

Consolidated Index

FOR VOLUME 1, ISSUE 1, 2010

to

VOLUME 17, ISSUE 2, 2026

of

SELIGSON, KRUGER, RUDNICKI & BLUMBERG

BUSINESS TAX & COMPANY LAW

QUARTERLY



juta

Index

This index covers volume 1, issue 1 to volume 17, issue 2.

In the page references below, the volume number is followed by the issue number in brackets, and then by the page numbers. For example 17(2): 11 refers to volume 17, issue 2, page 11.

A

Absa Bank Ltd and Another v Commissioner for the South African Revenue Service [2026] ZACC 15; 2026 (7) BCLR 633 (CC) ... 17(2): 1–13, 45–46
 factual background ... 17(2): 2–4
 issues before the Constitutional Court ... 17(2): 4–5
 judgment, dissenting ... 17(2): 9
 judgment, majority ... 17(2): 5–8
 party issue: participation does not require knowledge of every step ... 17(2): 7
 purposive and objective approach ... 17(2): 5–7
 tax-benefit issue: the counterfactual is not necessarily ‘no transaction’ ... 17(2): 7–8
 practical implications ... 17(2): 10–11
 unresolved questions ... 17(2): 11–12
 what the judgment adds to the tax-avoidance framework ... 17(2): 9–10
 Acquired company ... 6(2): 41
 Acquiring company ... 6(2): 40
 Acquisition transaction ... 6(2): 41
 Administration of Estates Act 66 of 1965 ... 4(1): 26
 Amalgamation and/or merger ... 1(1): v; 2(1): 11, 12; 2(3): 12; 4(4): 1–2; 8(3): 1
 see also Mergers and acquisitions (M&A)
 amalgamation, meaning ... 8(3): 3–4
 Companies Act, defined in ... 8(3): 5–6
 company law ... 8(3): 2
 conversion, meaning ... 8(3): 4–5
 Income Tax Act 58 of 1962, application of s 44 ... 8(3): 2–3
 merger, meaning ... 8(3): 4

Amalgamation and/or merger (*cont*)
 provisions of Companies Act and Income Tax Act compared ... 8(3): 9–10
 requirements, statutory ... 8(3): 6–9
 agreement, written — s 113(2) of Companies Act ... 8(3): 6–8
 creditors, notice to ... 8(3): 8
 notice of merger ... 8(3): 9
 regulatory approval ... 8(3): 8
 shareholders, notice to and approval by ... 8(3): 8
 solvency — s 113(1) of Companies Act ... 8(3): 6
 tax ... 8(3): 2
 neutrality ... 8(3): 3
 transactions ... 1(4): 24; 5(3): 31–37
 Amendments, retrospective operation of
 see Retrospective operation of statutory amendments
 Anti-avoidance
 legislation ... 4(1): 23
 measures ... 1(4): v; 2(1): 16; 2(2): 1, 2, 6; 2(3): 11; 3(1): 1; 4(2): 18
 provisions ... 1(1): 17, 20, 22, 23; 1(3): 27; 2(1): 16, 17, 22; 2(3): 6, 13; 3(1): 20; 4(3): 23
 rules ... 1(1): 20–21; 1(2): v; 2(1): 16, 17; 2(2): 2; 2(3): 3, 6; 2(4): 4; 3(4): v, 1–8; 4(2): 23
 2-year anti-avoidance rule ... 2(1): 21–22
 6-year anti-avoidance rule ... 2(1): 18–20
 Canadian Income Tax Act ... 2(3): 6
 general (GAAR) *see* General anti-avoidance rule (GAAR)
 proposed UK ... 3(4): v, 1–8
 schemes ... 3(1): 20
 Appeal

Appeal (*cont*)

leave to

reversing ... 16(4): 10–15

Commissioner for the South African Revenue Service v African Bank Limited [2025] 4 All SA 18 (SCA) ... 16(4): 12–14

legal framework ... 16(4): 10–12

lodging of

late, condonation of ... 9(1): 17–18

period for ... 9(1): 16–21

Arrangement, meaning of ... 14(1): 6–7

Assessed loss

set off against capital gains

see also Foreign capital losses and taxable income

ring-fencing ... 8(4): 8–15

business-purpose test ... 8(4): 13–14

s 20 of ITA ... 8(4): 10–12

s 20A of ITA ... 8(4): 12–14

suspect business ... 8(4): 13

Asset, defined, s 41(1) of ITA ... 9(4): 5

Asset-for-share transactions

acquisition of shares by seller of assets ... 6(1): 26

criteria ... 6(1): 23

disposal of assets ... 6(1): 26

illustration ... 6(1): 23

implications for acquirer of assets ... 6(1): 26–28

negative consequences of ‘prescribed debt’ assumed by purchaser ... 6(1): 28–29

number of shares ... 16(1): 14–20

basic asset-for-share transaction ... 16(1): 14–15

multiple assets disposed of under asset-for-share transaction ... 16(1): 15–17

pre-valuation date assets ... 16(1): 17–18

value for value ... 16(1): 18–19

parties ... 6(1): 24

purchase-price consideration ... 6(1): 24–25

roll-over relief (s 42 of Companies Act) ... 6(1): 22–29

subject matter of ... 6(1): 24

Attribution ... 1(2): vi; 1(3): 24; 4(4): 18

rules ... 1(3): 24; 4(4): 19

(CGT) ... 1(3): 24

Attribution: rules (*cont*)

(CIS) ... 4(4): 19

Authorities, tax cases ... 4(1): 16–18

B

Back-to-back sales agreement ... 8(4): 18

Bank under curatorship in terms of s 69 of Banks Act ... 6(1): 1–10

application of s 45 of Companies Act ... 6(1): 4

case law

ABP 4x4 Motor Dealers (Pty) Ltd v IGI Insurance Co Ltd ... 6(1): 6–7

African Bank Ltd v Theron and Another ... 6(1): 6

curator to comply with requirements for company directors ... 6(1): 5

curator’s freedom and flexibility in running bank’s business ... 6(1): 5

duties and powers of curator ... 6(1): 4–8

financial assistance to related company ... 6(1): 8

post-commencement finance ... 6(1): 9–10

s 45 of Companies Act no longer applies ... 6(1): 8

Banks Act 94 of 1990 ... 4(2): vi, 15;

5(1): vi; 5(2): 16, 24

definition of ‘bank’ ... 4(2): 15

s 11(1) (bank is a company) ... 5(2): 24

s 69(1) (appointment of curator) ... 6(1): 3, 4

s 69(2B)(d) (curator to comply with requirements for directors) ... 6(1): 5

Base Cost

capitalisation of all costs to, management fees and incentive payments ... 12(3): 8–15

overarching rule ... 12(3): 9–10

particular expenditure added to expenditure incurred in increasing value of an asset ... 12(3): 12–15

qualifying remuneration related directly to acquisition or disposal of asset ... 12(3): 10–12

Beneficial interest and beneficial

ownership ... 14(2): 13–18

affected companies ... 14(2): 15–16

requirements ... 14(2): 16–17

enforcement ... 14(2): 17–18

- Beneficial interest and beneficial ownership (*cont*)
 non-affected companies ... 14(2): 16–17
 requirements ... 14(2): 16–17
- Beneficial owner ... 1(2): 28; 1(3): 29;
 3(1): v, vi, 6, 8–17; 3(3): vii, 23, 27, 28,
 29, 30; 3(4): vi, 9, 10, 11, 15
 definition of ... 3(4): 10–11
 domestic context ... 3(1): 14–17
 international context ... 3(1): 9–14
- Beneficial ownership ... 3(1): vi, 8, 9, 10,
 12, 13, 14, 15, 16
 deemed dividends ... 8(2): 31, 38–39
 definition ... 15(3): 2–3
 direct or indirect ultimate ownership
 of trust property ... 15(3): 4–7
 natural person exercising effective
 control ... 15(3): 6
 persons referred to by name ...
 15(3): 6–7
 disclosure ... 15(3): 1–8
 trustees' compliance obligations
 under Trust Property Control Act
 57 of 1988 ... 15(3): 2
- Bewind trust *see* Trusts
- Bill of Rights *see* Constitution of the
 Republic of South Africa, 1996
- Binding General Ruling (Income Tax) 40
 (10 February 2017) ... 8(1): 4–6
- Binding General Ruling (VAT) 41 (10
 February 2017) ... 8(1): 6–9
- Binding private ruling 086 ... 3(4):
 19–23
- Bitcoin *see* Cryptocurrency
- Board
 decision making ... 16(1): 1–6
 basic democratic principle ... 16(1):
 2–3
 2008 Companies Act ... 16(1):
 3–4
 round-robin resolutions ... 16(1):
 1–2
 tension between democratic prin-
 ciple and round-robin decision
 making ... 16(1): 4–5
 reconciling ... 16(1): 5–6
 votes at board meeting or written
 consent of majority of directors ...
 16(1): 1–2
- British Venture Capital Association ...
 8(1): 14–15
- Business environment ... 1(1): 1; 5(3): 4
- Business rescue ... 1(3): 19–23; 5(3): v,
 1–20
 application of regimen ... 1(3): v
 ch 6 of Companies Act 71 of 2008 ...
 5(3): 1
 claim in terms of s 22(3) of VAT Act ...
 5(3): 16–19
 commencement of ... 1(3): 21; 5(3):
 15, 18; 6(4): 26
 consequences of ... 1(3): 21
 definition of ... 5(3): 5
 divergence of views ... 5(3): vi
 failure to regulate effectively, conse-
 quences ... 6(4): 30
 failure to render tax returns ... 5(3): 1
 impact on tax claims by SARS ... 5(3):
 1–20
 important issues ... 5(3): 7–15
 internationally ... 6(4): 27–28
 legal proceedings, moratorium on ...
 6(4): 28–30
 nature of ... 1(3): 20–21
 plan ... 1(3): 21; 4(4): 3, 6, 7; 5(3): 1,
 5, 6, 17
 position of secured creditors ... 1(3):
 22
 post-commencement ... 5(3): 2
 finance (s 135 of Companies Act 71
 of 2008) ... 5(3): 7, 20
 practical application ... 6(4): 27
 practitioner (BRP) ... 1(3): v, 21, 22,
 23; 5(3): v, 1, 2, 4, 6, 13, 14, 15, 16,
 17, 18, 19, 20
 duty and liability ... 8(3): 31–36
 regulation and control of ... 6(4):
 24–30
 representative taxpayer ... 8(3):
 32–36
 Tax Administration Act 28 of 2011,
 ss 153–155 ... 8(3): 32–36
 proceedings ... 1(3): 21; 4(4): 3; 5(3):
 v, vi, 1, 2, 3, 4, 6, 7, 11, 12, 13, 14,
 15, 16, 17, 18, 19, 20
 equal treatment of post-commence-
 ment creditors ... 17(1): 41–46
 key driver in business rescue ...
 17(1): 44–45
- Mashwayi ProjecXts (Pty) Ltd v
 Wescoal (Pty) Ltd and Others [2025]
 2 All SA 57 (SCA)*, factual back-
 ground ... 17(1): 43–44

Business rescue (*cont*)

- process ... 5(3): 3, 4, 5, 18, 20
- provisions ... 1(1): v; 1(3): v, 20; 5(3): 16
- purpose of ... 5(3): 2, 5
- regimen ... 1(3): 19, 20, 23; 5(3): 3, 4
- SARS
 - creditor, as ... 5(3): 1, 6
 - position of ... 5(3): 5–6
- secured creditors, position of ... 1(3): 22
- South African position ... 6(4): 25–26
- tax
 - periods ... 5(3): v, 2, 4
 - returns ... 5(3): 16

C

- Canadian Income Tax Act 1985 ... 2(3): 5
- Canadian Revenue Agency (CRA) ... 2(3): 5–6
- Capital accounts ... 1(1): 18–19, 21; 1(2): 5–7; 3(1): 7
- Capital gains and losses ... 5(2): 8
 - see also* Foreign capital losses and taxable income
 - assessed loss, set off against? ... 7(2): 2
- Capital gains tax (CGT) ... 1(1): 1, 14, 20; 1(3): 25; 2(1): 16, 24; 2(2): 27; 3(2): 1, 12; 4(2): 21
 - accounting for gains and losses ... 5(2): 8–13
 - attribution rules ... 1(3): 24
 - CGT Guide see SARS Comprehensive Guide to Capital Gains Tax*
 - CIS attribution rules ... 4(4): 19
 - consequences for creditor ... 1(1): 1, 10–11
 - consequences of disposal of shares deemed to be vested ... 2(4): 15–16
 - consequences re: reduction/cancellation of debt ... 5(1): 23
 - debt reduction ... 6(3): 32
 - on disposal ... 1(2): 23, 24; 3(1): v; 3(2): 1–13
 - gains and losses ... 5(2): v, 8–13
 - impact of ITA Eighth Schedule ... 2(4): 13–14
 - implications for creditors ... 1(1): 2
 - implications of employee share incentive/participation trust scheme ... 2(4): 1, 11–16

Capital gains tax (CGT) (*cont*)

- improvements effected on land ... 2(1): 23
 - increased rate ... 3(1): v
 - liability ... 1(4): 19; 2(1): 8; 2(3): 13, 16; 2(4): 11; 3(2): v, 3
 - liability of debtor ... 1(1): 1
 - non-residents ... 1(1): 20
 - perspective ... 1(1): 20; 1(3): 28; 4(4): 21
 - provisions ... 1(2): 23
 - purposes ... 2(1): 8; 5(2): v, 8
 - roll-over relief ... 2(1): 16
 - tax treatment ... 4(3): 30
 - termination of personal rights, CGT disposal? ... 12(1): 1–5
 - recent case law ... 12(1): 4–5
 - shift in SARS's CGT stance ... 12(1): 1–2
 - trustees' distribution of shares ... 2(4): 14–15
- Carried interest
- causa* for acquisition of ... 10(4): 22–24
 - meaning ... 10(4): 21–22
 - taxation of ... 10(4): 17–24
- Circular cash flows ... 15(2): 15–23
- black box ... 15(2): 21
 - due diligence, lack of ... 15(2): 21–22
 - equal and opposite debt or quasi debt instruments ... 15(2): 16
 - inflated values, impossible or unrealistic returns on investment, and domestic tax arbitrage ... 15(2): 17–18
 - irrelevancy of timing, source and means and manner ... 15(2): 18–20
 - pre-tax loss; profit after tax ... 15(2): 16–17
 - risk elimination ... 15(2): 22–23
 - special-purpose vehicles ... 15(2): 20–21
 - CIS attribution rules ... 4(4): 19
 - Close Corporations Act 69 of 1984 ... 1(2): 2; 3(2): 6; 4(2): 5
 - Co-debtors and co-sureties, right of recourse between ... 15(4): 9–20
 - co-debtors ... 15(4): 14–20
 - co-sureties ... 15(4): 11–13
 - Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025)

- Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025) (*cont*)
see also Commissioner, South African Revenue Service v De Beers Consolidated Mines Ltd 2012 (5) SA 344 (SCA); Value-added tax (VAT); Value-added tax (VAT): input tax deductibility for holding and PE companies subsequent to the decision in *Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025)
distinguished from *Consol Glass (Pty) Ltd v Commissioner for the South African Revenue Service* (1010/2019) [2020] ZASCA 175 ... 16(3): 6
distinguished from *Commissioner, South African Revenue Service v De Beers Consolidated Mines Ltd* 2012 (5) SA 344 (SCA) ... 16(3): 5
rejection of narrow, transaction-isolationist view ... 16(3): 5
Commissioner for the South African Revenue Service v Taxpayer TAT (unreported, IT 46233 dated 14 October 2025) ... 17(1): 1–12
background to dispute ... 17(1): 5–6
procedural delays and the test case timeline ... 17(1): 8–11
delays, interest, and administrative justice ... 17(1): 8–9
impact on affected employers ... 17(1): 10–11
interest accrual and the statutory framework ... 17(1): 9–10
test case interlocutory judgment and its implications
amendment application ... 17(1): 6
analysis ... 17(1): 7–8
novation finding ... 17(1): 6
Companies Act 61 of 1973 (largely repealed) ... 1(1): v, 15, 19; 1(2): 1, 2, 8–9, 31, 32; 2(1): 1; 2(3): 21; 3(2): 1, 4, 7; 3(3): vi, 23; 4(1): 2, 30; 4(4): 1, 2; 5(3): 3
constitutive documents and shareholders agreements ... 16(4): 3
share buy-backs ... 2(1): 1–15
Companies Act 71 of 2008 ... 1(1): v; 1(2): 1, 3, 6, 23, 27, 29, 32; 1(3): v, 19, 20, 22; 2(1): 1, 8; 3(2): 1; 3(3): v, 22; 3(4): 17; 4(1): 1, 3, 10–13, 30; 4(2): 5; 4(4): 1, 2; 5(3): v, 1, 3, 20, 36
112 ... 7(4): 4
113 ... 7(4): 4
114 ... 7(4): 4
152 ... 7(4): 5
adequate consideration ... 1(2): 23, 24, 30–31; 3(3): 22, 23; 5(3): 23
amalgamation or merger ... 8(3): 5
amendment of MOI ... 1(2): 4
application of certain provisions of, to pre-existing companies ... 1(2): 7–8
application of ss 44 and 45 ... 4(1): 6–9
business rescue ... 1(3): 19–23; 5(3): v, 1–20
ch 6 (ss 128–154) (business rescue) ... 5(3): v, 1
Companies Regulations (2011) (GN R.351, published in GG 34239 of 26 April 2011) ... 4(1): 5
company names/name reservations ... 1(2): 8
conflict between provisions of, and MOI of pre-existing company ... 1(2): 5
continuation of pre-existing companies ... 1(2): 2–3
court proceedings and orders ... 1(2): 9
deeming provisions ... 1(2): 4
distribution defined — s 1(a) ... 9(1): 3
draft Companies Regulations (2008) ... 1(2): 6
duties of board and directors ... 15(3): 10
breach of duty, consequences ... 15(3): 11
s 77 ... 15(3): 14–17
s 162 ... 15(3): 17–19
finance ... 1(2): 7
financial assistance, provision of ... 4(1): 1–13
governance ... 1(2): 7
impact on Income Tax Act 58 of 1962 ... 1(2): 23–32

- Memorandum of Incorporation (MOI)
 ... 1(2): 1, 3–5, 7, 8, 24–30; 2(1): 11,
 Companies Act 71 of 2008 (*cont*)
 13, 14; 3(3): 27; 4(1): 1, 4, 5, 6, 10, 11,
 12; 4(4): 3, 6, 7
 non-executive director, recovery of
 VAT ... 8(1): 10
 preservation of rights and regulations
 of 1973 Act ... 1(2): 9–11
 repeal of 1973 Act ... 1(2): 2
 rules ... 1(2): 1, 3–5, 7, 8; 2(1): 14
 s 1: definition of ‘distribution,’ para
 (a) ... 9(2): 4
 s 4: solvency and liquidity test ... 9(2):
 3–4
 s 5(4) (dealing with inconsistencies
 between Companies Act and other
 legislation) ... 6(1): 7–8
 s 15(7)
ipacta non sunt servanda - how far
 does it go? ... 16(4): 1–9
 constitutive documents and
 shareholders agreements under
 the 1973 Act ... 16(4): 3–4
 important question left open in
Derby Downs ... 16(4): 5–6
SARGE judgment ... 16(4): 7–9
 s 37: preferences, rights, limitations
 and other share terms ... 9(2): 5–6
 ss 44 and 45 ... 4(1): 1–13
 interpretation of ... 4(1): 6–9
 s 45
 applicability to bank under curator-
 ship ... 6(1): 1–10
 inconsistent with s 69 of Banks Act
 ... 6(1): 6
 requirements for provision of finan-
 cial assistance ... 6(1): 2
 requirements inconsistent with
 curator’s powers ... 6(1): 5
 s 46: distributions must be authorised
 by board, and company must pass
 solvency and liquidity test ... 9(2):
 4–6
 s 48: share buy-back, Acquired
 company ... 9(2): 11
 s 48: share repurchases, share redemp-
 tions excluded ... 9(4): 7
 s 135 ... 6(1): 9–10
 s 135 (post-commencement finance)
 ... 5(3): 20
 s 164 ... 7(4): 1–12
- Companies Act 71 of 2008: s 164 (*cont*)
 ‘obscure,’ seldom invoked ... 7(4):
 11–12
 provisions of ... 7(4): 4–8
 purpose of ... 7(4): 3–4
 sale of business ... 16(2): 2–3
 schemes of arrangement, regulation
 of ... 4(4): 1–12
 share buy-backs ... 1(1): v; 1(2):
 23–24, 31–32; 2(1): 1–15
 share certificates ... 1(2): 5
 shareholders’ agreements ... 1(2):
 24–30; 2(2): 12
 shares of pre-existing company ...
 1(2): 5
 ss 77 and 162, time-barring regime ...
 15(3): 9–22
 legislative solution *see* Companies
 Second Amendment Act 17 of
 2024
 statutory merger (s 113) ... 8(3): 2, 6
 transition of regulatory agencies ...
 1(2): 11–12
 transitional arrangements ... 1(2): 2
 transitional provisions ... 1(2): 5
 variation of shareholder rights ... 1(2):
 24–30
 voting rights ... 1(2): 24–28
 winding-up ... 1(2): 8–9
- Companies and Intellectual Properties
 Commission (CIPC) ... 1(2): 11
- Companies Second Amendment Act 17
 of 2024
 time-barring regime under ss 77 and
 162 ... 15(3): 9–22
see also Companies Act 71 of 2008:
 ss 77 and 162, time-barring regime
 s 77 ... 15(3): 20–22
 s 162 ... 15(3): 19–20
- Company law, transition ... 1(2): 1–12
- Comparable uncontrolled-price method
 (CUP) (transfer pricing) ... 2(3): 4
- Conditional liability not a debt ... 1(1):
 2
- Connected person ... 1(1): 1, 12, 13,
 14–17, 18, 20, 21, 22; 1(2): 26, 28; 1(4):
 v, 7, 9, 12, 15; 2(1): 32; 2(3): v, 1; 3(4):
 6; 5(2): 5
 connected qualifying shareholder ...
 5(3): vi, 21, 24, 27, 30
 definition ... 1(1): 14–17
 qualifying shareholder ... 5(3): vi

- Connected person (*cont*)
 in relation to company ... 10(3): 1–9
 meaning and effect of para (*d*)(iv)
 of definition in s 1 of ITA ... 10(3):
 5–6
 other relevant definitions ... 10(3):
 3–5
 SARS *Interpretation note* 67 ... 10(3):
 5–6
 critique of ... 10(3): 6–9
 venture capital company ... 8(1): 18
- Consideration, meaning ... 6(3): 2
- Constitution of the Republic of South Africa, 1996
 8(1): all tax laws subject to Bill of Rights ... 10(1): 4
 Bill of Rights, SARS's obligations under ... 10(1): 3–4
 s 33: right to just administrative action ... 10(1): 4
 s 195 ... 10(1): 7, 7–9
- Consumer Protection Act 68 of 2008 ... 1(3): 19
A Company v The Commissioner For The South African Revenue Service (IT 24510) [2019] ZATC 1 (17 April 2019) ... 10(2): 20–24
 tax acts, vs ... 10(2): 19–28
- Contingent obligation not a debt ... 1(1): 3
- Continuation fund ... 15(4): 1–8
 disposal ... 15(4): 6
 monetising partner interests ... 15(4):
 6–7
 move to, tax position ... 15(4): 6–8
 partnership, legal construct ... 15(4): 3
 reinvestment in continuation fund ...
 15(4): 7–23
 what is it? ... 15(4): 2–3
- Contra fiscum* rule ... 13(4): 20–23
- Contract
 early termination of, tax implications ...
 7(4): 13–24
 capital gains tax ... 7(4): 19–22
 income tax ... 7(4): 14–19
 value-added tax ... 7(4): 22–24
 future allowances on (s 24C of ITA) ...
 11(3): 11–20
 interpretation ... 12(4): 18–24
- Contract manufacturing across borders, tax implications ... 7(1): 21–31
 goods vs services ... 7(1): 22–23
- Contract manufacturing across borders, tax implications (*cont*)
 manufacture of finished goods ...
 7(1): 23–27
 direct exports ... 7(1): 23–24
 indirect exports ... 7(1): 24–27
 provision of manufacturing services ...
 7(1): 27–31
- Contractual nature of 'forgiveness' ... 1(1): 2
- Contributed Tax Capital, limitation rules ... 9(3): 19–21
- Controlled foreign company ... 12(4):
 9–17; 14(2): 1–7
 disposal of shares held by, tax consequences ... 6(4): 13–23
 practical example ... 6(4): 20–23
 FBE exemption ... 6(4): 16–18
 high tax jurisdiction exemption ...
 6(4): 16
 outsourcing and the foreign business establishment rule ... 14(1): 13–23
 participation rights ... 12(4): 9–17
 aggregation of participation rights percentages ... 12(4): 15–16
 benefits of the rights attaching to a share ... 12(4): 11–14
 capital ... 12(4): 14
 income ... 12(4): 15
 value approach ... 12(4): 16–24
 voting rights ... 12(4): 11
 South African legislation ... 6(4):
 15–18
- Controlling relationship between debtor and creditor ... 6(1): 13
 counterparty ... 6(1): 15
 definition ... 6(1): 15
 s 23M(3) limit on interest deduction ... 6(1): 13
- Corporate residence ... 1(3): vi, 1–13
 domestic test for ... 1(3): 3–8
 importance of, in fiscal context ...
 1(3): 2, 13
 interpretation of treaties ... 1(3): 9–10
 OECD Model Commentary on Article 4(3) (Vienna Convention) ... 1(3): 10
 SA test ('[place of] effective management') ... 1(3): 3–5
 test for ... 1(3): 2–3
 tie-breaker provisions of DTAs ... 1(3):
 1–2, 8, 9, 10, 11
 tie-breaker rule ... 1(3): 1–2, 8, 9

Corporate residence (*cont*)
 tie-breaker test ... 1(3): 25
 UK case law ... 1(3): 10–12
 UK test ('place of central management and control') ... 1(3): 5–8
 Corporate tax administrators ... 4(2): v, 1–11; 4(3): v, 9–23; 4(4): 23–32
 Corporate tax residence ... 1(3): vi, 1–13
see also corporate residence
 Cost-plus method (transfer pricing) ... 2(3): 4
 Covid-19 tax relief ... 11(2): 1–8
 employees' tax deferrals ... 11(2): 6–7
 tax considerations relating to ... 11(2): 4–6
 provisional tax deferrals ... 11(2): 7–8
 remuneration reduction or remuneration sacrifice ... 11(2): 2–4
 Creditor, definition ... 6(1): 14–15
 Cryptocurrency
 ecosystem ... 11(3): 24–26
 wallet, 'relevant material' for tax administration purposes? ... 11(3): 21–28
CSARS v Coronation Investment Management SA (Pty) Ltd ... 14(1): 13–23
 the dispute and the legislative context ... 14(1): 15–17
 under-estimation of provisional tax ... 14(1): 21
 Supreme Court of Appeal decision ... 14(1): 18–21
 why it is wrong ... 14(1): 21–23
 Tax Court decision ... 14(1): 17–18
 understatement penalty ... 14(1): 21

D

Davis Tax Committee
 Base Erosion and Profit Shifting, Report on ... 9(3): 1–13
 leveraged foreign tax credit generators ... 9(3): 1

Debt

see also value-added tax (VAT)
 cancellation of ... 4(3): 34; 5(1): 21–29
 conditional liability (not a debt) ... 1(1): 2
 contingent obligation (not a debt) ... 1(1): 3
 definition ... 6(1): 14–15
 discharge of ... 1(1): 2
 forgiveness ... 1(1): 1

Debt (*cont*)

meaning of ... 1(1): 1, 2–3
 obligation to pay ... 1(1): 2, 3, 5
 receipt of less than face value of ... 1(1): 1, 5, 7, 13; 2(4): 20; 4(1): 19
 reduction of ... 1(1): 1; 4(3): 34; 5(1): 21–29
 waiver of ... 1(1): 1–13; 5(1): 27; 5(4): 52–63
 applicable legal principles ... 1(1): 1
 contractual nature of ... 1(1): 1, 2
 debt-waiver rules ... 5(4): 52–63
 discharge of debt ... 1(1): 1
 exemption ... 5(4): 52–63
 rules ... 5(4): 52–63
see also tax exemptions in debt-waiver rules
 exemptions ... 5(4): 52–63
 working of ... 5(4): 53–55
 tax exemptions in, rules ... 5(4): 55–63

Debt forgiveness *see* debt — 'forgiveness' of debt

Debt funding to avoid tax ... 6(1): 12
 interest-deduction limitations to combat ... 6(1): 12
OECD Action Plan on Base Erosion and Profit Shifting ... 6(1): 12

Debt instruments ... 1(3): 17; 2(4): 18; 3(1): 3; 3(3): vi, 3, 14, 15, 16, 17, 18, 19, 20; 4(2): 8, 12, 13; 4(3): 1–3, 29
 government ... 1(2): v
 'hybrid' ... 4(2): 8
 interest-bearing ... 4(3): 1, 2–5
 listed ... 1(2): v
 security by interest-bearing ... 4(3): 2–3

Debt reduction

cost price reduction ... 6(3): 32
 donations tax ... 6(3): 33
 rules under s 19 and para 12A of Eighth Schedule of the Income Tax Act 58 of 1962
 new rules introduced by the Taxation Laws Amendment Act 17 of 2017 ... 9(2): 16–1
 old rules ... 9(2): 14–15
 SARS interpretation notes and published binding private rulings ... 9(2): 15–16
 tax consequences ... 6(3): 30–35

- Debt reduction: tax consequences (*cont*)
 borrower (s 19 of ITA 1962) ... 6(3): 31–32
 CGT implications ... 6(3): 32–33
- Debt restructuring ... 10(2): 13–18
 consequences of application ... 10(2): 14
 debt to equity conversion of debt capital ... 10(2): 16
 debt to equity conversion within a South African group of companies ... 10(2): 16–28
 s 24J of ITA ... 10(2): 17–18
 tax triggers ... 10(2): 14–15
 conversion of debt into equity ... 10(2): 15
 exclusion from taxing provisions ... 10(2): 15–17
- Debtor, definition ... 6(1): 14
- Debtor's tax position ... 1(1): 1, 2
- Deemed dividends *see* Dividends
- Deferred-delivery share incentive schemes ... 2(4): v, 26–34
 application of ITA s 8A ... 2(4): 31–33
 application of ITA Schedule 7 (fringe benefits) ... 2(4): 33–34
 doctrine of legitimate expectation ... 2(4): 30–31
 prevailing practice ... 2(4): 29–30
 three-year prescription period ... 2(4): 28–29
- Deferred disposal of equity shares ... 1(1): 19–20
- Directives
 conditional ... 3(3): 20
 criteria used in process ... 3(3): 19–20
 deduction subject to issue of ... 3(3): 18–19
 effective date of ... 3(3): 20–21
 restrictive ... 3(3): 20
- Director reliance (Companies Act) vs Director liability (JSE Listings requirements)
 Munro, factual background and analysis ... 16(3): 19–21
 regulatory framework ... 16(3): 17–19
 Companies Act 71 of 2008 ... 16(3): 17
 JSE Listings Requirements ... 16(3): 18–19
- Directors' fees, VAT ... 6(3): 10–11
- Discharge of debt ... 1(1): 2
- Disposal of equity instruments ... 2(4): 7, 8
- Dispute resolution, existing framework ... 9(2): 20–23
- Disputed debts
 application of s 19 and para 12A of Eighth Schedule of ITA ... 11(4): 1–6
 key definitions ... 11(4): 2–4
 concession or compromise ... 11(4): 2–3
 debt ... 11(4): 3
 debt benefit ... 11(4): 3–4
 debt owed ... 11(4): 4–5
 disputed debt ... 11(4): 5–6
- Dissenting minority shareholders' appraisal rights ... 7(4): 1–12
see also Companies Act 71 of 2008, s 164
- Distribution ... 9(1): 3–7
 Companies Act 71 of 2008
 'distribution' defined — s 1(a) ... 9(1): 3
 Eighth Schedule, para 76B ... 9(1): 6, 7
 Income Tax Act 58 of 1962, s 46(5) ... 9(1): 8
- Dividend *in specie* ... 1(2): 31; 3(4): 10, 11, 12; 4(3): 31; 5(3): vi, 21, 26, 27; 8(2): 29–40
- Dividend income ... 2(2): 6; 3(1): v, 1, 6, 8, 12, 15, 16, 17; 3(3): 28, 29; 4(2): 17; 4(3): v, 1–8
see also Recharacterisation Rules
- Dividend stripping ... 9(3): 14–21
 extraordinary dividends ... 9(3): 17–19
 legislative changes ... 9(3): 16–19
 provisions, application of ... 9(3): 18–19
 qualifying interest ... 9(3): 17–19
- Dividend-stripping and interaction with rollover relief provisions ... 14(4): 22–30
 claw-back rule ... 14(4): 27–30
 deferral transactions ... 14(4): 24
 extraordinary dividends ... 14(4): 24–29
- Dividends ... 2(1): 7
see also Dividend-stripping; Hybrid equity instruments
 acquired by virtue of cession agreement ... 3(1): 7

Dividends (*cont*)

- deemed ... 8(2): 29–40
 - beneficial ownership ... 8(2): 31
 - conflicts between deeming provisions and DTA ... 8(2): 31–32, 40
 - deeming provisions ... 8(2): 32–33
 - definition ... 8(2): 31
 - under the SA/US DTA and the Model Convention ... 8(2): 33–38
 - dividends tax ... 8(2): 32
 - double tax agreements ... 8(2): 29–40
 - treaty relief and special anti-avoidance rules ... 8(2): 31, 39–40
 - definition ... 8(2): 31
 - derived as part of share incentive schemes ... 3(1): 5
 - disposals ... 3(1): 6
 - exemption from tax ... 3(1): 1–7; 5(3): 7, 22, 28
 - income *see* Dividend income
 - shares relating to borrowed shares ... 3(1): 6–7
 - in specie see* Dividend *in specie*
 - tax *see* Dividends tax
- Dividends tax ... 3(1): v, 8, 9, 14, 17; 3(3): vii, 22, 23, 27, 30; 3(4): 9–15; 4(3): 30, 31; 5(3): vi
- see also* double taxation agreements (DTAs)
- ‘beneficial owner’ – definition ... 3(1): 14, 15; 3(4): 10
- domestic ... 3(1): 9
- domestic context ... 3(1): 14–17
- exemption from ... 1(4): v; 3(1): 9, 10; 3(3): 27; 4(3): 30, 31
- implications ... 3(3): v, vi, vii, 22; 3(4): vi, 24
- liability for ... 3(3): 23; 3(4): 10–11
- most favoured nation ... 13(2): 1–8
- current status ... 13(2): 2–4
- Kuwaiti Protocol ... 13(2): 4–5
- Pienaar Bros* case ... 13(2): 5–7
- 0% dividends tax rate, risks of claiming ... 13(2): 7–8
- purposes ... 3(3): 27, 29; 4(3): 30, 31
- reduced rate ... 3(3): 27
- refund of ... 3(1): 17
- regulatory intermediary ... 3(4): 5
- transactional net-margin method ... 2(3): 4

Dividends tax (*cont*)

- trigger for ... 3(4): 11–12
 - when due ... 3(4): 11–12
- Divorce Act 70 of 1979 ... 4(1): 26
- Doctrine of legitimate expectation ... 2(4): 30–31
- Doctrine of substance over form ... 4(1): v, 14, 15, 22, 23, 25; 4(3): 22; 5(4): v, vi, 1, 2, 3, 23
- economic versus legal substance ... 4(1): 15–16
- principles governing ... 4(1): 22; 5(4): 3
- Double taxation agreements (DTAs) ... 1(2): v; 1(3): vi, 1, 2, 25; 3(1): 8, 9, 10, 11, 12, 14; 3(2): 5; 6(2): 14
- deemed dividends ... 8(2): 29–40
- legal status in South Africa ... 13(2): 2
- SA–US ... 3(2): 5
- UK–SA ... 1(3): vi, 1
- Doubtful debts ... 11(1): 9–17
- 85% allowance ... 11(1): 16–20
- IFRS 9 ... 11(1): 10–17
- application to s 11(j) of ITA ... 11(1): 15–16
- credit risk assessment ... 11(1): 14
- measurement of expected credit losses ... 11(1): 15
- three stages of impairment ... 11(1): 13–14
- s 11(j) of ITA ... 11(1): 9–10
- Due diligence ... 11(4): 7–15
- investigation ... 11(4): 12–14
- annual financial statements review ... 11(4): 13–14
- tax compliance ... 11(4): 13
- tax risk management and governance ... 11(4): 12
- meaning ... 11(4): 8–9
- objectives and features ... 11(4): 9–10
- report ... 11(4): 14–15
- scoping ... 11(4): 11–12
- transaction cycle (from tax perspective) ... 11(4): 10–11
- identification and evaluation phase ... 11(4): 10–11
- implementation and execution phase ... 11(4): 11
- integration and value-realisation phase ... 11(4): 11

E**Earn-outs**

- case law ... 6(3): 13–17
- contractual arrangements ... 6(3): 18–26
- described ... 6(3): 13
- tax characterisation of ... 6(3): 12–20
- time of accrual ... 6(3): 18–20

Economic versus legal substance ... 4(1): 15–16**Electronic Services Regulations (GN**

R221 of 28 June 2014) ... 5(2): 23–26

Electronic services, VAT implications for foreign suppliers of ... 5(1): 7–14**Employee, VAT Act definition vs employee at common law ... 6(3): 5–6**
Employee incentivisation schemes ... 12(4): 1–8

C:SARS v Spur Group (Pty) Limited,
Supreme Court of Appeal, case
320/2020, 15 October 2021 ... 12(4):
2

prescription ... 12(4): 7–8

Employee Share Participation Trust ... 2(4): 1–17

- applicable provisions of ITA s 8C ... 2(4): 4–7, 11
- calculation of gain or loss ... 2(4): 6–7
- capital gains tax (CGT) implications of scheme ... 2(4): 11–16
- definition of ‘equity instrument’ for purposes of ITA s 8C ... 2(4): 5–6
- disposal of restricted equity instrument ... 2(4): 6
- features of a typical scheme ... 2(4): 3–4
- impact of ITA s 8C on ... 2(4): 1–17
- s 8C issues ... 2(4): 7–11
- SARS rulings ... 2(4): 16–4
- taxation under ITA s 8C ... 2(4): 5
- vesting of equity instrument in employee taxpayer ... 2(4): 6

Employer funding arrangements ... 12(4): 1–8

C:SARS v Spur Group (Pty) Limited,
Supreme Court of Appeal, case
320/2020, 15 October 2021 ... 12(4):
2

prescription ... 12(4): 7–8

Employment Tax Incentive Act 26 of 2013 (ETI Act) ... 5(2): v, 1; 17(1): 1–12**Employment Tax Incentive Act 26 of 2013 (ETI Act) (cont)****learnership exception in the TLAA 2021**

anti-abuse amendments of 2022 ... 17(1): 4–5

learnership exception in the TLAA 2021 ... 17(1): 5

policy intent ... 17(1): 2

SAICA alert to members in 2020 ... 17(1): 3–4

legislative framework and 2018 and 2022 amendments ... 17(1): 2–5

2018 amendment ... 17(1): 2–3

qualifying employee ... 17(1): 2

Employment tax incentive (ETI) ... 5(2): v, 1, 2, 5

Draft Guide on the Employment Tax Incentive (ETI) ... 5(2): 2, 5

Employment tax incentive programme ... 5(2): 1–7**Energy-efficiency tax allowance ... 6(2): 1–12**

see also Income Tax Act 58 of 1962 (ITA): s 12L — energy-efficiency savings allowance

Enterprise, meaning ... 6(3): 2**Equity equivalent programmes ... 16(3): 23–29**

capital vs revenue nature ... 16(3): 27–30

expenditure actually incurred ...

16(3): 25

in production of income ... 16(3): 26

tax analysis ... 16(3): 23–30

Equity funding ... 9(3): 14–21**Equity instrument**

defined, for purposes of s 8C of ITA ...

9(1): 10–11; 10(3): 19

Equity instruments ... 2(2): v, 10, 11, 12, 13, 14, 15, 16–17; 2(4): 1, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17; 3(1): 1, 6; 4(2):

16, 17; 4(3): 1

defined, for purposes of s 8C of ITA ... 2(4): 5–6

disposal of ... 2(4): 7, 8

disposal of restricted ... 2(4): 6

forfeiting ownership of ... 2(2): 17

gains and losses ... 2(2): 11

hybrid ... 2(2): v, 1, 2, 4, 5, 7, 8, 9, 10; 3(1): 2–3; 4(2): 8; 4(3): v, 1, 2, 3, 4, 8

market value of ... 1(2): 31

Equity instruments (*cont*)

- restricted ... 2(2): 13, 15, 16; 2(4): 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16; 3(1): 5
- returns on ... 7(4): 29–32
- restrictions ... 2(2): 15–17
- trust ... 2(4): 8
- unrestricted ... 2(2): 13; 2(4): 6
- vesting of ... 1(2): 30
- vesting of gains and losses ... 2(2): 12

Equity-linked notes (ELNs) ... 2(4): 19–21

- definition of ‘instrument’ ... 2(4): 19
- definition of ‘interest’ ... 2(4): 19
- gains and losses ... 2(4): 19
- interest-bearing ... 2(4): 18–25
- return on ... 2(4): 22–23
- variable rate ... 2(4): 23–25

Equity share capital (ITA and VAT Act) ... 1(1): 10, 15, 16, 18, 19, 20; 1(2): 29

Equity shares ... 1(1): 19–20, 29

Estate Duty Act 45 of 1955 ... 2(1): v; 3(3): 1, 3; 4(1): 26

ETI programme *see* employment tax incentive programme

Exchange control

- current climate ... 14(3): 18–22
- regularisation applications, ambiguity ... 14(3): 18–22
- promise yet to be fulfilled ... 14(3): 16–18
- South Africa's ambiguous climate ... 14(3): 15–22

Exchange difference *see* Unrealised foreign exchange gains and losses: deferral rules: exchange difference

Executive share schemes ... 2(2): v, 10–18

Expatriate employees, facilitating and paying for their tax compliance ... 10(4): 25–28

Expenditure ... 6(4): 6–12

- barter ... 6(4): 11–12
- diminution of assets test ... 6(4): 7–11
- Eighth Schedule, para 64B(1) ... 6(4): 18–19
- s 9H, exit-charge provisions ... 6(4): 20

Export of goods ... 1(2): 13–22

External companies in SA, registration of foreign companies as ... 4(1): 30–39

F

Face value of debt, receipt of less than ... 1(1): 1

Fair value of dissenting shareholder's shares ... 7(4): 8–11

how determined ... 7(4): 10–11

restrictions ... 7(4): 8–10

FATCA *see* Foreign Account Tax Compliance Act (FATCA) (USA)

Financial Action Task Force ... 14(2): 13–15

Financial assistance ... 1(1): v; 1(4): 4, 5, 12, 13, 15, 16; 4(1): 1–13

commercial realities ... 16(4): 16–30

definition of ... 1(4): 11; 2(3): 2

direct or indirect ... 16(4): 26–28

excessive ... 1(4): 5

fixed capital ratio ... 1(4): 4, 5

foreign ... 1(4): 8

to foreign company ... 1(4): 13, 14, 16

granted by foreign investor ... 1(4): 4, 5, 12, 13

granted by foreign resident investor ... 1(4): 7

granted by third party ... 1(4): 4

granting of ... 1(4): 1, 4, 16; 4(1): 4

guideline ratio ... 1(4): 5

inter-company ... 4(1): 2

iro intellectual property ... 1(4): 12

provision of ... 1(1): v; 1(2): 8; 4(1): v, 1–13

resident connected person/corporate resident ... 1(4): 11

s 44 of the Companies Act 71 of 2008 ... 16(4): 18–21

s 45 of the Companies Act 71 of 2008 ... 16(4): 21–28

non-compliance with ... 16(4): 26

recipients ... 16(4): 22–24

requirements ... 16(4): 24

tests for ... 16(4): 28–29

written notice of financial assistance ... 16(4): 24–26

types of ... 4(1): v, 1, 2, 6

value of ... 1(4): 4

Financial instruments ... 1(2): vi; 1(3): v, vi, 14–18; 2(4): 5, 6; 3(1): 1, 3; 4(2): vi, 12–19; 4(3): 3, 29; 4(4): 13

see also IAS39: *Financial Instruments: Recognition and Measurement*

accounting for ... 1(3): 14–15

Financial instruments (*cont*)

accounting rules for taxation of ... 4(2): 13

accounting treatment of ... 4(2): 13, 14

acquisition of ... 1(3): vi

calculation of market value ... 1(3): 17–18

classification of ... 4(2): 13, 14

convertible to shares/equity instruments ... 2(2): 14, 16; 2(4): v

covered person ... 4(2): vi, 15, 18

covered person, definition of ... 4(2): vi, 15

dealing in ... 1(3): 16–17

dealing in, definition ... 1(3): 17

deductions in respect of ... 1(3): v

definition of ... 2(2): 14; 4(3): 3

definition of ‘covered person’ ... 4(2): vi, 15

disposal of ... 4(3): 3; 4(4): 15

divergence of income tax and accounting rules ... 4(2): 13

exclusion of financial liabilities ... 4(2): 14

exemption from tax ... 1(2): vi

expenditure in respect of ... 1(2): vi; 1(3): vi; 3(1): 20

foreign precedent ... 4(2): 14–15

gains and losses ... 1(3): 14–18; 4(2): 12–19

gains and losses (realised and unrealised) ... 1(3): 14–18; 4(2): 12–19

IAS39: Financial Instruments: Recognition and Measurement ... 1(3): 14, 15, 17

IFRS9: Financial Instruments ... 4(2): vi, 16

interest-rate agreements ... 1(3): 16–17

leverage of ... 4(4): 15

listed ... 3(4): 12

non-covered persons ... 4(2): 18

option contracts ... 1(3): 16–17

qualifying ... 1(3): 14

‘short selling’ of ... 4(4): 15

specified ... 4(4): 13

splitting of ... 4(2): 13

tax rules relating to ... 4(2): 12, 14

tax treatment of ... 4(2): 19; 4(3): 24, 29–31

taxation of ... 1(3): 15; 4(2): 13, 14

Financial instruments (*cont*)

taxation of, from 2014 ... 4(2): 12–19

taxation of gains and losses ... 4(2): 12–19

trading stock ... 1(1): 26–27; 1(3): 14, 16, 17, 18; 1(4): 19, 21; 2(1): 7, 17; 2(2): 21; 2(3): 12; 3(1): 7; 5(1): 22, 27; 5(2): 12; 5(3): 33, 34, 35; 5(4): 54

Foreign Account Tax Compliance Act (FATCA) (USA) ... 3(2): v, 21–28

curbing of perceived tax abuses iro offshore bank accounts and/or investments ... 3(2): 21–28

landscape ... 3(2): 26–27

requirements ... 3(2): 22–26

Foreign branches and VAT ... 10(3): 10–17

branch as separate person ... 10(3): 11–14

deemed supplies by local vendor to foreign branch ... 10(3): 14

foreign branch that does not fall within the ambit of the proviso ... 10(3): 16–17

zero rating of services supplied by SA main business to foreign branch ... 10(3): 14–15

zero rating of services supplied by SA third party vendor to foreign branch ... 10(3): 15–16

Foreign business establishment

how foreign is it? ... 14(2): 1–7

Commissioner for the South African Revenue Service v Coronation Investment Management SA (Pty) Ltd 2023 JDR 0295 (SCA) ... 14(2): 2–7

s 9D of Income Tax Act 58 of 1962 ... 14(2): 1

Foreign capital losses and taxable income ... 7(2): 1–5

SARS standpoint ... 7(2): 2–3

counter-arguments ... 7(2): 3–5

Foreign companies, registration as external companies in SA ... 4(1): 30–39

Foreign currency option contract ... 7(1): 16, 20

Foreign dividend, interpretation of ITA definition of ... 9(1): 1–8

Foreign Exchange, Amnesty ... 1(4): 27

Foreign exchange gains, weak currency and the taxation of ... 7(1): 13–20

- Foreign exchange gains, weak currency and the taxation of (*cont*)
 consequences of rand depreciation on ... 7(1): 16–20
 dollar-denominated creditor ... 7(1): 16–19
 foreign currency option contracts ... 7(1): 20
 forward exchange contracts ... 7(1): 19–20
 debt ... 7(1): 15
 exchange differences ... 7(1): 16
 exchange items ... 7(1): 14–16
 foreign currency option contract ... 7(1): 16, 20
 forward exchange contract ... 7(1): 15–16
 s 24I of the Income Tax Act 58 of 1962 ... 7(1): 14–16
- Foreign pension schemes ... 14(3): 30–50; 14(4): 1–21
 contributions paid to trust, subject to donations tax? ... 14(4): 4–5
 contributions subject to donations tax? ... 14(3): 33–35
 income tax and capital gains tax implications
 accumulations by fund ... 14(3): 35–42; 14(4): 5–8
 death of member: estate duty or capital gains tax implications ... 14(3): 44–50; 14(4): 15–21
 distributions by the foreign pension scheme ... 14(4): 8–13
 double taxation ... 14(3): 42–43; 14(4): 14–15
 vested and discretionary member rights to income and capital ... 14(4): 3–4
 vested vs discretionary member rights to income and capital ... 14(3): 32–50
- Foreign return of capital ... 9(1): 1–8
 interpretation of ITA definition of, Acquired company ... 9(1): 1–8
- Foreign suppliers of electronic services, VAT implications ... 5(1): 7–14
- Foreign tax credit generators ... 9(3): 1–13
 legal façade, cracks in ... 9(3): 2–8
 example ... 9(3): 2–4
- Foreign tax credit generators: legal façade, cracks in (*cont*)
 problems for the SA investor ... 9(3): 4
 problems for the US banking group ... 9(3): 4–6
 tax gross-up mechanism ... 9(3): 6–8
 leveraged ... 9(3): 8–13
 borrowing money from the market ... 9(3): 12
 domestic tax arbitrage payoff ... 9(3): 12–13
 example
 real-life ... 9(3): 10–12
 simplified ... 9(3): 9–10
 plausible deniability ... 9(3): 12
 risk (and economic substance), eliminating ... 9(3): 8–9
- Forfeiting ownership of equity instruments ... 2(2): 17
- Forfeiture, alternative to ... 1(1): 1
- Forfeiture, alternative to ... 1(1): 1
- ‘Forgiveness’ of debt ... 1(1): 1
 contractual nature of ... 1(1): 2
- Forward exchange contract ... 7(1): 15–16, 19–20
- Franchise ... 7(2): 17–24
SARS Draft Guide on the Taxation of Franchisors and Franchisees ... 7(2): 17–24
SARS Draft Guide on the Taxation of Franchisors and Franchisees
 practical complexities not considered ... 7(2): 20–23
 premium or like consideration ... 7(2): 20–22
 royalty payments ... 7(2): 22–23
 summary ... 7(2): 19–20
- Freign business establishment, meaning ... 14(1): 15
- Fringe benefits
 income tax ... 2(4): 33; 5(3): vii, 22, 23, 26, 29–30
 VAT ... 6(3): 8–9
- Future expenditure claims under s 24C of ITA *see* Income Tax Act 58 of 1962 (ITA), s 24C
- Future services, issue of shares in exchange for, or negotiable instruments ... 3(3): 22–30

G

G20 Finance Ministers ... 5(1): 8
 Gauteng Tax Court ... 1(1): 5
 General anti-avoidance rule (GAAR) ...
 1(2): v; 2(3): 6; 3(4): v, 1–7; 4(2): 20, 23
 ‘broad-spectrum,’ not beneficial to UK
 ... 3(4): 2
 objectively subjective purpose require-
 ment ... 17(1): 22–40
 new GAAR
 the case for a ‘more objective’
 purpose test ... 17(1): 26–30
 the case for a subjective test ...
 17(1): 30–36
 old GAAR, subjective purpose test
 ... 17(1): 23–26
 paradox(es) of ... 17(1): 13–21
 choice principle and ‘genuine’ loop-
 holes ... 17(1): 16–17
*Mr Taxpayer G v Commissioner for
 the South African Revenue Service*
 (unreported, IT 24502 dated 30
 September 2025) ... 17(1): 36–39
 New Zealand GAAR
 judicial approach ... 17(1): 20–21
 over-inclusiveness of ... 17(1): 19
 simplicity of ... 17(1): 21
 questions addressed in this article
 ... 17(1): 15–16
 single-factor business-purpose test,
 troublesome nature of ... 17(1):
 17–18
 post 2006 ... 17(2): 1–13
 *see also Absa Bank Ltd and Another v
 Commissioner for the South African
 Revenue Service* [2026] ZACC 15;
 2026 (7) BCLR 633 (CC)
 s 80G ... 14(3): 9
 Gallager judgment ... 14(3): 11–12
 purpose ... 14(3): 11
 considering both connotations of
 ... 14(3): 12–13
 text and context ... 14(3): 9–11
 sanctity of ... 17(2): 14–24
 modification and amendment of
 SARS’s grounds for the GAAR
 assessment ... 17(2): 19–21
 SARS’s section 80J(1) notice ...
 17(2): 17–19

General anti-avoidance rule (GAAR):
 sanctity of (*cont*)
 why can a rule 31(2) statement
 not be used to alter the basis for a
 GAAR assessment? ... 17(2): 21–23
 SARS, challenges ... 14(3): 8–9
 South African GAAR ... 4(2): 20–25
 subjective vs objective ... 14(3): 1–50
 subjectivity, Achilles’ heel of s 103
 ... 14(3): 3–5
 thesis ... 14(3): 2–3
 tax shelter products and the modern
 tax avoidance industry ... 14(3): 5–8
 aggressive marketing ... 14(3): 6–7
 pretense ... 14(3): 7–8
 complexity ... 14(3): 5–6
 UK draft legislation ... 3(4): v, 1–8;
 4(2): 20–24
 UK GAAR ... 4(2): 20–25
 General Laws (Anti-Money Laundering
 and Combating Terrorism Financing)
 Amendment Act 22 of 2022 ... 14(2):
 14–15
 Going concern
 see also Sale-of-business transaction
 meaning ... 16(2): 5–8
 case law ... 16(2): 5–6
 International Accounting Standards
 ... 16(2): 6–7
 recommendations ... 16(2): 7–8
 sale of ... 16(2): 1–8
 in sale-of-business agreements ...
 16(2): 7
 Goods
 export of ... 1(2): 13–22
 movable ... 1(2): 19–22

H

Headquarter company
 80% cost requirement ... 13(3): 1–6
 Alternative argument 1 ... 13(3):
 4–5
 Alternative argument 2 ... 13(3):
 5–6
 proviso ... 13(4): 1–6
 s 9I requirements ... 13(3): 2–3
 SARS Interpretation Note 87 ...
 13(3): 3–4
 s 9I(2)(b) of ITA, analysis ... 13(4): 3–5
 statutory interpretation ... 13(4): 5–6
 Hedge funds ... 4(4): 13–22; 13(3):
 15–26

Hedge funds (*cont*)

- market overview ... 13(3): 24–26
- meaning ... 13(3): 16–18
- regulatory evolution in SA ... 13(3): 21–24
- tax considerations ... 13(3): 18–21
- taxation of ... 4(4): 13–22

Holding-company

- deductions ... 13(3): 7
- trade
 - carrying on a trade, factors impacting ... 13(3): 10–12
 - meaning of ... 13(3): 9–10
 - moneylender vs carrying on a trade ... 13(3): 12–13

Hybrid equity instruments ... 2(2): v, 1, 2, 4, 5, 7, 8, 9, 10; 3(1): 2–3; 4(2): 8; 4(3): v

- definition, s 8E of Income Tax Act 58 of 1962 ... 9(2): 9
- redemption vs buy-back ... 9(2): 9–12
 - para 39 of Eighth Schedule to Income Tax Act 58 of 1962 ... 9(2): 10
- subject to s 46 of Companies Act 72 of 2008 ... 9(2): 11

I

IAS39: Financial Instruments: Recognition and Measurement ... 1(3): 14, 15, 17

IFRS9: Financial Instruments ... 4(2): vi, 16

Immovable property ... 4(3)30; 1(1): 18, 20; 2(1): 27, 28; 2(2): 19, 29; 3(2): v, 1, 2, 3, 7; 4(1): 34

- acquisition of ... 3(2): 2; 5(1): 28
- CGT claims by SARS ... 3(2): 3
- customary deduction allowances ... 4(3): 29, 33
- disposal of ... 4(3)30; 3(2): 1
- mortgage bond registered over ... 3(2): 2
- mortgaged ... 3(2): 3
- mortgagee's secured claim to proceeds ... 3(2): 1–13
- non-deductible allowances ... 4(3): 24, 29
- post-liquidation sale ... 3(2): 12
- realisation of ... 3(2): 6
- rental of ... 4(2): 8
- sale of ... 4(3)29; 9(3): 22–30

Immovable property: sale of (*cont*)

- OECD Commentaries in interpretation of, VAT, vs ... 9(3): 23–26
- secured ... 3(2): 9
- transfer duty, sale subject to suspensive conditions ... 9(3): 26–30
- secured, realisation of ... 3(2): 1–13
- use of ... 4(3): 24

Income tax ... 5(3): 1

- deductions, limitations under s 23H of ITA ... 11(3): 1–10
 - see also* Income Tax Act 58 of 1962 (ITA): s 23H

Income Tax Act 58 of 1962 (ITA) ... 1(1):

- 1, 3–7, 8, 14, 26, 28, 29, 30; 2(1): 26; 2(2): 1–9; 2(4): 2, 8; 3(2): 4, 5, 6, 9, 11; 4(2): vi; 4(3): 25, 26, 27, 28, 29, 30, 33, 34; 5(2): 5; 5(3): vi, vii, 8, 10, 11; 6(1): 21, 22–29; 14(1): 9–11
- amendment of s 31 by Act 7 of 2010 ... 1(4): 1–16
- amount deemed dividend (s 64C(2)(b)) ... 1(1): 9–10
- anti-avoidance provisions ... 5(4): 1
- cancellation of debt ... 4(3): 34
- Chapter II, Part III (special corporate rules) ... 10(2): 1–28
- Companies Act 71 of 2008, impact on ... 1(2): 23–32
- cross-issue of shares ... 1(1): 19
- debt-reduction provisions, s 19 ... 6(3): 31–32
- deduction for leave pay ... 1(1): 29–30
- deferred disposal of equity shares ... 1(1): 19–20
- discharge of debt ... 1(1): 1
- disposal of shares (capital account) ... 1(1): 18
- dividends tax ... 4(3): 30
- donation/deemed donation ... 1(1): 8–9
- donations tax ... 1(1): 10
- Eighth Schedule ... 1(1): 1, 2, 5, 6, 7, 8, 10, 20, 21, 28; 1(2): 12, 24, 25, 26, 27, 28; 1(3): 27, 28; 2(1): 8, 27, 28, 29, 30; 2(4): 1, 2, 11, 12, 14, 15; 3(2): 1, 4, 5, 9; 4(3): 30, 33, 34; 5(1): vi, 6, 21, 22, 23–24, 28; 5(2): 8; 5(3): 33
 - para 12(5) ... 1(1): 1, 2, 5

para 12A, settlement of disputed debts
see Disputed debts: applIncome Tax
 Act 58 of 1962 (ITA): Eighth Schedule
 (cont)

cation of s 19 and para 12A of
 Eighth Schedule of ITA
 enhanced R&D allowance ... 1(1): 18
 exchange gains or losses ... 1(1): 19
 Fourth Schedule ... 6(3): 3
 remuneration ... 6(3): 2
 general anti-avoidance rule (GAAR) ...
 10(2): 10–11
 general deduction formula (for leave
 pay) ... 1(1): 30
 'group of companies' – definition ...
 1(1): 15
 IFRS (International Financial
 Reporting Standards) – definition ...
 4(3): 27
 impact of s 8C ... 1(2): 29; 2(4): 2
 impact of s 23K on deductible interest
 ... 3(3): 14–21
 impact on debtor's tax position ...
 1(1): 1, 2
 impact on waiver of debt ... 1(1): 13
 'insolvent estate' – definition ... 3(2):
 4
 insolvent estates, taxation of ... 3(2):
 4
 interest deductibility ... 12(1): 20–23;
 12(2): 20–23
 'market value' – definition ... 1(1): 27
 mergers and acquisitions ... 5(3): vii
 misuse of s 45, proposal to combat ...
 2(3): 17–19
 objectives of s 45 ... 2(3): 11–19
 preference-share transactions, refi-
 nancing ... 12(3): 1–7
 provisions affecting debtor ... 1(1):
 3–8
 qualifying percentage (interest) ...
 1(1): 16
 real estate investment trust (REIT) ...
 4(3): 25
 receipt of less than face value of debt
 ... 1(1): 1
 recharacterisation provisions ... 1(2):
 30
 recoupment of deduction ... 1(1): 4–5,
 17–18
 reduction of assessed loss (s 20(1)(a)
 (ii)) ... 1(1): 3–4

Income Tax Act 58 of 1962 (ITA) (cont)
 reduction of debt ... 4(3): 34
 'remuneration' – definition (Fourth
 Schedule) ... 2(4): 3
 reportable arrangements (s 35 (1) and
 (2)) ... 10(2): 11–15
 s 1
 'assessed loss' ... 1(1): 3
 'connected person' ... 1(1): 14–16,
 17
 para (d)(iv) ... 10(3): 1–9
see also Connected person
 s 1(1): 'share' defined ... 9(2): 9
 s 7C ... 7(4): 27–29
 apportioned donations ... 7(4): 29
 deemed donations tax ... 7(4): 28
 exclusions ... 7(4): 29
 loss of loan, advance or credit ...
 7(4): 28
 s 8(1)(b), travel allowance deduction
 ... 17(2): 38–44
 s 8(4)(a), recoupment of VAT ... 12(1):
 6–7; 12(2): 6–7
 s 8C
 application of ... 2(4): 2
 equity instrument ... 10(3): 19
 may extend beyond employment
 link ... 10(3): 18–25
 qualifying criteria ... 10(3): 19–25
 employment or office of director
 ... 10(3): 20–21
 equity instruments acquired by
 virtue of any restricted equity
 instrument ... 10(3): 21–22
 restricted equity instruments
 acquired during period of
 employment or office of director
 ... 10(3): 22–25
 s 8C, application of ... 9(1): 9–15
 s 8E ... 13(1): 29–30
 application of ... 2(2): 1, 3, 8
 'hybrid equity instrument' defined
 ... 9(2): 9
 preference-share transactions, refi-
 nancing ... 12(3): 3–6
 'qualifying purpose' exemption ...
 13(1): 7–15
 s 8EA
 amendment by Taxation Laws
 Amendment Act 15 of 2016 ...
 8(1): 26
 application of ... 3(1): 2

Income Tax Act 58 of 1962 (ITA): s 8EA
(*cont*)

- preference-share transactions, refinancing ... 12(3): 6–7
- s 8G of ITA ... 13(4): 7–14
- s 9I ... 13(3): 2–3
- s 9I(2)(b) of ITA ... 13(4): 3–5
- s 11(d) ... 11(1): 9–10
- s 11(e) ... 7(2): 2–5
- s 12C ... 15(2): 26–30
- s 12H allowance ... 7(3): 23–28
 - administrative requirements ... 7(3): 28
 - allowances ... 7(3): 25–27
 - annual allowance ... 7(3): 25–26
 - completion allowance ... 7(3): 27
 - learners with disabilities ... 7(3): 27
 - exclusion from ... 7(3): 27–28
 - qualification for ... 7(3): 24–25
 - employer ... 7(3): 24
 - learner ... 7(3): 24
 - Registered Learnership Agreement ... 7(3): 25
- s 12J ... 8(1): 13
 - practical application ... 8(1): 20
 - tax strategy ... 11(1): 1
 - overview of current provisions ... 11(1): 3–6
 - problem areas in application ... 11(1): 6–8
- s 12L — energy-efficiency savings allowance ... 6(2): 1–12
 - claims for period prior to 1 November 2013 ... 6(2): 6–10
 - regulations under subsec (5) ... 6(2): 4–6, 10–11
 - text of ... 6(2): 11–12
- s 19, settlement of disputed debts *see* Disputed debts: application of s 19 and para 12A of Eighth Schedule of ITA
- s 20 ... 7(2): 1, 3–5; 8(4): 9, 10–12
- s 20(1) ... 7(2): 3, 4
- s 20(1)(a) ... 7(2): 3
- s 20(1)(b) ... 7(2): 3
- s 20(1)(c)(i), qualifying remuneration related to acquisition of asset form part of base cost ... 12(3): 10–12
- s 20(1)(e), expenditure incurred to increase value of asset forms part of base cost ... 12(3): 12–15

Income Tax Act 58 of 1962 (ITA) (*cont*)

- s 20A ... 8(4): 12–14
- s 23H ... 11(3): 1–10
 - Telkom SA SOC Limited v Commissioner for the South African Revenue Service [2020] 2 All SA 763 (SCA) ... 11(3): 1–10*
 - critical analysis ... 11(3): 7–10
 - SCA judgment ... 11(3): 5–7
 - Tax Court judgment ... 11(3): 3–5
- s 23M ... 6(1): 11–21
 - 2021 amendments, highlights ... 14(1): 25–26
 - adjusted taxable income ... 14(1): 30–31
 - example ... 14(1): 31
 - amounts deemed to be interest in terms of s 24JA ... 14(1): 29
 - amounts under s 24K interest rate agreement ... 14(1): 28–29
 - controlling relationship between debtor and creditor ... 6(1): 11–21
 - debt owed to a creditor in a controlling relationship ... 14(1): 27
 - finance cost element of finance leases ... 14(1): 29
 - foreign exchange gains and losses ... 14(1): 29
 - interaction with s 23N ... 6(1): 20
 - interaction with s 31 ... 6(1): 20
 - interest
 - deduction limitation ... 14(1): 24–31
 - meaning of ... 14(1): 27–29
 - not subject to tax ... 14(1): 27
 - s 24J definition ... 14(1): 28
 - interest ‘subject to tax’ ... 6(1): 17
 - taxing provision ... 14(1): 29–31
 - treaty no-discrimination ... 6(1): 21
- s 23N ... 6(3): 26–28
 - interest-deduction limitation ... 6(2): 38–44
 - acquired company ... 6(2): 41–44
 - acquiring company ... 6(2): 40–44
 - acquisition transaction ... 6(2): 41–44
 - application ... 6(2): 42–44
 - debt push down ... 6(2): 41–42
 - debt push up ... 6(2): 42
 - interest ... 6(2): 41–44

- Income Tax Act 58 of 1962 (ITA): s 23N:
 interest-deduction limitation (*cont*)
 reorganisation transaction ...
 6(2): 41–44
- s 24C
 allowance for future expenditure ...
 10(1): 11–19; 11(3): 11–20
 Commissioner, South African Revenue Service v Big G Restaurants (Pty) Ltd 2019 (3) SA 90 (SCA) ... 11(2): 12–15; 11(3): 11–20
 Commissioner, South African Revenue Service v Clicks Retailers (Pty) Ltd 2020 (2) SA 72 (SCA) ... 11(2): 16–17; 11(3): 11–20
 correlation between future expenditure incurred in the performance of obligations under a contract and the income derived from such contract ... 10(1): 15–19
 identification of income received or accrued ... 10(1): 12–14
 income and a contract, relationship ... 10(1): 14–15
 the law ... 11(3): 13
- s 24J ... 6(3): 23–26, 30–31; 10(2): 17–18
 interest, definition ... 14(1): 28
- s 24K, interest rate agreement ...
 14(1): 28–29
- s 24O ... 6(3): 28
- s 26A ... 7(2): 1
- s 35 (1) and (2), reportable arrangements ... 10(2): 11–15
- s 42 ... 9(4): 2
 asset-for-share transaction ... 6(1): 22–29; 10(2): 6–8
 compared with s 44 ... 6(1): 22–29
- s 44 ... 8(3): 1–10
- s 44, amalgamation transactions ...
 11(2): 26–30
- s 45
 amendments to ... 2(3): 11–19
 application of ... 2(3): 11–19
- s 45(1)(a): intra-group transaction ...
 9(4): 3
- s 46, unbundling transaction ... 10(2): 8–9
- Income Tax Act 58 of 1962 (ITA) (*cont*)
 s 47, liquidation transactions ... 10(2): 10
 s 47, liquidation, winding-up and deregistration transactions ... 11(2): 26–30
 s 79 ... 7(2): 10–11
 s 80D ... 13(1): 31–32
 s 80J
 arrangement, meaning ... 14(1): 6–7
 misconceptions about ... 14(1): 7–9
 genesis and purpose of ... 14(1): 3–5
 language and context ... 14(1): 5–6
 misuse and abuse ... 14(1): 1–12
 background ... 14(1): 2–3
 notice
 misconceptions about ... 14(1): 7–9
 proper role of ... 14(1): 9–11
 s 103(2) ... 7(2): 2, 4
 s 8EA ... 13(1): 29–30
 'qualifying purpose' exemption ...
 13(1): 7–15
 SARS may challenge waiver of debt ...
 1(1): 9
 scope and effect of new s 31 (as substituted by Act 7 of 2010) ... 1(4): 8, 15–16
 sequestration of insolvent estates ...
 3(2): 4
 special corporate rules (ss 41–47) ...
 10(2): 1–12
 tax consequences for debtor ... 1(1): 8
 tax treatment ... 1(1): 1
 taxation of insolvent estates ... 3(2): 4
 waiver of debt ... 1(1): 1, 13
- Income tax and VAT implications iro compensation for surrender of a right ... 2(2): 19–30
- Income tax consequences for creditor ... 1(1): 1
- Indemnity payment under contract of insurance not the same as indemnity/guarantee under contractual relationship *see* Value-added tax (VAT): indemnity payment
- Independent contractor, VAT ... 6(3): 6–7
- Information-gathering by SARS *see* Tax Administration Act 28 of 2011: information-gathering by SARS under

- Insolvency Act 24 of 1936 ... 3(2): 1;
4(1): 26; 5(3): 6
- Insolvent estates
realisation of secured immovable
property ... 3(2): 1–13
taxation of ... 3(2): 4
winding-up of ... 3(2): 1–13
- Inter vivos*
see also trusts
trustees ... 4(1): 26–29
trusts ... 4(1): 26–29
- Interest
circumstances where SARS approval
not required ... 3(3): 17–18
conditional directives ... 3(3): 20
criteria used in directive process ...
3(3): 19–20
deductibility ... 12(1): 20–23; 12(2):
20–23
deductible ... 3(3): 14–21
deduction limitation ... 6(1): 11–21
s 23M deduction formula ... 6(1):
18–19
deduction subject to issue of directive
... 3(3): 18–19
definition ... 6(1): 16; 6(2): 41
effective date of directive ... 3(3):
20–21
exemption for non-residents, with-
drawal of ... 1(2): v
impact of ITA s 23K ... 3(3): 16–17
restrictive directives ... 3(3): 20
withholding tax ... 6(1): 17
- Interest-free credit, impact on deduction
of input tax ... 7(3): 5–10
accounting treatment ... 7(3): 8
supply for no consideration ... 7(3): 8
VAT principles ... 7(3): 6
VAT status of granting ... 7(3): 6–8
VATCOM Report ... 7(3): 9
- Interest-free loans *see* shareholder loans
- Interest on loan funding used to acquire
shares, deductibility of ... 6(3): 21–29
ITA 1962, s 23N ... 6(3): 26–28
ITA 1962, s 24J ... 6(3): 23–26
ITA 1962, s 24O ... 6(3): 28
- International Accounting Standards,
going concern, meaning ... 16(2): 6
- International Accounting Standards
Board (IASB) ... 4(3): 27
- International Financial Reporting Stand-
ards (IFRS) ... 4(3): 27
- Interpretation note, legal status ... 13(4):
23–24
- Interpretation of contracts *see* Contract:
interpretation
- Interpretation of statutes
conventional approach ... 12(1): 9–10;
12(2): 9–10
new approach in *Endumeni* ... 12(1):
11–12; 12(2): 11–12
application to taxing statutes ...
12(1): 13–16; 12(2): 13–16
impact on interpretation of tax law
... 12(1): 16–18; 12(2): 16–18
- Intra-group transactions
STT, exemption under s 45 Income
Tax Act ... 9(4): 1–6
was an asset acquired? ... 9(4): 3–4
was it a capital asset? ... 9(4): 5–6
- ITA *see* Income Tax Act 58 of 1962 (ITA)
- J**
- Joint ventures/partnerships
agent and principal ... 3(4): 24–25
members conducting enterprise ...
3(4): 23–24
value-added tax (VAT) ... 3(4): 16–25
- Judicial management ... 5(3): 1, 3, 4
see also business rescue
order ... 5(3): 4
procedures ... 5(3): 1
replaced by business rescue ... 5(3): 1
- L**
- Labour broker
definition ... 6(3): 4–36
VAT ... 6(3): 7–8
- Labour Relations Act 66 of 1995, sale of
business ... 16(2): 3–4
- Lease
early termination, tax implications in
hands of lessor ... 15(4): 21–32
base cost of lease agreement for
CGT purposes ... 15(4): 31–32
income tax analysis ... 15(4): 23–29
termination fee, receipt of, legal
principles ... 15(4): 29–31
VAT ... 15(4): 32
- lodging, sub-leases and purpose ...
10(1): 20–24
conclusions ... 10(1): 23–24
the law ... 10(1): 21–23
High Court judgment ... 10(1):
22–23, 23

Leasehold improvements ... 2(1): 23–33;
5(4): v, 25–51
see also the main entry for open-market value of supply
IN 71: Interpretation Note – Value-Added Tax: Supplies Made for No Consideration ... 5(4): 30, 31, 38
Draft IN: Draft Interpretation Note – Value-Added Tax: Leasehold Improvements ... 5(4): v, 25, 26, 27, 28, 29, 36, 37, 47, 49
income tax ... 2(1): 24–30
open-market value of supply ... 2(3): 31; 5(4): v, 25, 27, 35, 36, 37, 39, 47
right of use ... 5(4): 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51
time of supply ... 5(4): 42–49
value-added tax (VAT) ... 2(1): 30–33; 5(4): v, 25–51
Leave pay, deduction for ... 1(1): 29–30
Legal principles ... 1(1): 1
 discharge of debt ... 1(1): 1
 receipt of less than face value of debt ... 1(1): 1
 waiver of debt ... 1(1): 1–13
Leveraged management buyouts (LBOs) ... 2(3): 11, 15–17
Liability for CGT ... 2(4): 11
Limited-recourse loans ... 6(3): 33–35
Loadshedding, tax allowance for energy efficiency ... 6(2): 1–12
Loans
 funding used to acquire shares, deductibility of interest on *see* Interest on loan funding used to acquire shares, deductibility of
 replacement, interest deduction flow-through ... 12(1): 19–26; 12(2): 19–26
 to trusts ... 7(4): 26–27
Local subsidiary, acquisition of shares by non-resident (s 8G of ITA) ... 13(4): 7
Low-interest loans *see* shareholder loans

M

M&A *see* mergers and acquisitions
‘Market value’ – definition ... 1(1): 27
Matrimonial Property Act 88 of 1984 ... 4(1): 26
Meaning of debt *see* debt — meaning of
Mergers and acquisitions (M&A)

Mergers and acquisitions (M&A) (*cont*)
see also Amalgamation and/or merger
 definition of ‘enterprise’ ... 3(2): 16
 input tax ... 3(2): 16
 VAT incurred in relation to ... 2(3): 20–31; 3(2): 14–20
Mineral and Petroleum Resources
 Royalty Act 28 of 2008 ... 3(1): vii, 18–24
Mining companies ... 5(1): 21–29
 cancellation of debt ... 5(1): 21–29
 challenge to, of Act 28 of 2008 ... 3(1): 18–24
 reduction of debt ... 5(1): 21–29
Minority protection ... 4(4): 1–12
Model Commentary on Article 4(3) (Vienna Convention), Organisation for Economic Co-operation and Development (OECD) ... 1(3): 9
Money laundering ... 14(2): 13–18

N

Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA), impact on interpretation of fiscal legislation ... 12(1): 8–18; 12(2): 8–18
National Credit Act 34 of 2005 ... 1(3): 19; 2(4): 22
National Treasury ... 1(2): vi; 1(4): 32, 33; 2(2): v; 2(3): 11, 12; 2(4): 25; 3(1): 18, 22, 23; 4(2): 12, 13, 14; 4(3): 1, 25, 34; 4(4): 14, 16, 18; 5(1): 2, 15; 5(2): 2, 17, 21
Negotiable instruments ... 2(4): 21; 3(3): v, vi–vii, 22–30
 dividend distribution (default position) ... 3(3): 26–30, 30
 issue of shares in exchange for, or future services ... 3(3): 22–30
 shares held in trust ... 3(3): 26–30
Nominee director, directors’ fees, employees’ tax and VAT ... 8(2): 2–4
Non-executive director
 directors’ fees — employees’ tax and VAT ... 8(2): 1–4
 nominee director ... 8(2): 2–4
 directors’ fees and VAT ... 6(4): 1–5; 8(1): 1–12
 recovery of VAT ... 8(1): 10
 company law considerations ... 8(1): 10

Non-residents

- acquisition of shares in local subsidiary ... 13(4): 7–14
- withdrawal of interest exemption for ... 1(2): v

O

- Obligation to pay ... 1(1): 2, 3, 5; 1(3): 21; 5(2): 28, 29, 35

OECD *see* Organisation for Economic Co-operation and Development (OECD)

Offshore bank accounts and/or investments, curbing of tax abuses ... 3(2): 21–28

Offshore trusts ... 1(3): 24–29

- consequences of chosen funding method ... 1(3): 27–29
- settlers ... 1(3): 24–29

tax and estate planning ... 1(3): 27–29

tax residence of ... 1(3): 25–27

transfer to trustees ... 1(3): 25

trustees ... 1(3): 25, 26, 27, 29; 1(4): 28

validity of ... 1(3): 24–25

Open-market value of supply ... 2(3): 31; 5(4): v, 25, 27, 35, 36, 37, 39, 47

Organisation for Economic Co-operation and Development (OECD) ... 1(4): 1, 6, 10, 11; 2(3): 1, 3; 5(1): 7, 12

Action Plan on Base Erosion and Profit Shifting ('BEPS' Action Plan) ... 5(1): 6, 8

Action Plan 4 ... 6(1): 12

arm's-length principle ... 1(4): 1, 4, 10, 11; 2(3): 3, 4

commentaries, relevance to tax-treaty interpretation ... 8(2): 15–26

Conduit Companies Report ... 3(1): 11

Guidelines ... 2(3): 3–5

Model Commentary on Article 4(3)

(*Vienna Convention*) ... 1(3): 9, 10, 11

Model Tax Convention ... 1(4): 7, 8, 10–11; 2(3): 3

art 26 ... 7(1): 11–12

principles ... 5(1): 12

Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD *Transfer Pricing Guidelines*)

Organisation for Economic Co-operation and Development (OECD) (*cont*)
Vienna Convention on the Law of Treaties, articles 31 and 32 ... 8(2): 5–40

Organisation for Economic Cooperation and Development (OECD)

Model Tax Convention

on income and on capital ... 6(2): 14

on place of effective management, article 4 — resident ... 6(2): 17–20

P

Paid-up capital (VAT Act) ... 1(1): 16

Par value shares ... 1(2): 5–7, 29; 2(1): 3
continuation of ... 1(2): 5–6
conversion of, regulations relating to ... 1(2): 6–7

Parol evidence rule ... 12(4): 18–24

Partnerships/joint ventures

agent and principal ... 3(4): 24–25

dissolution ... 15(4): 5

interest for tax purposes ... 15(4): 5–6

legal construct of partnership ...

15(4): 3–6

dissolution of partnership ... 15(4): 5

generally ... 15(4): 3–4

interest for tax purposes ... 15(4): 5–6

ownership of partnership assets ... 15(4): 4–5

members conducting enterprise ... 3(4): 23–24

ownership of partnership assets ... 15(4): 4–5

tax treatment of partnership ... 10(4): 20

see also Private equity partnership value-added tax (VAT) ... 3(4): 16–25

PAYE ... 4(2): 21; 5(3): 1, 7

Payment, VAT and dividends tax ... 9(4): 13–19

Pension scheme, foreign *see* Foreign pension schemes

Pension schemes, foreign *see* Foreign pension schemes

Personal rights, termination of, CGT disposal? *see* Capital gains tax (CGT): termination of personal rights, CGT disposal?

- Personal service provider
 definition ... 6(3): 4–36
 VAT ... 6(3): 7–8
- Piercing of corporate veil ... 15(1): 1–8
The Butcher Shop and Grill ... 15(1): 5–8
 facts ... 15(1): 5–6
 findings ... 15(1): 6–8
 common-law position previously ... 15(1): 2–3
 Companies Act ... 15(1): 3–4
 reverse piercing ... 15(1): 4–5
- Pillar Two ... 16(2): 9–15
 application, concerns ... 16(2): 10–12
 current status in Africa ... 16(2): 9–10
 measures in globe rules that could shield SA tax incentives ... 16(2): 12–15
- Place of effective management ... 6(2): 13–37
 British legal precedent ... 6(2): 24–26
 confusion ... 6(2): 26–30
 Income Tax Interpretation Note 6 ... 6(2): 15–17, 20–24
 Katz Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa ... 6(2): 14
 OECD MTC article 4 — resident ... 6(2): 17–20
 SA tax authorities on ... 6(2): 30–37
- Pope, Alexander ... 1(1): 1
An Essay on Criticism ... 1(1): 1
- Post-commencement assessment ... 5(3): 1
- Post-commencement claim ... 5(3): 2
- Post-commencement finance ... 5(3): 2
 bank under curatorship ... 6(1): 9–10
- Post-commencement finance (s 135 of Act 71 of 2008) ... 5(3): 7, 20
- Practice generally prevailing ... 13(4): 23–24
- Pre-production problems ... 5(1): 1–6
- Preference-share transactions, ss 8E and 8EA of Income Tax Act ... 12(3): 1–7
- Preference shares
 Companies Act, relevant provisions ... 9(2): 3–6
 s 1: definition of 'distribution,' para (a) ... 9(2): 4
 s 4: solvency and liquidity test ... 9(2): 3–4
- Preference shares: Companies Act, relevant provisions (*cont*)
 s 37: preferences, rights, limitations and other share terms ... 9(2): 5–6
 s 46: distributions must be authorised by board and company must pass solvency and liquidity test ... 9(2): 4–6
 nature of ... 9(2): 6–7
 right to enforce payment of redemption amount ... 9(2): 1–8
 standard commercial preference share terms ... 9(2): 2–3
- Preferential loans ... 5(3): vi
- Private equity
 partnership
 structure ... 10(4): 18
 co-ownership ... 10(4): 20
 profit sharing ... 10(4): 19–20
 tax treatment ... 10(4): 20–21
 and Venture Capital Association ... 8(1): 14
- Private equity fund formation *see* Continuation fund
- Pro-*fiscus* ... 13(4): 24–26
- Process of manufacture, interpretation of: *Enviroserv Waste Management (Pty) Limited v The Commissioner for the South African Revenue Service* 2023 JDR 4809 (SCA) ... 15(2): 24–30
 dispute ... 15(2): 26
 facts ... 15(2): 25–26
 Income Tax Act 58 of 1962, s 12C ... 15(2): 26–30
- Profit-split method (transfer pricing) ... 2(3): 4, 5
- Q**
- Qualifying percentage interest (ITA and VAT Act) ... 1(1): 16
- 'Qualifying purpose' exemption, purposive interpretation ... 13(1): 7–15
- R**
- Real Estate Investment Trust (REIT) ... 4(3): 24–34
 application of s 25BB(2) (examples) ... 4(3): 28–29
 capital gains tax treatment ... 4(3): 30–31
 conversion of property investment vehicles ... 4(3): 30

- Real Estate Investment Trust (REIT)
 (cont)
 deduction permitted from gross income ... 4(3): 27–28
 definition of REIT ... 4(3): 26
 non-deductible allowances in respect of immovable property ... 4(3): 29
 other definitions ... 4(3): 26–27
 proposed amendments to s 25BB ... 4(3): 31–34
 tax treatment of financial instruments ... 4(3): 29–31
 taxation of dividends ... 4(3): 30–31
 taxation under ... 4(3): 24–34
 treatment of interest ... 4(3): 30
- Recharacterisation provisions (ITA s 8E) ... 1(2): 30
- Recharacterisation Rules ... 4(3): v, 1–8
- Recoupment of deduction ... 1(1): 4–5, 17–18
- Reduction of debt *see* Debt reduction
- Reduction of debt, and taxation ... 7(3): 11–22
 allowance assets ... 7(3): 15
 appropriation of debt reduction ... 7(3): 18–20
 debt reduction provisions, application of ... 7(3): 13–14, 16–23
 merger ... 7(3): 16–17
 non-allowance assets ... 7(3): 16
 other assets and expenses ... 7(3): 15
 payment ... 7(3): 16
 prescription ... 7(3): 18
 release ... 7(3): 18
 set-off ... 7(3): 17–18
 trading stock held and not disposed of ... 7(3): 14
 VAT ... 7(3): 20–22
- Registered Learnership Agreement ... 7(3): 25
- Regulation of schemes of arrangement ... 4(4): 1–12
 minority protection ... 4(4): 1–12
- REIT regimen ... *see* Real Estate Investment Trust (REIT)
- Related-party transactions ... 1(1): 14–23
 connected persons ... 1(1): 14
 at less than market value ... 1(1): 23
 terms and conditions ... 2(3): 9
- Release of debtor by creditor ... 1(1): 2
- Relevant material *see* Tax Administration Act 28 of 2011: relevant material
- Relevant provision (Eighth Schedule, para 12(5)) ... 1(1): 1, 2
- Remote working, source of income ... 13(1): 1–6
- Remuneration ... 6(3): 1–11
 definition ... 6(3): 3
 meaning ... 6(3): 2–3, 3–5
 VAT on ... 6(3): 1–11
 employee/office holder ... 6(3): 2
- Reorganisation transaction ... 6(2): 41
- Reportable arrangements under the TAA (ss 34–39) ... 13(1): 27–34
 failure to report ... 13(1): 34
 qualifying features ... 13(1): 31–33
 accommodating or tax-indifferent parties ... 13(1): 32
 characteristics contained in the GAAR provisions ... 13(1): 31
 elements that have the effect of off-setting or cancelling each other ... 13(1): 33
 accounting versus tax treatment ... 13(1): 33
 no reasonable expectation of a pre-tax profit ... 13(1): 33
 reasonable expectation of a pre-tax profit that is less than the value of the tax benefit ... 13(1): 33
 interest charges dependent on tax assumptions ... 13(1): 31–32
 when to report ... 13(1): 33–34
 who must report ... 13(1): 29–31
 person who derives financial benefit ... 13(1): 30
 promoter ... 13(1): 31
 tax benefit ... 13(1): 29–30
- Resale-price method (transfer pricing) ... 2(3): 4
- Restricted equity instruments ... 2(2): 13, 15, 16; 2(4): 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16; 3(1): 5
see also equity instruments; unrestricted equity instruments ... 3(1): 5
- Restructuring companies via the corporate rules ... 10(2): 1–12
 illustration ... 10(2): 3–5
 current group structure ... 10(2): 3
 proposed restructure ... 10(2): 3
 steps and effect of ... 10(2): 4–5
 tax implications of proposed restructure ... 10(2): 5–12

- Restructuring companies via the corporate rules: illustration: tax implications of proposed restructure (*cont*)
- GAAR, application of ... 10(2): 10–11
 - reportable arrangement ... 10(2): 11–12
 - s 42 asset-for-share transaction ... 10(2): 6–8
 - s 46 unbundling transaction ... 10(2): 8–9
 - s 47 liquidation transactions ... 10(2): 10
 - simulated transaction ... 10(2): 11
- Retrospective legislation ... 5(1): 15–20
- recourse for taxpayers ... 5(1): 15–20
- Retrospective legislation — the *Pienaar Brothers* case ... 8(3): 11–19
- comments on judgment
 - Davis, Dennis ... 8(3): 17–18
 - Emslie, TS ... 8(3): 16–17
- Retrospective operation of statutory amendments ... 8(1): 21–30
- formulae used in Taxation Law Amendment Act ... 8(1): 23–30
 - presumption against retrospectivity ... 8(1): 24–26
- Right, surrender of
- compensation for ... 2(2): 19–30
 - income tax and VAT implications ... 2(2): 19–30
- Ring-fencing assessed loss ... 8(4): 8–15
- Rollover relief provisions ... 5(3): vii, 31
- Round-robin resolutions *see* Board: decision making
- Royalty Act, *see* Mineral and Petroleum Resources Royalty Act 28 of 2008 ... 5(3): 31
- S**
- Sale of assets within group ... 2(3): 13–15
- Sale of business ... 1(1): 24; 1(4): 17–26
- assumption of liabilities ... 1(4): 18–23, 29–30
 - value-added tax *see* value-added tax (VAT)
- Sale-of-business transaction ... 16(2): 1–8
- see also* Going concern
- Sale-of-business transaction (*cont*)
- Companies Act 71 of 2008 ... 16(2): 2–3
 - Labour Relations Act 66 of 1995 ... 16(2): 3–4
 - Value-Added Tax Act 89 of 1991 ... 16(2): 4–18
- Sale-of-business transactions ... 1(1): 24–30; 1(4): 25
- completion date ... 1(1): 28
 - effective date ... 1(1): 28
 - primary consideration ... 1(1): 24
 - purchase-price adjustment ... 1(1): 27–28
 - purchase-price allocation ... 1(1): 25
 - purchase-price considerations ... 1(1): 26–28
 - salient features of ... 1(1): 24
 - trading stock ... 1(1): 26–27; 1(3): 14, 16, 17, 18; 1(4): 19, 21; 2(1): 7, 17; 2(2): 21; 2(3): 12; 3(1): 7; 5(1): 22, 27; 5(2): 12; 5(3): 33, 34, 35; 5(4): 54
- SANEDI *see* South African National Energy Development Institute (SANEDI)
- SARB *see* South African Reserve Bank (SARB)
- SARS ... 1(3): 1, 3, 14; 1(4): 1, 2, 27; 2(2): 8; 2(3): 1; 2(4): 13, 27; 3(2): 8, 14, 15; 3(3): 14; 4(2): 2; 4(3): 9, 26; 4(4): 23, 26; 5(1): 9, 15; 5(2): 2, 14, 15, 27; 5(3): 4, 26
- Binding General Ruling 16 (BGR 16) ... 16(2): 16
 - Binding Private Ruling 101 ... 9(4): 2
 - Comprehensive Guide to Capital Gains Tax* ... 2(1): 27
 - Draft Guide on the Disclosure of Reorganisation Transactions* (12 August 2011) ... 3(3): 15, 16, 19, 21
 - Draft Guide on the Employment Tax Incentive (ETI)* ... 5(2): 2, 5
 - Draft Guide on the Taxation of Franchisors and Franchisees see* Franchise Explanatory Memorandum (to the Taxation Laws Amendment Act 7 of 2010) ... 1(4): v, 1, 3, 6, 7, 8, 11, 13, 14

- information-gathering under the Tax Administration Act 28 of 2011 *see* Tax Administration Act 28 of 2011: SARS (*cont*)
- information-gathering by SARS under *Legislative Overview of the TAA* ... 3(3): 1
- Memorandum on the Objects of the Tax Administration Bill, 2011* ... 7(1): 7
- obligation to respect taxpayers' constitutional rights ... 10(1): 3
- obligations under Bill of Rights ... 10(1): 3–4
- Practice Notes ... 1(3): 28; 1(4): 1, 4–6, 9, 14; 2(3): 2, 9
- public administration, an organ of state within ... 10(1): 2
- Short Guide to the TAA* ... 3(3): 1, 5, 6; 4(2): 4, 5, 7, 9; 4(3): 9–11, 12, 15, 16, 20; 5(2): 30
- tax administration
- s 195 of Constitution ... 10(1): 7–9
- s 237 of Constitution ... 10(1): 9
- value-conscious tax administration ... 10(1): 1–10
- Schemes of arrangement ... 1(1): v; 2(1): 11, 12; 2(3): 20, 21, 27, 28; 4(4): v, 1–12; 5(3): 35
- minority protection ... 4(4): 1–12
- regulation of ... 4(4): 1–12
- Secondary Tax on Companies (STC) (now replaced by dividends tax) ... 1(1): 9; 1(2): 23, 31; 1(4): 6; 2(1): 7; 2(2): 2; 3(3): 23; 5(3): vi, 21, 22–23
- Securities Services Act 36 of 2004 ... 4(2): 15
- Securities transfer tax, intra-group transfers, exemption under s 45 Income Tax Act ... 9(4): 1–6
- Securities Transfer Tax Act 25 of 2007 ... 9(4): 2
- s 8(1): exempt transactions ... 9(4): 2
- Security by interest-bearing debt instruments ... 4(3): 2–3
- Self-assessment taxes ... 5(3): 2
- Set-off ... 9(2): 14
- Share
- adequate consideration ... 1(2): 23, 24, 30–31; 3(3): 22, 23; 5(3): 23
- buy-backs ... 1(1): v; 1(2): 23–24, 31–32; 2(1): 1–15; 9(2): 9; 9(4): 8–11
- misnomer ... 9(4): 10–11
- Share: buy-backs (*cont*)
- personal rights ... 9(4): 8–9
- vs redemption ... 9(4): 7–12
- distinction ... 9(4): 11–12
- shares held *qua* shareholder ... 9(4): 10
- certificates ... 1(2): 5–6
- defined ... 9(1): 11–14
- elements of ... 9(1): 12
- part of, sale of ... 9(1): 12
- of pre-existing company ... 1(2): 5
- preference *see* Preference shares
- redemption, vs buy-backs ... 9(4): 7
- repurchase *see* Share: buy-backs
- Shareholder loans (interest-free or low-interest loans) ... 5(3): vi, 21–30
- dividends-tax implications ... 5(3): vi
- treated as dividend *in specie* ... 5(3): vi
- Shareholders, classification of rights ... 1(2): 29–30
- 'Short sales' ... 1(1): 1
- Simulated transactions principle ... 4(1): 16, 19, 20, 21, 22, 23, 24, 25; 5(4): 3, 17, 23
- test for ... 4(1): 22, 25
- Six-year anti-avoidance rule *see* anti-avoidance rules; two-year anti-avoidance rule ... 2(1): 18–20
- Skills-development levies ... 5(3): 1, 7, 19
- Small Business Tax Amnesty ... 1(4): 27
- Source and the remote worker ... 13(1): 1–6
- South African National Energy Development Institute (SANEDI) ... 6(2): 4–6
- South African Reserve Bank (SARB) ... 1(3): 27; 1(4): 28
- South African Revenue Service *see* SARS
- South African Revenue Service Act 34 of 1997 ... 10(1): 3
- s 2 ... 10(1): 2
- SST *see* Securities transfer tax
- Statutory interpretation ... 13(4): 15–27
- Subject to tax ... 6(1): 17–18
- Substance over form: *X (Pty) Ltd v CSARS* ... 8(4): 16
- Suspension of payment ... 5(2): 27–35
- amount of tax involved ... 5(2): 29–30
- compliance history of taxpayer ... 5(2): 29
- dissipation of assets, risk of ... 5(2): 30–31

Suspension of payment (*cont*)

- failure to furnish information ... 5(2): 33–35
- fraud involved in dispute ... 5(2): 33
- irreparable financial hardship for taxpayer ... 5(2): 32–33
- liquidation proceedings ... 5(2): 33
- provision of adequate security ... 5(2): 31–32
- relevant legislation ... 5(2): 28–35
- rules for ... 5(2): 27–35
- sequestration proceedings ... 5(2): 33

T

Tax

- see also* (among others) income tax, Income Tax Act 58 of 1962, PAYE, self-assessment taxes, Tax Administration Act 28 of 2011, UIF, Value-Added Tax Act 89 of 1991, VAT
- definition ... 6(1): 17

Tax administration

- moral ... 14(3): 23–29
- problem ... 14(3): 25–27
- SARS Commissioner, process for appointing ... 14(3): 27–29

Tax Administration Act 28 of 2011

- (TAA) ... 3(3): v–vi, 1–13; 3(4): v; 4(1): 26; 4(2): v, 1–11; 4(3): v, 9–23; 4(4): v, 23–32; 5(2): vi, 27–35; 5(3): 2, 8, 11; 10(1): 3, 5–7
- 164(1) ... 10(1): 3–4
- 172(1) ... 10(1): 3
- administrative non-compliance penalties ... 4(3): 10–16
- Chapter 9 — dispute resolution ... 9(2): 20–22
- Chapter 9 — period for lodging appeal ... 9(1): 16
- Chapter 16 — understatement penalty ... 7(3): 1–28
- contents of the ... 3(3): 5–13
- corporate tax administrators ... 4(2): v, 1–11; 4(3): v, 9–23; 4(4): 23–32
- fixed-amount penalty ... 4(3): 21
- gross negligence ... 4(3): 11–14
- impact of the structure and contents ... 3(3): 5–13
- information-gathering by SARS under ... 7(1): 1–12; 7(2): 6–16
- cases decided under repealed s 79 of Income Tax Act ... 7(2): 10–11

Tax Administration Act 28 of 2011

(TAA): information-gathering by SARS under (*cont*)

- document retention, taxpayer's obligations ... 7(2): 12
- field audits outside SA ... 7(2): 16
- interviews by SARS
 - former employees and directors ... 7(2): 13–14
 - persons outside SA ... 7(2): 16
 - representation at ... 7(2): 14–15
 - status of records ... 7(2): 14
 - taxpayer's rights and obligations ... 7(2): 12–13
- legislative background ... 7(1): 7–11
- Memorandum on the Objects of the Tax Administration Bill, 2011* ... 7(1): 7–11
- OECD Model Tax Convention ... 7(1): 11–12
- offshore companies, information held by ... 7(2): 15
- powers of SARS ... 7(1): 2–7
 - chapter 5 of the TAA ... 7(1): 3–6
- prescribed years of assessment ... 7(2): 7–9
 - revisiting ... 7(2): 9–10
- intentional tax evasion ... 4(3): 21–23
- legislative purpose of the ... 3(3): 3–5
- no reasonable grounds for tax position ... 4(3): 20–21
- procedures for imposing penalties ... 4(3): 15–16
- reasonable care not taken ... 4(3): 20
- records ... 4(2): 6–7
- registration particulars ... 4(2): 2–3
- relevant material ... 7(1): 6–7
 - definition (s 1 of the TAA) ... 7(1): 6
- remittance remedies ... 4(3): 17–18
- reportable arrangements ... 4(2): 8–11
- reportable arrangements (ss 3437) ... 13(1): 27–34
- representative taxpayer, ss 153–154 ... 8(3): 32
- request for remittance of penalty ... 4(3): 16–17
- returns ... 4(2): 3–4
- s 7 ... 10(1): 5
- s 33(1) ... 10(1): 5
- ss 34–39 ... 13(1): 27–34
- s 40 ... 7(2): 7
- s 42A

- Tax Administration Act 28 of 2011 (TAA): s 42A (*cont*)
 extent of ambit ... 12(1): 19–20
 legal privilege under ... 12(1): 13–24
 basic principles of statutory interpretation ... 12(1): 16
 legal process prescribed by s 42A ... 12(1): 17–19
 material over which taxpayers may claim legal professional privilege ... 12(1): 20–23
 s 44(1) ... 10(1): 5
 s 45(2) ... 10(1): 6
 ss 46–48 ... 7(2): 7
 s 61(5) ... 10(1): 6
 s 61(8) ... 10(1): 6
 s 62(2) ... 10(1): 6
 s 63(4) ... 10(1): 6
 s 69(1) ... 10(1): 7
 s 99(1)(a) ... 7(2): 7
 s 99(1)(a) ... 7(2): 7–9
 s 99(2)(a)–(d) ... 7(2): 7
 s 100(1) ... 7(2): 8, 8–9
 s 107(2) — period for lodging appeal ... 9(1): 17
 SARS Legislative Overview of the TAA ... 3(3): 1
 SARS Short Guide to the TAA ... 3(3): 1, 5, 6; 4(2): 4, 5, 7, 9; 4(3): 9–11, 12, 15, 16, 20; 5(2): 30
 statement re: accounts ... 4(2): 4–6
 structure of the ... 3(3): 5–13
 Tax Ombud ... 3(3): 5, 6
 third party returns ... 4(2): 7–8
 understatement penalty ... 4(3): 18–23; 4(4): 23–32
 Tax administration by SARS
 democratic principles underpinning ... 10(4): 1–16
 national taxes ... 10(4): 3–6
 rule of law ... 10(4): 6–16
 legality ... 10(4): 13–16
 vagueness in tax legislation ... 10(4): 10–13
 value conscious ... 10(1): 1–10
 Tax amendments 2016, application ... 7(4): 25–32
 Tax avoidance ... 5(4): v, 1–24
see also doctrine of substance over form
 alleged bias ... 5(4): 13–17
 Tax avoidance (*cont*)
 anti-avoidance provisions in ITA ... 5(4): 1, 3
 improvements scheme ... 5(4): 3–6
 premium scheme (also known as Ladysmith scheme) ... 5(4): 6–13
 simulated transactions ... 5(4): 17–19
 Tax consequences for creditor ... 1(1): 1, 2, 8–13
 Tax Court
 administrative review in ... 9(2): 19–29
 jurisprudence ... 9(2): 23–27
 Tax debts, rank in business rescue ... 11(4): 16–22
 income tax liability arises on assessment only ... 11(4): 19–20
 judgments ... 11(4): 17–19
 PAYE liability triggered by payment of remuneration ... 11(4): 20
 VAT liability triggered by supply ... 11(4): 20
 Tax dispute resolution, procedural uncertainty ... 16(4): 10–15
 Tax due diligence *see* Due diligence
 Tax evasion ... 3(3): 4, 11, 12; 4(1): v, 20, 23, 25, 222; 4(3): 11
 intentional ... 4(3): 21–23; 4(4): 32
 Tax exemptions in debt-waiver rules ... 5(4): 55–63
 donations exemption ... 5(4): 55–61
 group-of-companies exemption ... 5(4): 55–57
 liquidation/deregistration exemption ... 5(4): 61–62
 Tax implications (business rescue) ... 5(3): 1–20
 Tax implications (CGT) ... 2(4): 11–16
 Tax implications (debt discharge/reduction) ... 1(1): 1
 Tax implications (deferred delivery share incentive schemes) ... 4(1): 23
 Tax implications (disposal of assets) ... 2(1): 16; 2(3): 15, 16
 Tax implications (dividends tax) ... 3(3): 22
 Tax implications (improvements on land) ... 2(1): 23
 Tax implications (issuing shares in exchange for negotiable instrument) ... 3(3): v, vi–vii

- Tax implications (reduction/cancellation of loan debt – mining companies) ... 5(1): vi–vii
- Tax implications (share incentive trust scheme) ... 2(4): 1, 2, 3
- Tax implications (unincorporated joint venture agreement) ... 4(1): 19–20
- Tax incentives ... 5(2): 1–7
 description of ... 5(2): 2
 eligible employers ... 5(2): 2–3
 hiring young and less experienced people ... 5(2): 1–7
 wage-regulating measure ... 5(2): 3–4
- Tax legislation ... 1(1): v, 1; 1(3): 2; 4(2): v, 23; 4(3): v; 4(4): 16; 5(1): 18
 administering ... 3(3): v
 compliance with ... 1(4): 32
 dividend tax ... 3(4): 9
 domestic test for residence ... 1(3): 2
 exemptions on dividends ... 3(1): 1–2
 fringe benefits (Seventh Schedule) ... 2(2): 15
 mining industry ... 3(1): vi
 retrospective ... 5(1): vi, 19
- Tax liability ... 5(3): 1–2
- Tax Ombud ... 3(3): 5, 6
- Tax relief, within group ... 2(1): 16–22
- Tax residence
 companies in UK and SA ... 1(3): vi, 1–13
- DTA test ... 13(2): 12–19
 assets and wealth ... 13(2): 15–16
 family ... 13(2): 13–14
 Health service providers, Trading stock ... 13(2): 17
 hobbies ... 13(2): 16
 homes ... 13(2): 15
 political, philanthropic, cultural, business involvement ... 13(2): 16
 significant events and friendships ... 13(2): 16
 time spent ... 13(2): 15
 work ... 13(2): 14–15
- mobile South Africans ... 13(2): 9–17
- ordinarily resident ... 13(2): 9–11
- physical presence test ... 13(2): 11–12
- statutory ... 13(2): 9
- Tax return, belated submission ... 5(3): 1
- Tax returns ... 5(3): 1
 belated submission of ... 5(3): 1
- Tax treaties, OECD Commentaries in interpretation of ... 8(2): 5–28
- Tax treatment under ITA ... 1(1): 1
- Taxable income, meaning of ... 8(4): 9–10
- Taxation, transforming society through ... 14(3): 23–25
- Taxation Law Amendment Act 15 of 2016
 retrospective operation ... 8(1): 21–30
 s 15(2), interpretation of ... 8(1): 26–28
- Taxation Laws Amendment Act 7 of 2010 ... 1(4): v, 1, 2, 9, 13, 14, 15
 amendment of s 31 of ITA ... 1(4): 1–16
- Taxation Laws Amendment Act 22 of 2012 ... 4(2): 15; 4(3): 1, 24, 25; 5(1): 10
 Explanatory Memorandum ... 4(2): 13
- Taxation Laws Amendment Act 24 of 2011 ... 3(1): v, 1, 2; 3(3): 15; 4(3): 1; 4(4): 32
- Taxation Laws Amendment Act 31 of 2013 ... 5(1): 6, 10; 5(2): 16
- Taxation Laws Second Amendment Act 8 of 2010 ... 1(4): vi, 27–34
- Taxation of financial instruments from 2014 ... 4(2): 12–19
- Taxation of hedge funds ... 4(4): 13–22
- Taxation of insolvent estates ... 3(2): 4
- Taxpayer TAT *see Commissioner for the South African Revenue Service v Taxpayer TAT* (unreported, IT 46233 dated 14 October 2025)
- Temporary Employer/Employee Relief Scheme (TERS) ... 11(2): 4–6
see also Covid-19 tax relief
- Termination of personal rights, CGT disposal? *see* Capital gains tax (CGT): termination of personal rights, CGT disposal?
- TERS *see* Temporary Employer/Employee Relief Scheme (TERS)
- Thin-capitalisation practices ... 1(4): 1–16
- Thin-capitalisation rules (new) ... 1(4): 11–12
- Third-party backed shares (TPBS) (ITA s 8EA) ... 3(1): 1, 3–5; 4(3): v, 1, 6
 definition of ... 3(1): 4
 enforcement rights ... 3(1): 4–5
 exemption criteria ... 3(1): 5
 obligations ... 3(1): 4–5

- Third-party backed shares (TPBS) (ITA s 8EA) (*cont*)
 tax consequences ... 3(1): 3–4
- Time-of-disposal rules ... 1(1): 28; 5(2): v
- Time-of-supply rules ... 1(1): 21, 22
- Tokens, stamps and vouchers
 VAT and the issue and redemption of ... 13(1): 16–26
 analysis ... 13(1): 20–21
Mobile Telephone Networks (Pty) Limited v CSARS Gauteng High Court, Case No 79960/2019 ... 13(1): 17–26
 time of supply ... 13(1): 22–26
- TPBS *see* third-party backed shares (TPBS)
- Trade, meaning ... 13(3): 9–10
- Trading stock ... 1(1): 26–27; 1(3): 14, 16, 17, 18; 1(4): 19, 21; 2(1): 7, 17; 2(2): 21; 2(3): 12; 3(1): 7; 5(1): 22, 27; 5(2): 12; 5(3): 33, 34, 35; 5(4): 54
- Transactional net-margin method (transfer pricing) ... 2(3): 4
- Transfer pricing ... 1(4): 1–16
Chevron Australia Holdings (Pty) Ltd v the Commission of Taxation ... 8(3): 26–30
 comparable uncontrolled-price method (CUP) ... 2(3): 4
 cost-plus method ... 2(3): 4
 exemption of financial assistance by HQ company to foreign subsidiary ... 1(4): 13–14
Explanatory Memorandum (to the Taxation Laws Amendment Act 7 of 2010 (SARS)) ... 1(4): v, 1, 3, 6, 7, 8, 11, 13, 14
 international context ... 2(3): 3–9
 methods ... 2(3): 4
OECD Guidelines ... 2(3): 3–5
OECD Model Tax Convention ... 1(4): 7, 8, 10–11; 2(3): 3
 Practice Notes ... 1(4): 3–4
 profit-split method ... 2(3): 4, 5
 regimen ... 1(4): 12; 2(3): v, 1–2, 1–10
 resale-price method ... 2(3): 4
 rules ... 1(4): 4–6, 8–9
 rules (new) ... 1(4): 8–9
- Secondary Tax on Companies (STC) (now replaced by dividends tax)
- Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (*cont*)
istrations see OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations and OECD Guidelines (above)
- Travel allowance deduction and the electric vehicle
 actual-cost method applied to electric vehicles ... 17(2): 40–41
 statutory text ... 17(2): 40
 substantiating electricity ... 17(2): 40–41
 value cap on wear-and-tear and finance charges ... 17(2): 41
- deemed-cost method applied to electric vehicles ... 17(2): 41–42
 fixed-cost component ... 17(2): 42
 flat-rate option ... 17(2): 42
 fuel-cost component ... 17(2): 41–42
 maintenance-cost component ... 17(2): 42
- legislative framework ... 17(2): 39–40
 policy framework ... 17(2): 43–44
 reform, recommendations for ... 17(2): 43–44
 s 8(1)(b) drafting gap ... 17(2): 38–44
 SARS interpretive position ... 17(2): 42–43
- Treasury shares ... 1(2): 5–6
- True intention ... 4(1): 18–19
- Trust Property Control Act 57 of 1988 ... 4(1): 26
 s 11A ... 15(3): 1–8
- Trustees ... 2(2): 14, 15; 2(4): 3, 4, 8, 9, 14, 15, 17; 3(1): 16, 17; 3(2): 1, 3, 4, 5, 6, 9, 12; 4(1): v, 26–29; 4(4): 22
see also trusts
- common-law duties of ... 4(1): 27–28
 distribution by ... 2(4): 4; 3(2): 5
 duties and obligations of ... 4(1): v, 27–29
 effect of distribution of assets/shares ... 2(4): 14–15
 fiduciary capacity ... 3(1): 16; 3(3): vii, 30
 independent ... 4(1): 29
 of insolvent estate ... 3(2): 1, 3, 4, 5, 12
 remuneration ... 3(2): 8

Trustees (*cont*)

- representative taxpayer (of insolvent estate) ... 3(2): 4
- statutory duties of ... 4(1): 28

Trusts ... 7(4): 26–27

- see also* off-shore trusts; trustees
 - beneficial ownership disclosure ... 15(3): 1– disclosure
 - bewind ... 9(1): 10–11
 - inter vivos* ... 4(1): 26–29
 - legislation ... 4(1): 26
 - loans to ... 7(4): 26–27
 - non-resident beneficiaries of a local trust ... 9(4): 24–25
 - requirements for valid trust ... 4(1): 27
 - resident beneficiaries of a foreign trust ... 9(4): 25–27
 - statutory intervention in flow of benefits to beneficiaries ... 9(4): 21–24
 - application of ... 9(4): 27
 - taxation of
 - conduit-pipe principle ... 9(4): 20–30
 - explained ... 9(4): 21
- Two-year anti-avoidance rule ... 2(1): 21–22
- see also* anti-avoidance rules

U

- UK capital gains tax ... 1(3): 11
- UK Income and Corporation Taxes Act ... 2(3): 7
- UK–SA double taxation agreements ... 1(3): vi, 1
- UN Model Tax Convention* ... 1(4): 7, 8, 10–11; 2(3): 3
- Understatement penalty ... 7(3): 1–4; 15(1): 9–19
- basic rules ... 7(3): 2–3
- bona fide* inadvertent error ... 15(1): 12–16
- burden of proof ... 15(1): 16–19
- determining amount ... 15(1): 11
- imposition of ... 15(1): 10–11
- legal opinion, reliance on to reduce penalties ... 15(1): 20–27
- analysis ... 15(1): 25–27

CSARS v Coronation Investment Management SA (Pty) Ltd Understatement penalty: legal opinion, reliance on to reduce penalties (*cont*)

- (1269/2021) [2023] ZASCA 10 (7 February 2023) ... 15(1): 21–22
- Implications of SCA finding in ... 15(1): 23–25
- CSARS v The Thistle Trust* (516/2021) [2022] ZASCA 153 (7 November 2022) ... 15(1): 21
- remission, objection and appeal ... 15(1): 11–12
- SARS errors ... 7(3): 3–4
- Unrealised foreign exchange gains and losses
 - deferral rules ... 16(1): 7–13
 - exchange difference
 - defined (s 24I) ... 16(1): 9
 - generic tax consequences ... 16(1): 9
 - when dealt with between related parties ... 16(1): 9–13
 - exchange item, defined (s 24I) ... 16(1): 8
- Unrestricted equity instruments ... 2(2): 13; 2(4): 6
- US double taxation agreement *see* double taxation agreement - SA-US

V

- Value-Added Tax Act 89 of 1991, sale of business ... 16(2): 4–18
- Value-Added Tax Act 89 of 1991 (VAT Act) ... 1(1): 1, 11, 14; 1(2): 13–22; 1(4): 18, 23; 2(1): 30; 2(2): 19; 2(3): v, 21; 3(2): 16; 3(3): 1, 3; 3(4): 16; 4(3): 9, 14; 4(4): 25, 27, 32; 5(1): v, 10; 5(2): 14; 5(3): v, 2, 9
- applicability of provisions ... 1(1): 1
- ‘connected person’ – definition ... 1(1): 14
- consequences ... 2(1): 30
- discharge of debt ... 1(1): 1
- Electronic Services Regulations (GN R221 of 28 June 2014) ... 5(2): 23–26
- enterprise, definition ... 6(3): 2
- export of goods ... 1(2): 13–22
- liability of creditor ... 1(1): 1
- person, meaning of ... 8(4): 3–7
- reduction of debt ... 1(1): 1
- s 8(25) ... 11(2): 19–31

Value-Added Tax Act 89 of 1991 (VAT Act): s 8(25) (*cont*)

2009 amendments ... 11(2): 23–25

2019 amendments ... 11(2): 25–26

application when corporate rule not adopted for income tax and CGT purposes ... 11(2): 30–31

s 11(1)(e), sale of business zero rated ... 11(1): 18–35

s 16

payment of tax if output tax exceeds input tax ... 12(1): 5; 12(2): 5

refund due if input tax exceeds output tax ... 12(1): 5; 12(2): 5

s 16(3)(c)

contract of insurance ... 15(2): 9–14
taxable supply ... 15(2): 7–9

s 22(3)

deemed output VAT in business rescue ... 11(4): 21–22
12 months, expiry of ... 11(4): 21
penalties and interest ... 11(4): 21–22

s 50, branches of foreign companies, possible application to ... 12(3): 28–29

waiver of debt ... 1(1): 1–13; 5(1): 27

Value-added tax (VAT) ... 1(1): 1, 21–22;
1(2): 13; 1(4): 18, 23–26; 2(1): 30–33;
2(2): 28–30; 2(3): 20, 22; 4(3): 9, 14, 17; 4(4): 25, 27; 5(1): 7, 8; 5(2): 14, 21, 27; 5(3): v; 11(2): 26–30; 13(2): 18–28;
15(2): 5–6; 15(3): 25–28*see also* mergers and acquisitions (M&A)IN 71: *Interpretation Note – Value-Added Tax: Supplies Made for No Consideration* (iro leasehold improvements) ... 5(4): 30, 31, 38

application to debt forgiveness ... 1(1): 11–13

apportionment ... 17(2): 25–37

Binding General Ruling 16 ... 16(2): 16–24

binding effect of ... 16(2): 17–18

conduit principle ... 16(2): 19–23

distribution from trusts ... 16(2): 18–24

turnover-based method ... 16(2): 18

dividends ... 17(2): 31–33

Value-added tax (VAT): apportionment (*cont*)

formula ... 17(2): 28–29

interest ... 17(2): 29–31

profit share from joint venture or partnership v distributions from a trust ... 17(2): 33–37

supply of capital assets ... 17(2): 31

*Commissioner for the South African**Revenue Service v Capitec Bank Limited* (94/2021) [2022] ZASCA 97 (21 June 2022) ... 13(2): 24–28

corporate transactions ... 11(1): 18–35; 11(2): 19–31

disposal of a going concern ... 11(1): 22–23

disposal of assets necessary for carrying on the enterprise ... 11(1): 26–35

disposal of enterprise or part thereof as a going concern ... 11(1): 22

disposal of goods and services held or utilised wholly for purpose of making non-taxable supplies ... 11(1): 20–21

disposal of goods and services not held or utilised wholly for purpose of making non-taxable supplies ... 11(1): 21–22

disposal of part of enterprise ... 11(1): 23–24

erroneously zero-rated transactions ... 11(1): 28

going-concern requirement, transactions under ss 44 and 47 of ITA ... 11(2): 26–30

income-earning at date of transfer ... 11(1): 24–26

sale of business ... 11(1): 19–26

sale or issue of shares ... 11(1): 28–35

defining the vendor's 'enterprise,' Tax Court case IT S76795, parallels with Woolworths ... 16(3): 7–8

directors' fees ... 6(3): 10–11

distinction from income tax ... 16(3): 8

Draft IN: Draft Interpretation Note – Value-Added Tax: Leasehold Improvements ... 5(4): v, 25, 26, 27, 28, 29, 36, 37, 47, 49

Value-added tax (VAT) (*cont*)

- employee ... 6(3): 5–6
- export of goods ... 1(2): 13–22
- foreign branches and *see* Foreign branches and VAT
- foreign companies, branches of ... 12(3): 16–30
 - the law ... 12(3): 19–20
 - Wenco International Mining Systems and another v CSARS* [2021] ZAPPHC 70 ... 12(3): 16–30
 - analysis ... 12(3): 23–29
 - grounds for registration as a vendor ... 12(3): 20
 - grounds for review ... 12(3): 18–19
 - judgment ... 12(3): 20–22
 - SARS's argument ... 12(3): 20
- fringe benefits ... 6(3): 8–9
- implications ... 1(4): 23
- implications for foreign suppliers of electronics services ... 5(1): 7–14; 5(2): 15–26
- income tax, effect on ... 12(1): 4–5; 12(2): 4–5
- indemnity payment
 - contract of insurance
 - meaning ... 12(1): 8
 - under, not the same as indemnity/guarantee under contractual relationship ... 12(1): 6–12
 - meaning ... 12(1): 8
 - supply of 'services contemplated by (the) contract (of insurance)' must be a taxable supply ... 12(1): 11–12
- indemnity payments: *Capitec Bank Limited v Commissioner for the South African Revenue Service* [2024] ZACC 1 ... 15(2): 1–14; 15(3): 23–30
 - apportionment ... 15(3): 28–29
 - capitalisation of receipts ... 15(3): 29–30
 - Constitutional Court ... 15(2): 6–7
 - contract of insurance ... 15(2): 9–14
 - provision of loan cover for no consideration — taxable supply? ... 15(3): 25–28
 - Supreme Court of Appeal ... 15(2): 6
 - Tax Court ... 15(2): 5–6
 - taxable supply ... 15(2): 7–9
- independent contractor ... 6(3): 6–7

Value-added tax (VAT) (*cont*)

- input and output taxes ... 12(1): 1–7; 12(2): 1–7
- input tax deductibility for holding and PE companies subsequent to the decision in *Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025) *see* also *Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025) ... 16(3): 10–11, 11 *see also* *Commissioner, South African Revenue Service v De Beers Consolidated Mines Ltd* 2012 (5) SA 344 (SCA)
- active investment holding company ... 16(3): 9
- 'active investment holding company' as a VAT enterprise ... 16(3): 5
- apportionment methodologies ... 16(3): 14
- characterising the PE holding company, the critical dichotomy ... 16(3): 10–11
- De Beers* risk (the passive investor) ... 16(3): 10–11
- defining the vendor's 'enterprise' ... 16(3): 9
- 'enterprise,' a restrictive view ... 16(3): 3
- evidentiary requirements, proving 'active' status ... 16(3): 13–14
- evolution of principle, a holistic approach ... 16(3): 4–5
- factual distinctions, capital raising for expansion vs responding to a takeover ... 16(3): 4
- 'factual matrix and disputed expenditure ... 16(3): 2
- 'imported services ... 16(3): 3–4
- imported services ... 16(3): 12
- input VAT on key PE transaction costs ... 16(3): 12
- management service agreements ... 16(3): 13–14
- nexus between an expense and the enterprise, 'direct and immediate' vs 'functional' ... 16(3): 9

Value-added tax (VAT): input tax deductibility for holding and PE companies subsequent to the decision in *Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025) *see also* *Commissioner for South African Revenue Service v Woolworths Holdings Limited* (863/2023) [2025] ZASCA 99 (4 July 2025) (*cont*)

- passive holding company ... 16(3): 9
- 'similar' does not mean 'identical' ... 16(3): 7
- structuring for VAT efficiency ... 16(3): 11
- 'sufficiently close link' test ... 16(3): 2–3
- synthesis of principles from De Beers to Woolworths ... 16(3): 8
- Tax Court case IT S76795 ... 16(3): 6–8
 - comparative analysis ... 16(3): 6–7
 - overview ... 16(3): 7
 - tax opinions ... 16(3): 14
- labour broker ... 6(3): 7–8
- leasehold improvements, VAT implications ... 2(1): 23–33; 5(4): v, 25–51
- liability of creditor to account for ... 1(1): 1
- M&A activity ... 2(3): 20–31; 3(2): 14–20
- non-executive directors' fees ... 6(4): 1–5; 8(1): 1–12
- partnership ... 8(4): 1–7
- personal service provider ... 6(3): 7–8
- perspective ... 2(1): 24; 3(4): 17
- provisions ... 1(1): 14
- purpose(s) ... 3(2): 15; 5(2): 15
- recoupment under s 8(4)(a) of ITA ... 12(1): 6–7; 12(2): 6–7
- remuneration *see* Remuneration ... 6(3): 1–11
- Rennies Travel (Pty) Ltd v CSARS* [2022] ZASCA 83 ... 13(2): 20–24
- s 10(18), token, voucher or stamp ... 13(1): 18
- s 10(19), token, voucher or stamp ... 13(1): 18
- system ... 5(1): 8
- time-of-supply rules ... 1(1): 21, 22

Value-added tax (VAT) (*cont*)

- treatment ... 1(4): 18; 2(2): 20
- value-of-supply rules ... 1(1): 21, 22
- VAT taxes defined ... 12(1): 1–4; 12(2): 1–4
- Value-of-supply rules ... 1(1): 21, 22
- VAT *see* Value-added tax (VAT)
- VATCOM Report ... 7(3): 9
- Venture capital
 - defined and distinguished from private equity ... 8(1): 14–15
 - incentive to invest ... 8(1): 13–20
 - qualifying requirements and associated tax consequences ... 8(1): 15–20
 - 36-month deferral period ... 8(1): 19
 - acquisition by way of share subscription ... 8(1): 16
 - Commissioner's right to withdraw approval ... 8(1): 19
 - expenditure incurred as deduction from income ... 8(1): 15–16
 - limitation of deduction ... 8(1): 18
- venture capital company (VCC) ... 8(1): 16–20
- venture capital share (VCS) ... 8(1): 16–20
- Vienna Convention on the Law of Treaties
 - adoption of ... 8(2): 8–12
 - articles 31 and 32 ... 8(2): 5–40
 - legal status in South Africa ... 8(2): 12–15
 - overview ... 8(2): 11–12
- Voluntary disclosure programmes (VDPs) ... 1(4): vi, 27–34
 - agreement ... 1(4): 31
 - application for relief ... 1(4): 29
 - benefits of ... 1(4): 30–31
 - default ... 1(4): 29
 - other jurisdictions ... 1(4): 31–32
 - overview of ... 1(4): 28–31
 - purpose of ... 1(4): 28
 - qualification requirements ... 1(4): 29–30
 - relief ... 1(4): 30
 - success of amnesties and VDPs ... 1(4): 32–33
 - taxation ... 1(4): vi, 27–34
 - withdrawal ... 1(4): 29–30

Voting rights ... 1(2): 24–28; 2(4): 3
capital-gains tax ... 1(2): 23, 25, 28
change to/amendment of ... 1(2):
25–28
Companies Act ... 1(1): 15, 16, 25, 26;
2(3): 31; 2(4): 3, 27; 3(3): 24; 4(4): 7,
8, 10; 5(3): 24
change to/amendment of ... 1(2):
25–28
disposal ... 1(1): 26
extinction of ... 1(1): 26
majority ... 1(1): 15, 18
of shareholders ... 1(1): 16, 25
special resolution ... 1(1): 26
variation of ... 1(2): 28
Income Tax Act and VAT Act ... 1(1):
16, 24; 1(4): 4, 11, 12–16
conversion ... 1(1): 26
majority ... 1(4): 9

Voting rights (*cont*)
weighted, for directors in private
company ... 14(2): 8–12
case law ... 14(2): 10–12
decision-making organs of a
company and voting rights ...
14(2): 9–10

W

Waiver of debt *see* Debt, waiver of
Waiver of right, effect of ... 1(1): 2
Withdrawal of interest exemption for
non-residents ... 1(2): v
Withholding tax ... 1(2): v; 1(3): v; 3(1):
vi, 1, 8, 10; 3(2): v, 21, 22, 25; 3(4): 5;
4(3): 3, 30; 5(3): 35
rate ... 3(1): vi

X

X (Pty) Ltd v CSARS, substance over form
... 8(4): 16–26