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Tax Articles

Navigating The Complex Landscape of Mineral Royalty Taxation: What Mining Companies Need to Know

Background: Structure of Mineral Royalty Tax Regime.

As is the case for many African nations, South Africa's economic growth is largely driven by industries such as mining, making it imperative for the government to foster the development of this essential sector. Mining plays a crucial role in stimulating economic expansion and serves as a fundamental pillar of a thriving society, particularly in developing countries.

However, the sector faces numerous challenges, one of which is the intricate nature of tax administration, characterized by complex tax regulations. To this end, compliance with royalty tax obligation continues to become a crucial component the tax risk management strategy for mining businesses, and a top priority for every stakeholder.

Generally, **a company operating in South Africa is subject to a corporate income tax rate of 27% on its taxable income.** However, companies involved in the mining sector are exposed to additional tax obligations beyond the ordinary corporate taxation. One of the most significant of these is the royalty tax, which is imposed under the Mineral and Petroleum Resources Royalty Act, 2008 (MPRRA).

This tax is levied on the extraction and transfer of mineral resources within South Africa and is payable to the state for the benefit of the National Revenue Fund. Unlike the normal flat rate of taxation, the royalty tax is calculated using a sliding-scale formula, which varies depending on whether the mineral resource is refined or unrefined, ensuring that the state receives a fair share of the value derived from the depletion of its non-renewable natural resources.

The Royalty Calculation and its complexity.

The calculation of the royalty tax under the MPRRA is based on a formula that takes into account both gross sales and earnings before interest and taxes (EBIT). The royalty payable is determined using a sliding-scale system, which adjusts the rate based on the profitability and value-added status of the mineral resource.

The current regime requires adjustment of the number of input factors in a complex formula which results in the rate fluctuating between the minimum of 0.5% to 7%. For refined minerals, the royalty rate ranges from a minimum of 0.5% to a maximum of 5% of gross sales. In contrast, for unrefined minerals, the maximum royalty rate can reach up to 7%.

The formular to determine the percentage or rate is as follows:

- **For Refined mineral resources:**
  0.5 + [**EBIT** / (gross sales in respect of refined mineral resources x **12.5**)] **x 100.**

- **For Unrefined mineral resources:**
  0.5 + [**EBIT** / (gross sales in respect of unrefined mineral resources x 9)] **x 100.**

EBIT serves as a key indicator of an extractor's mining operational profitability linked to the mineral resources extracted and transferred.

EBIT comprises three key components being:
(a) gross sales for all transferred mineral resources,
(b) recoupments on assets used in mining activities; &
(c) deductions (expenses).
Where EBIT is negative, it is deemed to be nil.

The royalty taxes have transformed into today's challenge for many mining businesses. From the above, it is clear that the calculation of the royalty tax under the MPRRA present another level tax complexity in the mining sector.

The fluctuating rates and the necessity for continuous formula adjustments create tax compliance and administration challenges especially if not managed properly and may result in unintended tax consequences.

Are you performing Linear adjustments of gross sales.

As if the complex royalty tax formula itself is not enough, it is the requirement of the current legislation that where mineral resources are transferred at the conditions below or beyond the specified conditions in Schedule 1 or 2 of mineral resources act, a linear adjustments is required to the royalty tax calculation (i.e. deeming upwards or deeming downwards adjustments), in particular section 6A(1A) of the MPRRA.

Thus, the law requires that an adjustment of gross sales must be made when mineral resources are transferred as a result of a transaction that was not concluded at arm's length. In its current form, the MPRRA is not explicit in the manner in which the adjustments should be made, except that the adjusted Gross Sales amount should represent an arm's length price.

Although the South African Revenue Services (SARS) has not comprehensively issued an in-depth guidance as far as the methodology to determine the adjusted gross sales is concerned, the industry developed a practice to determine the adjusted Gross Sale. Thus, any form or model that approximate an arm's length price should be acceptable to SARS.

Accordingly, mining companies are therefore required to perform linear calculations for minerals transferred at the conditions other than specified in the MPRRA and subsequently provide the detailed calculations to SARS demonstrating how the linear adjustments were determined.

Since its promulgation in 2010, SARS has not adequately streamlined the Mineral Royalty tax regime to promote greater efficiency and a more uniform across taxpayers within the mining industry. Given this, the royalty tax legislation proves to remain more complex for many.

What is the impact of the Royalty tax on Taxable Income Calculation.

The royalty tax is treated as an operating expense for income tax purposes. As such, it is deductible when calculating a mining company's taxable income under the Income Tax Act, 1962. This implies that the royalty paid to the state can be subtracted from gross income as an operating business expense, thereby reducing the overall corporate income tax liability of the mining company.

This treatment reflects the recognition that royalty payments are a necessary cost of doing business in the resource extraction sector and helps to ensure that companies are not taxed on amounts that are already being transferred to the state in the form of royalties.

Who should register for MPRR.

Any person/entity that holds a prospecting right, retention permit, exploration right, mining right, mining permit or production right or a lease or sublease in respect of such a right; or any person/entity who wins or recovers a mineral resource extracted from within the Republic.

Small Business Exemptions.

Subject to certain conditions, an extractor may be exempt from the payment of royalties under the MPRRA, in respect of a particular year of assessment, provided that all of the following three conditions are satisfied:

1. **The gross sales of the extractor, in respect of all mineral resources transferred during that year, do not exceed R10 million;**
2. **The royalty amount that would otherwise be imposed on the extractor for that year does not exceed R100,000; and**
3. **The extractor is a resident, as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), throughout the entire year of assessment.**

This exemption is intended to reduce the administrative and financial burden on smaller-scale or low-volume extractors, thereby supporting the viability and growth of emerging businesses within the mining and petroleum sectors. It aligns with the broader objective of promoting inclusive economic participation, while ensuring that only economically significant operations are subject to the royalty regime.

Exemption for sampling.

An extractor may also be exempt under the MPRRA if the extractor extracts minerals for the purposes of testing, identification, analysis and sampling mentioned in section 20 of the MPRRA and the value of the gross sales do not exceed R100 000 during the year of assessment.

Transfer of Minerals between Extractors.

In certain instances, especially in the context of group of companies, mineral resources may be transferred or sold from one company to another, prior to the final sale to a customer. This situation may result in two separate transactions: one between the transferor (the extractor company) and the transferee (the receiving company), and another between the transferee and the end customer.

Under the MPRRA, the royalty tax falls to the person who transfers the mineral resources, defined as the extractor. Therefore, the transferor, being the original extractor, is generally liable for the royalty tax at the time the minerals are first transferred. Thus, the royalty tax is payable upon the extraction, and the MPRRA provides that it is the party extracting and transferring the resource who bears the obligation unless the is an agreement in place stating that the transferee will be liable for the Royalty tax.

This is done to prevent multiple royalty charges on the same minerals as they move through the value chain.

Increased Scrutiny by SARS.

In recent periods, the Revenue Authority ("SARS") has intensified its audits and investigations into mineral royalty taxes across the sector, an unprecedented level of scrutiny not observed in previous years. The increased audit investigations underscore the need for mining companies to proactively manage their tax obligations and maintain transparent reporting practice.

Conclusion

Compliance with royalty tax obligation continues to become a crucial component the tax risk management strategy for mining businesses, and a top priority for every stakeholder.

Navigating through the growing complexity in the mineral royalty tax laws and often uncertainty over certain transactions or arrangements which are susceptible to challenge by tax authority requires expert knowledge and may result in significant tax exposure if not managed properly.

An extractor may also be exempt under the MPRRA if the extractor extracts minerals for the purposes of testing, identification, analysis and sampling mentioned in section 20 of the MPRRA and the value of the gross sales do not exceed R100 000 during the year of assessment.

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Prescription, a defence against additional tax assessments (when can taxpayers rely on it to challenge additional assessments).

South African Revenue Service (SARS) is, in terms of section 92 of the Tax Administration Act (the TAA), empowered to raise additional assessments where it is, at any time, satisfied that an assessment does not reflect the correct application of a tax Act to the prejudice of SARS or the fiscus.

To protect the taxpayers' right to tax finality, SARS is prohibited from raising additional assessment more than three years after date of original assessment in case of assessment by SARS (i.e. income tax assessment) or five years after date of original assessment in case of self-assessment (i.e. VAT) (section 99(1). This prohibition is generally referred to as 'prescription' or statutory immunity. There are instances where SARS is entitled to lift the proverbial veil of prescription. The article discusses the requirements that must be met by SARS before raising additional assessments on tax period(s) that has prescribed. It is imperative that the taxpayers are aware of these requirements to equip themselves with the defence of prescription in the event that SARS raises additional assessment on a tax period that has prescribed.

In terms of section 99(2)(a), SARS is, in case of assessment by SARS, entitled raise additional assessment on prescribed assessment if full amount of tax chargeable was not assessed due to fraud, misrepresentation or non-disclosure of material facts. In case of self-assessment, the full amount was not assessed due to fraud, intentional or negligent misrepresentation (section 99(2)(b)).

For SARS to lawfully raise additional assessment on prescribed periods, it must present evidence to prove the following:

1. the existence of conduct by taxpayer that constitutes fraud, misrepresentation or non-disclosure of material facts; and
2. a causal connection between that conduct and the fact that the full amount of tax was not assessed.

Existence of fraud, misrepresentation or non-disclosure of material facts.

SARS has to prove the existence or presence of fraud, misrepresentation or non-disclosure of material facts. The words 'fraud', 'misrepresentation' or 'non-disclosure of material facts' are not defined in the TAA.

In common law, fraud is defined as the unlawful and intentional making of a misrepresentation that causes actual or potential prejudice to another. With regard to fraud requirement, SARS will be required to adduce evidence to substantiate that the taxpayer has unlawfully and intentionally made a misrepresentation (e.g. in the return) which caused actual or potential prejudice to SARS or the fiscus.

In its ordinary meaning, 'misrepresentation' is the act of giving false information about something or someone, often in order to get an advantage . The ordinary meaning of misrepresentation suggests that the mere provision by taxpayer of incorrect or false information in the return is sufficient to conclude that there is misrepresentation in the return. In the case of assessment by SARS, SARS must establish that the fact that the full amount of tax chargeable was not assessed due to misrepresentation.

Whether error or false information in the return was intentionally or negligently provided is irrelevant in establishing whether there is misrepresentation in the return. In case of self-assessment, SARS must provide that the full amount of tax was not assessed due to intentional or negligent misrepresentation. In addition to proving the existence of misrepresentation, SARS has a requirement to show that the misrepresentation was intentional or negligent to pass the hurdle of prescription with regard to self-assessment cases.

The expression "non-disclosure of material facts" is not defined in TAA. Simply defined, non-disclosure' is basically failure to disclose. As to whether there is non-disclosure of material facts, this is factual enquiry that must be decided on the balance of probability, and each case has to be determined on its own merits. In IT 46080, the court recently held that non-disclosure of the minuscule amount of notional interest (notional interest of R1 197 which is equal to 0.02% of the gross profit of the taxpayer) cannot be treated as a non-disclosure of a material fact.

Does providing wrong answers to questions in return constitute misrepresentation or non-disclosure of material facts that SARS may rely on to overcome subscription? In Commissioner for the South African Revenue Service v Spur Group (Pty) Ltd , the taxpayer incorrectly answered "no" to various questions which had a direct bearing on the claimed deduction. the SCA accepted in Spur Group case, on the strength of the SARS evidence, that if the correct answers had been given, an audit would have been triggered, and the assessment would have been made within the three-year period.

The SCA held, on the facts, that there were misrepresentations and non-disclosures in the tax returns where taxpayers provided incorrect answers to questions in the return. Accordingly, it is important to ensure that the proper and correct disclosures as required by section 25 of the TAA, are made in the return as the failure to do so may render the tax period to 'not prescribe'.

[1] No.28 of 2011
[2] https://dictionary.cambridge.org/dictionary/english/misrepresentation [Accessed on 18 March 2025]

A causal connection between that conduct and the fact that the full amount of tax was not assessed.

In recent periods, the Revenue Authority ("SARS") has intensified its audits and investigations into mineral royalty For SARS to overcome the prescription hurdle, it must prove that the full amount of tax chargeable was not assessed due to fraud, misrepresentation or non-disclosure of material facts (conduct). The use of 'due to' in section 99(2) of the TAA indicates that SARS must show a causal link between the taxpayer's conduct and the non-assessment of a particular item or amount. Failure by SARS to establish the link will render additional assessments made after prescription unlawful and the taxpayer may easily place reliance on prescription as a defence against additional assessments.

In conclusion, where SARS has raised, as it is empowered to do so in terms of 92 of TAA, additional assessments, it is imperative for taxpayers to consider whether the three years in case of assessment by SARS or five years in case of assessment, have not lapsed. In the event that the three or five years have lapsed, the taxpayer is entitled to raise a defence of prescription. To overcome successfully the hurdle of prescription, SARS will be required to show that the full amount of tax chargeable was not assessed due to fraud, misrepresentation or non-disclosure of material facts.

investigations underscore the need for mining companies to proactively manage their tax obligations and maintain transparent reporting practice.

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[3] [2021] ZASCA 145

Case Law

The deductibility of certain mining related relocation/infrastructure costs: Sishen Iron Ore Company v CSARS.

Section 15(a) read with section 36 of the Income Tax Act, No. 58 of 1962 ("the Act") provides taxpayers who derive income from carrying on mining operations with the benefit of immediately claiming a deduction from taxable income, capital expenditure incurred during any year of assessment.

Thus, the deduction is claimed upfront and is not claimed over a certain period of time. This special deduction is Government's way of incentivising mining companies as the sector is crucial to the South African economy and often faces challenges. Ordinarily, costs incurred by taxpayers to purchase capital assets would be capital in nature and therefore not deductible, however since mining companies invest greatly in mining equipment, section 15(a) read together with section 36 provides that such costs would be deductible for tax purposes.

In a recent court case Sishen Iron Ore Company (Pty) Ltd v CSARS (550/2023) [2025] [4], Sishen Iron Ore Company (''Taxpayer'') incurred relocation costs in connection with their mining operations and sought to deduct such costs in terms of section 15(a) read with section 36 of the Act and alternatively in terms of section 11(a) of the Act.

Relevant facts of the case.

The Taxpayer conducts open cast mining for iron ore in the Northern Cape province. The open cast mining includes the removal of the 'overburden' on the surface to access the iron ore.

The Mineral and Petroleum Resources Development Act, 28 of 2002 ("MPRDA") requires the application of a mining right to include a Mine Work Programme ("MWP") which is a detailed operational plan that outlines how the mine will conduct its operations. The MWP and mining right require the Taxpayer to optimally mine the designated area covered by the mining right and failure to do so would result in adverse implications.

The Taxpayer's open pit was progressing towards west ward area, towards an area in which the infrastructure such as railway and roads which belongs to third parties is situated, this is referred to as the Sishen Western Expansion Project ("SWEP") as well as a neighbouring residential township called Dingleton. Therefore, the collective term 'SWEP infrastructure' is accordingly used in this court case to refer to the infrastructure owned by third parties which had to be relocated, excluding the 66kV line.

The Taxpayer 's mining right covered the SWEP area, however it was not being used as it was occupied by third party infrastructure. The challenge faced by the Taxpayer was that the exploitation of the iron reserves towards the western area would be impossible due to the location of the SWEP area and Dingleton.

The Taxpayer, operating as a mine, has a responsibility to protect the health and safety of the citizens from any dangers that may be produced by the mine. This requires a mine to adhere to strict regulations such as the Safety Act which prohibits the mining area from operating within a radius of 500 meters from any public infrastructure in which people are exposed, this is referred to as a safety buffer.

The Dingleton township was situated in the west area in approximately 600 meters away from the mine. This area was not covered by the mining right. In order to access and exploit the western area, the Taxpayer had to relocate the SWEP infrastructure as part of waste stripping to allow access to the iron ore area and relocate Dingleton residential township to maintain the 500 meters safety buffer.

[4] Sishen Iron Ore Company (Pty) Ltd v CSARS (550/2023) [2025] ZASCA 16; [2025] 2 All SA 350 (SCA) (5 March 2025)

As part of the exploitation, costs were incurred in relation to the 66kV power line, used to transmit electricity, that had to be moved to the new area of mining operations. This included the cost of dismantling the old line and relocating it to new position where old parts are replaced with new parts where necessary.

The MWP specifically outlined that the Taxpayer is obliged to mine over the SWEP area and such area should be relocated further to the west. It also included the provision to mine the current safety buffer zone which meant that the Dingleton township would need to be relocated to maintain another safety buffer to the mine operations.

The following costs were incurred and claimed by the taxpayer as a deduction from taxable income for the years of assessment 2012 to 2024:

1. The costs of relocating the Dingleton residential township
2. The costs of relocating the Sishen Western Expansion Project infrastructure.
3. Costs of relocating a 66kV line supplying electricity to mine equipment to a new location within the mining area.
4. Legal expenditure incurred in connection with the relocation (legal advice provided to the Dingleton residents).

SARS disallowed the deduction of the relocation expenditure, legal expenditure and the cost of the 66kV line.

Legal issue.

The Taxpayer claimed the relocation costs in terms of section 15(a), and section 36(7C) read with section 36(11)(e) of the Act. Alternatively, the Taxpayer contended that the relocation expenditure is of revenue in nature, being part of the costs incurred from mining operations and therefore these costs would be deductible in terms of section 11(a) of the Act.

The Taxpayer argued that the relocation expenses were incurred in connection with exercising its mining right and these expenses were closely connected to their mining operations. The Taxpayer further contended that alternatively these costs are deductible in terms of section 11(a) of the Act as they are incurred in normal operations in relation to the mine.

Section 15(a) of the Act allows a deduction of amounts incurred in terms of section 36 from income derived by the taxpayer from mining operations. It should be noted that only expenditure incurred from mining operations can be utilised against income from mining operations and not from any other trade.

Section 36(7C) states that 'the amounts to be deducted, under section 15 (a), from income derived from the working of any producing mine shall be the amount of capital expenditure incurred.'

Section 36(11)(e) defines capital expenditure as "any expenditure incurred in terms of a mining right pursuant to the Mineral and Petroleum Resources Development Act other than in respect of infrastructure or environmental rehabilitation". This implies that expenditure incurred on infrastructure or environmental rehabilitation is not deductible in terms of section 36(11)(e).

A common example of infrastructure excluded from capital expenditure definition in terms of section 36(11)(e) is the cost of land in which the mining operations are conducted. Therefore, the argument in this case was whether the infrastructure was owned by the Taxpayer or third parties and thus whether the related expenditure incurred was deductible for tax purposes.

In terms of the relocation expenditure relating to the 66kV line, the argument was whether such expenditure was capital expenditure as envisaged in section 36 which will allow the expenditure to be deductible for tax purposes. Moreover, the Taxpayer had sought legal advice to be provided to the Dingleton township residents on the relocation matter and the legal expenses incurred were claimed as a deduction from taxable income in terms of section 11(c). The legal question was whether the legal costs were incurred in the production of income.

[6] *Western Platinum Ltd v Commissioner for SARS [2004] ZASCA 83; [2004] 4 All SA 611 (SCA) para 1*

SARS' position.

SARS disallowed the deduction of the abovementioned expenses and imposed understatement penalties and interest in terms of section 89quat (2). SARS argued that the relocation expenses in respect of the SWEP area was not incurred in terms of the Taxpayer's mining right and such costs are capital in nature and therefore not deductible in terms of section 11(a).

In addition, SARS argued that the Taxpayer could not have mined the safety buffer zone as it was sterilised and therefore it could never have mined the area occupied by the SWEP infrastructure; and that the Taxpayer did not have to mine those areas, specifically also the Dingleton area over which it held no mining right. The Taxpayer, as SARS contented, incurred this expenditure simply because it had elected to do so; and that the expenditure was therefore not in terms of its mining right, but in terms of the applicable legislation, namely the Safety Act and the related regulations, and because of its own volition to expand its mining.

SARS further argued that section 36(11)(e) excludes expenditure incurred on infrastructure and the relocation expenses were incurred in relation to infrastructure. Infrastructure was excluded from this section as it creates an enduring benefit. Since the relocation expenses are incurred on the infrastructure, such costs would fall outside of section 36(11)(e). The costs would not constitute capital expenditure in terms of section 36(11)(e).

SARS viewed the 66kV power line as 'infrastructure'. Infrastructure is specifically excluded from the provisions of Section 36(11)(e). SARS further argued that the expenditure was of a capital in nature and would not qualify as a deduction in terms of section 11(a). SARS further argued that section 11(e) would not apply as the expenditure did not constitute wear and tear but relates to relocation cost incurred in order for the taxpayer to continue mining operations.

First application.

The first application by the Taxpayer made to the Tax Court and court's decision was in favour of SARS. The Tax Court disallowed the relocation expenses on the reason that the Dingleton township was not within the Taxpayer's mining area, therefore the costs incurred in relation to the relocation are not incurred in the process of mining. The Tax Court concluded that the Dingleton and SWEP infrastructure costs were not incidental to the mining operations. The Tax Court held that the SWEP infrastructure was not the Taxpayer's own infrastructure and would therefore fall out of section 36(11)(e).

The Tax Court held that the relocation expenditure cannot be deducted in terms of section 11(a) as there is no close and sufficient link to the act of producing income and should be viewed as capital expenditure incurred for the benefit of third parties. The Tax Court disallowed the legal expenses in terms of section 11(c) with the reason that they were not incurred in relation to the mining right, as the Taxpayer did not have any mining right over Dingleton.

However, the Tax Court was in the Taxpayer's favour in terms of the Taxpayer's argument on the 66kV power line and agreed that the power line was a capital equipment that was necessary to be moved to a new area. It was agreed that the activity was closely linked to the employment of the mining right and therefore constitutes expenditure in terms of section 36(11)(e), deductible under section 15(a) and alternatively section 11(a). The Tax Court also set aside the understatement penalties and interest that had been levied by SARS in terms of section 89quat(2).

The Supreme Court of Appeal decision.

The Taxpayer appealed the decision made by the Tax Court to disallow the relocation costs except the cost of the 66kV line to the Supreme Court of Appeal ("SCA").

The SCA, in reaching its conclusion, considered principles established in different previous court cases as guidance. In the Western Platinum v Commissioner for the South African Revenue Service the judge contended that "Miners are permitted to deduct certain categories of capital expenditure from income derived from mining operations. These are class privileges. In determining their extent, one adopts a strict construction of the empowering legislation. That is the golden rule laid down in Ernst v Commissioner for Inland Revenue 1954 (1) SA 318 (A) at 323C-E".

The principle established in the court case referred to above seeks to emphasise the fact that companies that carry on mining operations have the benefit of enjoying special deductions on specific expenditure, even if they are capital in nature. Therefore, the taxpayer is accordingly allowed the immediate deduction of certain capital expenditure, that is otherwise not deductible from income in terms of certain other provisions of the Act such as section 11(a) of the Act.

The SCA was in favour of the Taxpayer's argument and held that the relocation expenses were a necessary expense as part of the operations of the mine. The argument for this conclusion was that the mining right and the MWP specifically required the Taxpayer to fully utilise its mining area, failure to do so would potentially result in a risk of the Minister cancelling the mining right. The judge further mentioned that the Taxpayer was allowed to mine at the safety buffer zone, however since it would pose a risk of damage to the Dingleton township, the relocation of the township was necessary.

This argument by SCA was against SARS's contention that the Taxpayer was not required to mine on the safety buffer zone as it was sterilised, however the judge was not in agreement.

Moreover, the SCA held that the progression of the mine to the west would be impossible without relocating the SWEP infrastructure and Dingleton township. The relocation expenditure was incurred in terms of a mining right, as contemplated in section 36(11)(e).

The SCA had to make an important interpretation relating to the exclusion of infrastructure from the definition of capital expenditure in terms of section 36(11)(e). The SCA agreed with the Taxpayer's interpretation that ''infrastructure'' referred to in section 36(11)(e) is infrastructure owned by and forming part of the taxpayer's income earning structure or is controlled by the taxpayer for the purposes of conducting mining operations. Therefore, because the infrastructure in question was owned by third parties, this excludes the expenditure on the SWEP infrastructure from the limitation provision.

[6] Port Elizabeth Electric Tramway Co v Commissioner for Inland Revenue (PE Tramway),

Based on the foregoing, SCA argued that expenditure incurred on social and labour plans requirements of the MPRDA for the benefit of the people living in the mining communities, which would be probably on land of the mine owned by the taxpayer, is deductible in terms of section 36(11)(e). The infrastructure referred to in this court case was spent in relation to the requirements of the MPRDA, for the benefit of the Dingleton community. In addition, the Taxpayer did not obtain any enduring benefit from the expenditure on the infrastructure. Therefore, the SCA concluded that the Tax Court erred in its decision that the relocation costs do not constitute a capital expenditure in terms of section 36(11)(e). Moreover, the SCA held that the 66kV line is an important part of mining equipment and it is needed to energise mining equipment, without it the equipment would not operate. The court added that the 66kV power line was in fact a 'mine equipment' and an integral part of the mining operations. Therefore, the SCA agreed with the decision by the Tax Court that the 66kV line was deductible in terms of section 15(a) read with 36(11)(e).

The judge also proved its deductibility in terms of section 11(a) by quoting numerous court cases including the famous PE Tramway v CSARS in which the principle that the expenditure incurred and the income earning activities must be closely connected to each other. There should be a close link between the taxpayer's trade and the expenditure incurred. The judge held that the expenditure incurred to relocate the 66kV line was to enable the Taxpayer to operate its mining equipment and this creates a close link between the expenditure and its income earning operations. It did not create an enduring benefit, but it was merely to enable the mine to operate its equipment. Therefore, the 66kV line expenditure was deductible in terms of section 36(11)(e), alternatively section 11(a).

With regards to the deductibility of the legal expenses, the judge agreed with the conclusion made by the Tax Court and held that the legal expenses were incurred for the benefit of the Dingleton residents and not directly for benefit of the Taxpayer, therefore they were not deductible in terms of section 11(c).

Conclusion.

Based on the abovementioned arguments and interpretations, the SCA concluded that the Taxpayer is entitled to claim the deduction on the relocation expenses on the basis that it was incurred in terms of the mining right and its MWP. SCA concluded that the relocation was to ensure that the Taxpayer optimised its mining area and they are not in contravention of the applicable regulations. The relocation was necessary for the mining operations. In addition, the relocation costs/ infrastructure expenditure incurred were incurred in terms of the requirements of MPRDA and the deduction of such expenditure is provided in section 15(a), read together with section 36(11) (e).

With regards to the 66kV line, it was concluded that the expenditure is deductible, as mentioned above, as it forms part of the integral part of the mine. However, the legal fees were ruled not have been incurred in the production and/or the benefit of the Taxpayer's operations therefore remained not deductible.

This court case sets out a fundamental point in terms of the interpretation of tax and mining laws and how the two can jointly be applied in certain circumstances. This court case is also important in interpreting the nature of infrastructure expenditure that is allowed as deduction in terms of section 15 read together with section 36. Mining taxpayers need to ensure that capital expenditure deductions are aligned with the provisions of the Act. It is without doubt that there are challenges in the interpretation of the provisions of tax Act and therefore this court case assist with some guidance.

In conclusion, taxpayers carrying out mining operations enjoy the special capital expenditure deductions however not all expenses would fall within the ambit of the special deduction and taxpayers need to ensure that there is a close connection between the expenditure and their mining operations and it is the taxpayer's onus to prove that close connection. Therefore, taxpayers are advised to seek independent tax practitioner advice when faced with uncertainty in terms of tax treatment of certain mining expenditure.

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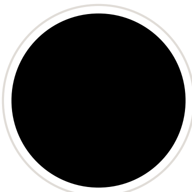

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Recently Published Rulings

No new rulings were published between 31 March 2025 and date of this edition.

SARS Updates

2025 Tax Return Submission

The South African Revenue Service (SARS) has announced that the 2025 Tax Filing Season will run from **7 July to 20 October 2025** for non-provisional taxpayers, and from **21 July 2025 to 19 January 2026** for provisional taxpayers and trusts. SARS will automatically assess a large segment of taxpayers with simple tax affairs between **7 and 20 July 2025,** using third-party data from employers, medical aids, and financial institutions. These taxpayers will receive notifications via SMS or email and are only required to take action if they identify incorrect or incomplete information in their assessments. Refunds will be processed within 72 business hours for verified information, and any amounts due must be paid through SARS's digital platforms.

For those not automatically assessed, tax return submissions open on **21 July 2025,** and they are encouraged to submit early and accurately to avoid delays or penalties. SARS urges all taxpayers to ensure their **banking and contact details** are up to date on eFiling to ensure smooth communication and processing. Taxpayers are strongly encouraged to use SARS's **digital channels**, such as eFiling and the SARS MobiApp, for all transactions, and only visit branches if absolutely necessary—appointments are required for in-person services. SARS has also enhanced its support services, online guidance, and security measures to ensure a smooth and efficient filing season.

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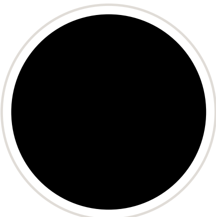

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