan cover payments did not qualify for an input tax deduction in terms of section 16(3)(*c*) of the VAT Act, because the supply of the loan cover did not constitute a 'taxable supply' in that:

  (i) Capitec did not charge any consideration for the loan cover; and

  (i) Because the loan cover was supplied in the course of Capitec's business of providing credit to its customers, it was an 'exempt supply'.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Arguments before the Court

- Capitec contended that since the borrower had to pay interest and fees, consideration was provided for the loan cover, and alternatively that, even if the loan cover was for no consideration, it still levied a fee, termed a 'taxable supply', in terms of section 10(23) of the VAT Act.

- Capitec further contended although it did not charge a distinct fee for its loan cover, the loan cover was integral to its unsecured lending business, and thus generating both interest income and fee income, and that the cost of providing the loan cover was recovered through that income.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Findings of the Court

- The SCA found that the central question in the appeal was whether the tax fraction of the loan cover payouts qualified for deduction in terms of section 16(3)(c) of the VAT Act.
- The SCA found further that the determination of this issue was largely dependent on whether the loan cover was a taxable supply, i.e., whether it was supplied in the course or furtherance of an enterprise.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Findings of the Court

- In considering the applicable provisions the SCA found that, *inter alia*, the clear and unambiguous terms of the loan contract indicated that the customer was to receive loan cover from Capitec free of charge, i.e., no consideration was received by Capitec in respect of its supply of the loan cover.

- Therefore, in the absence of a consideration, the supply of the loan cover did not qualify as an 'enterprise' as envisaged in section 1 of the VAT Act and it was therefore not chargeable with tax in terms of section 7(1)(a) of the VAT Act – which charges tax on supplies in the course or furtherance of an enterprise.

- The SCA went on to say that Capitec made an exempt supply of credit available to its customers, which was not deductible, and all other activities involved in doing do were incidental to the supply of credit, because the supply of the loan cover was not a taxable supply as required by the first proviso to section 16(3)(c)(i) of the VAT Act.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Findings of the Court

- The SCA held that the tax fraction of the loan cover payouts did not qualify for deduction. Consequently, the main question in the appeal was answered in favour of SARS.

- The SCA found further that Capitec did not apportion the deduction in its return, nor did it plead apportionment as a ground of objection to SARS' assessment or ground of appeal.

- In view of Capitec's failure to plead apportionment and SARS was correct to disallow Capitec's deduction of the whole amount, on this basis alone. Capitec did not raise the issue of a mixed supply in the tax court. Capitec adopted an all or nothing approach. Capitec bore the onus and did not discharge it. Thus, the SCA held that it could not decide this issue on appeal.

Commissioner for the South African Revenue Service v Capitec Bank Limited (Case No: 94/2021) (21 June 2022)

Findings of the Court

- Lastly, in terms of section 213 of the Tax Administration Act No. 28 of 2011 (TAA) read with section 39(1) of the VAT Act, SARS levied a 10% penalty on Capitec for the underpayment of VAT arising from the deduction of notional input tax in respect of the loan cover payouts.

- The SCA found that the requirements in terms of section 217(3) of the TAA, which provided for the remission of the penalty levied, were met. This was because this was the first time a penalty had been imposed by SARS on Capitec in the three years preceding the relevant VAT return; and there were reasonable grounds for Capitec claiming the deduction: Capitec had obtained a favourable opinion from a senior counsel; and the only way Capitec could reasonably have tested the issue was to claim the deduction in its tax return. The SCA thus held that in such circumstances the penalty should have been remitted, as it could not be said that the contesting of the amount was unreasonable.

Thomas Lobban biography

Thomas is a SARS-registered tax practitioner, and a co-author of the LexisNexis Expatriate Tax textbook. Thomas holds an LLB and LLM Tax Law degree and specializes in tax technical matters, with a focus on cross-border taxation and fin-tech matters.

Delano Abdoll biography

Delano 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.

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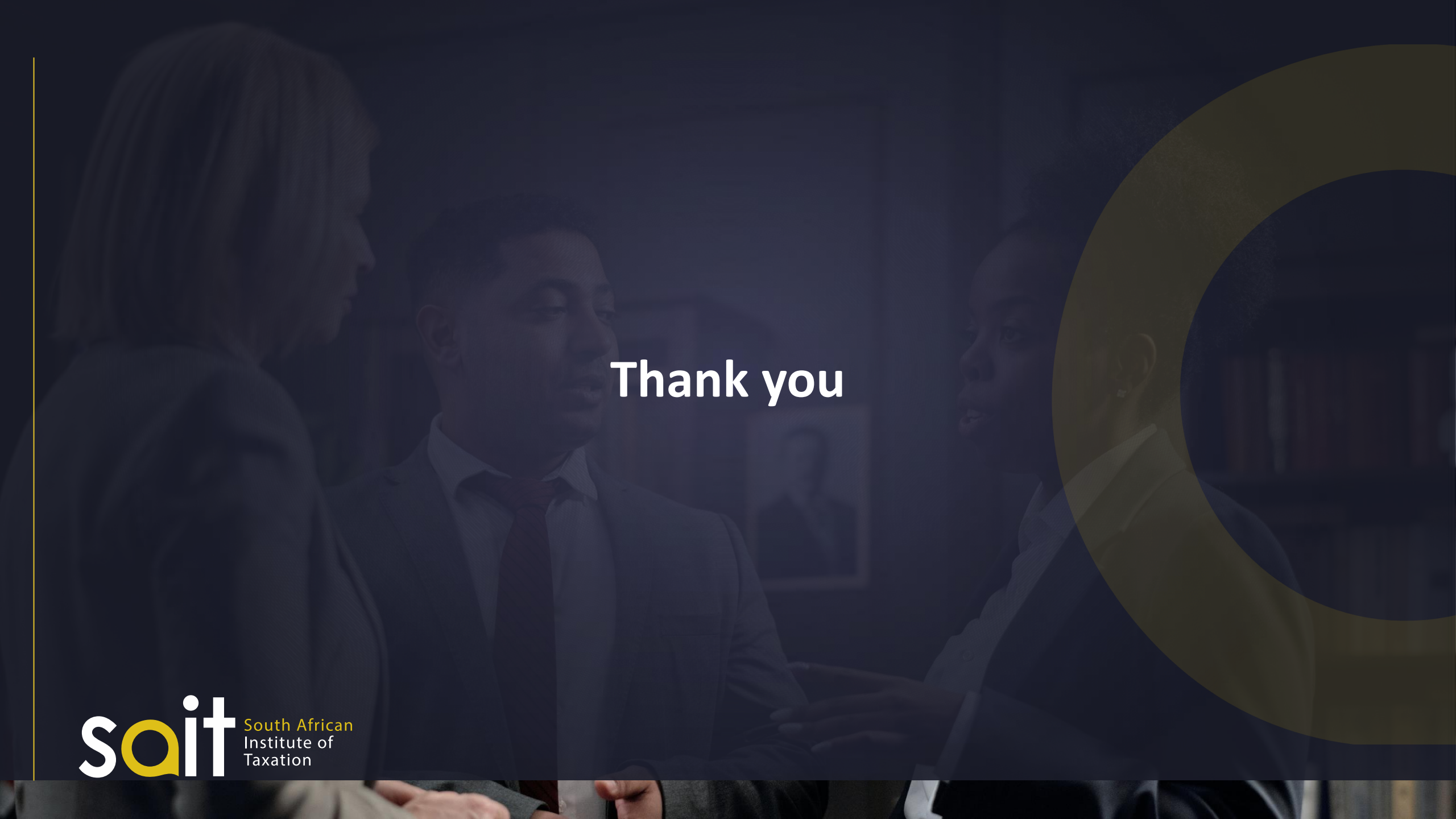

Thank you

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