

Tax

Accordingly, the shares do not constitute "third-party-backed shares", as defined in s8EA(1); and

- By virtue of Company A and Company B forming part of the same group of companies as the Applicant, no regard must be had to the

enforcement right exercisable by Company F, where the security provider is Company A or Company B. ♦

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Taxlawbookreview

Tax Administration (2nd Edition)

By *Beric Croome & Lynette Olivier* (Juta & Co)

In his Foreword, Tax Ombud, Judge B M Ngoepe describes the book as being "written in a manner that makes tax law knowledge accessible. It can be used not only by tax experts, but also by anyone seriously wanting to acquaint themselves with our tax regime." When the Tax Administration Act 28 of 2011 (TAA) came into effect on 1 October 2012 it opened up a whole new sphere of tax law which although always existed, was previously concealed within the various tax Acts. This work sets out to explain the TAA and this emerging area of law in an easy to use guide.

The book opens with an introduction on the background to the TAA. Thereafter it closely follows the chapters in the Act with twenty of its twenty four chapters dedicated to a detailed section by section analysis of the TAA. Accordingly, there is an examination of all the tax administration processes, starting with tax registrations, through to returns, assessments, dispute resolution, liability and so forth, until all the provisions in the TAA have been examined.

As the authors take the reader through the TAA they provide useful commentary and analyses on the leading cases on tax administration. There are also refreshing comparative studies of other jurisdictions. For example, when considering a taxpayer's right to refuse the disclosure of information to tax authorities due to legal professional privilege, the authors review not only local law but consider how professional privilege is dealt with in countries such as Australia, Canada, Germany, New Zealand, United Kingdom and the United States.

The provisions contained in the TAA are not the only laws which govern the administration of tax. In addition to examining the TAA, the book has chapters dedicated to the Constitutional rights of Administrative Justice and Access to Information. Administrative Justice is the foundation upon which tax administration is built and importantly, therefore, a chapter has been dedicated to this right and the application of the Promotion of Administrative Justice Act (PAJA) to SARS. Similarly, the taxpayer's right to access to information held by SARS is considered together with requests under the Promotion of Access to Information Act (PAIA).

Ultimately every taxpayer who runs into difficulties with the tax authorities wants to know what remedies are available to them. This question is answered in a chapter which deals with an explanation of the several remedies available to a taxpayer when SARS does not act within the boundaries of its authorities. Remedies available under PAJA, PAIA, the Constitution, delict, the SARS Service Monitoring Office and the Tax Ombud are all discussed.

The TAA is, by its nature, practical as it deals with the administration of all the tax Acts other than the Customs and Excise Act. Any work on tax administration would, therefore, be incomplete without the forms, returns, interpretation notes, notices and rules which are used by tax practitioners on a daily basis. There are forty-six of these documents contained as annexures at the end of the book, which are very useful references for anyone engaged in the practise of tax. Included in the annexures the authors have compiled some useful tables, such as a summary of the sections in the various tax Acts which are subject to objection and appeal. Other handy references include a table outlining the differences between the old and new rules, a summary of the sections in the TAA requiring the issue of a public notice, and a table of the various objection and appeal time periods.

The book is not just a text book for intellectuals, scholars and academics; it has great practical value that will appeal to anyone who has an interest in tax. It is a well-researched work, which will in time find itself on every tax practitioner's bookshelf. In the Preface the authors explain the need for a tax administration guide as follows:

"The collection of taxes is often a contest between the revenue authority, whose aim it is to collect as much taxes as possible, and the taxpayer and his advisor, who aim to pay as little tax as lawfully possible... this book analyses the rules of this contest".

If you have knowledge of the rules of the contest it greatly increases your chance of success. ♦

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