

Presentation to the SCoF

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August 2014

SAICA's National Tax Committee wishes to thank you for the opportunity to submit written comments and make oral presentations

Our comments will deal with the draft Taxation Laws Amendment Bill (the DTLAB) and the draft Administration Laws Amendment Bill (the DALAB)

Our detail submissions were made available to you and we will only deal with some of the issues in this short presentation.

Program

Small businesses - Intention to remove lower tax rates and zero rate for goods acquired by farmers

Pensions foreign source

Section 23M

Insurance

Provisional tax

Tax Administration Act - Relevant material and Tax clearance

DTLAB

Clause 19(1)(a): Page 14 of SAICA's submission



Proposal

A company will be a small business corporation if its gross income is between R1 and R20 million - years of assessment commencing on or after 1 January 2016

Introduction of two new concepts: 'small business funding entity' and 'small, medium or micro-sized enterprise'

Intention

that the reduced rate SBC regime be replaced with an annual refundable tax compliance rebate



The Davis Tax Committee

SAICA

The current graduated rate system should be retained

Sole proprietorship or partnership should not be excluded

Simplify and reduce the compliance burden for small businesses

DTLAB

Clause 100: Page 47 of SAICA's submission



Proposal

Part A of Schedule 2 to the Value-Added Tax Act is to be repealed. Will come into operation on 1 April 2015

It provides for a zero rate in respect of the supply of goods used or consumed for agricultural, pastoral or other farming purposes

Reason

There is strong evidence that substantiates that this provision is open to abuse

SAICA

The zero rating must be retained

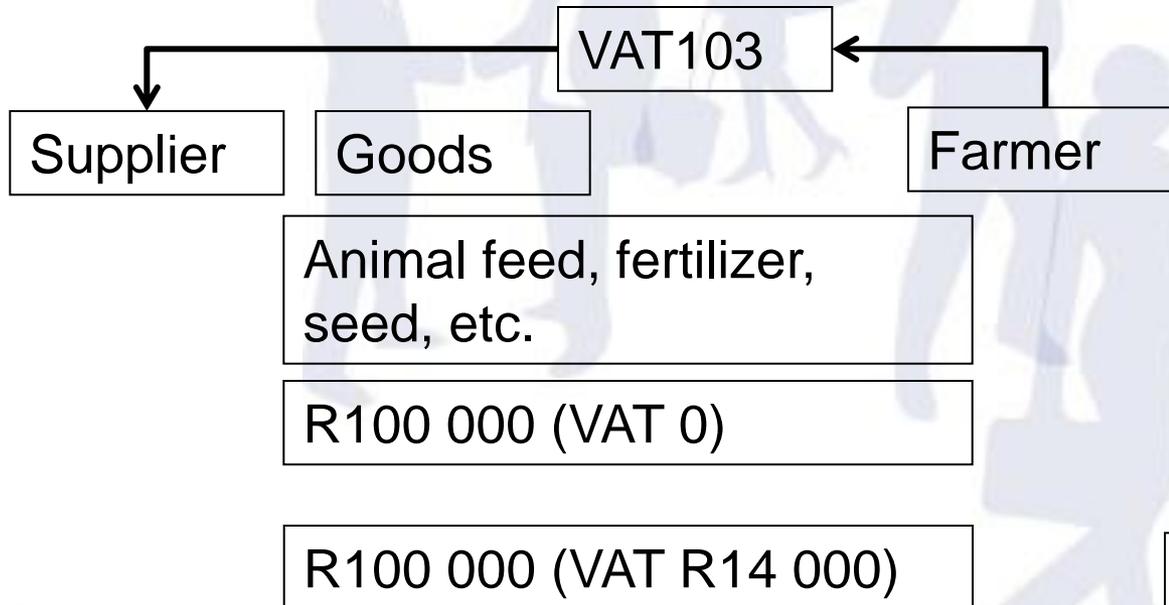
Fraud should be addressed by SARS – audits etc.





The purpose of this concession was to provide cash-flow relief to the agricultural sector.

Example



Wait for R14 000 refund from SARS

DTLAB

Clause 13(1)(c): Page 6 of SAICA's submission



Proposal

To add the term “lump sum benefit” and the word “annuity” to section 10(1)(gC)

To align the treatment of lump sum payments to the treatment of pension and annuity payments.

SAICA

SAICA welcomes this as it has been a contentious issue for a number of years

The section 10(1)(gC) exemption is available to a resident in respect of pension from a source outside the RSA as consideration for past employment outside the RSA

Concern: SARS current practice to treat it from an RSA source if the fund is in the RSA



DTLAB

Clause 34: Page 6 of SAICA's submission

Section 23M limits the deductions in respect of interest paid

Set to come into operation and to apply in respect of amounts of interest incurred on or after 1 January 2015

SAICA

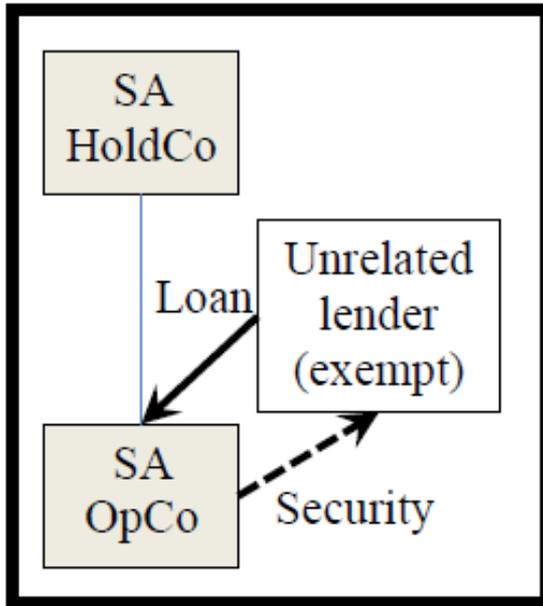
SAICA has previously made submissions requesting that section 23M be deleted in its entirety.

Very complex part of the legislation. If it is retained certain amendments is necessary.

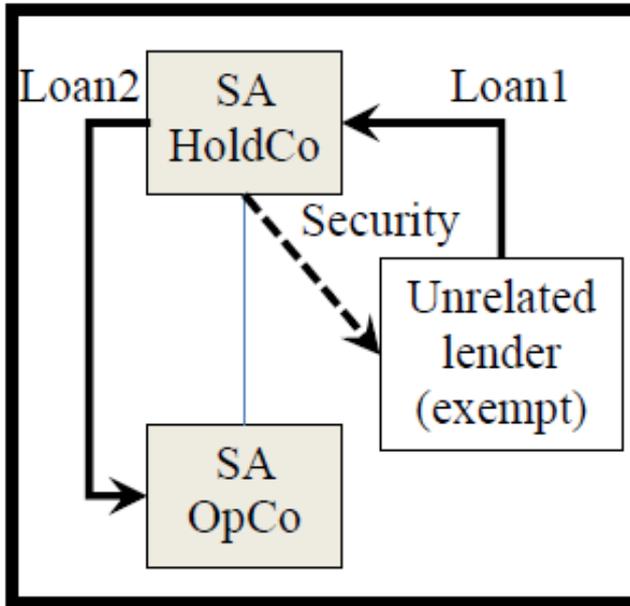
Example

Page 4 of SAICA's request to repeal section 23M

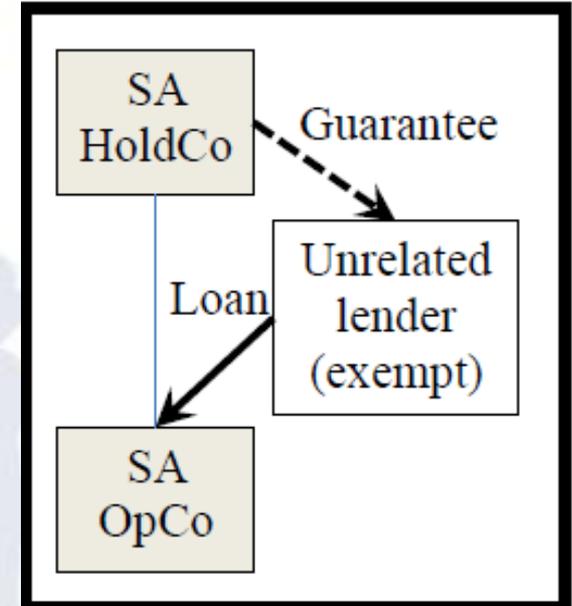
NOT subject to s23M



NOT subject to s23M



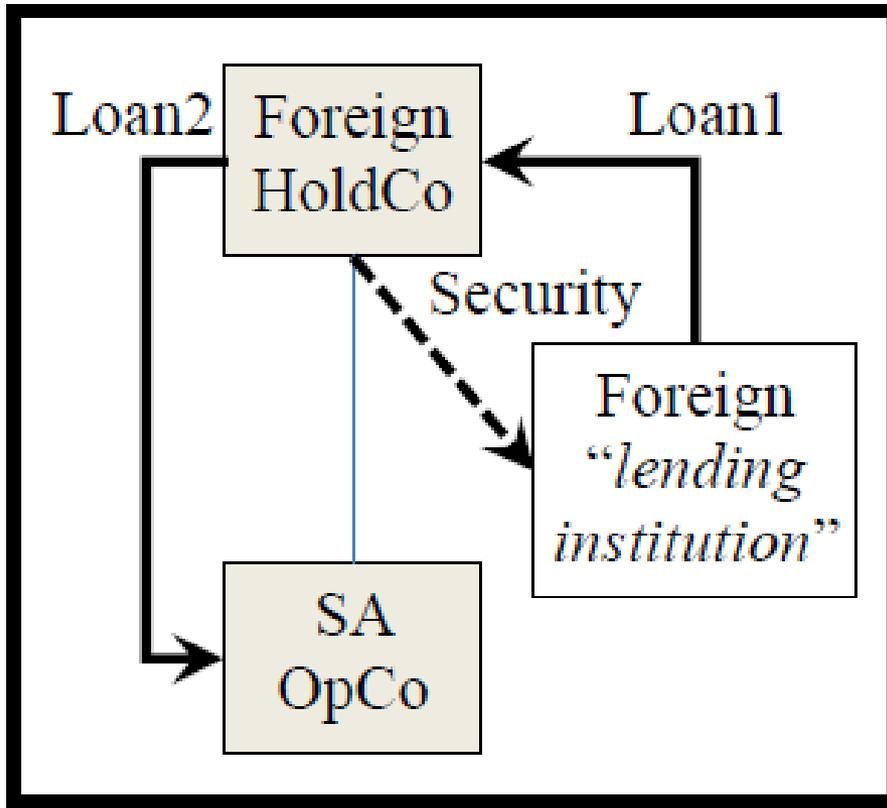
SUBJECT to s23M



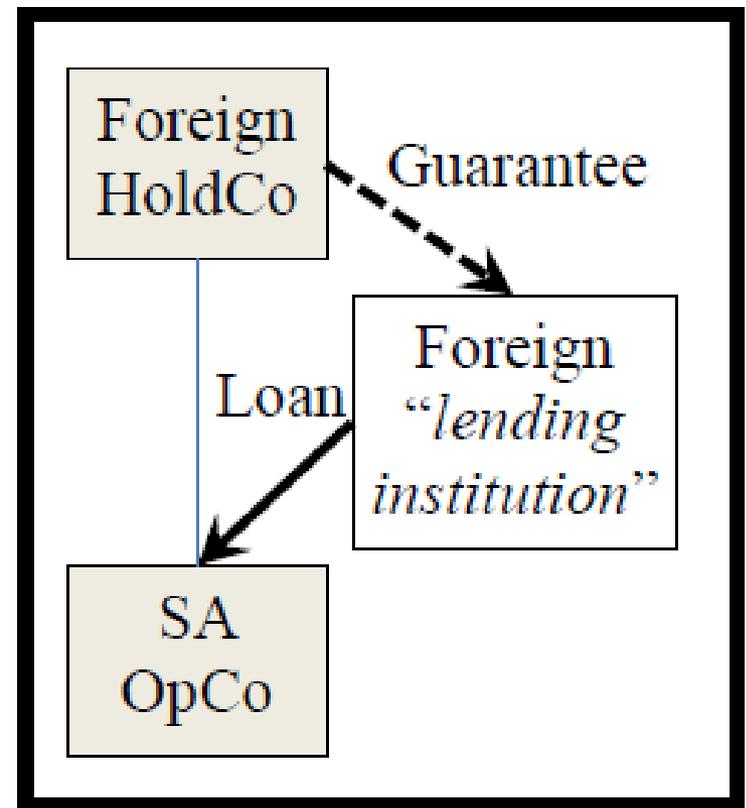
Example

Page 5 of SAICA's request to repeal section 23M

NOT subject to s23M
(Specifically exempt per s23M(6))



SUBJECT to s23M



DTLAB

Clause 44: Page 30 of SAICA's submission and our submission of 24 June 2014



Proposal

Introduction of a definition of a risk policy and changes to the way in which long-term insurers is taxed.

SAICA

SAICA is concerned that insufficient time and consultation was allowed to fully comprehend and evaluate the implications of this important change to the Act,

The proposed changes must be aligned with the investigation of the taxation of financial institutions currently undertaken by the Davis Tax Committee,

'Pure' investment products were the core reason for the four fund policy system and should accordingly remain within the policyholder funds unless a decision is made to abandon the four fund system altogether.



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DTALAB

Clauses 1 and 7 -12: Pages 4 - 6 of SAICA's submission

Proposal

Aligning of the treatment of individuals under and over the age of 65.

Changing the way in which a penalty of an underestimation penalty is calculated and for failure to submit a return.

SAICA

SAICA believes that senior citizens earning only interest, foreign dividends and rental of marginally more than the tax threshold should be exempt from paying provisional tax. The current exemption should be retained.

The proposed changes brings in the rebates when the underestimation penalty is calculated and is welcomed.

The changes to the underestimation and late submission penalties effectively removes a ground of objection and this should not be the case.



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DTALAB

Clause 44: Pages 8 - 10 of SAICA's submission

Proposal

In terms of the new definition 'relevant material' means any information, document or thing that **in the opinion** of SARS is foreseeably relevant for the administration of a tax Act...

SAICA

SAICA believes this introduces subjectivity into the determination of relevance by allowing SARS to rely on its own opinion and per the Explanatory Memorandum prevent the taxpayer from "unilaterally" deciding whether something is relevant. Instead the amendment allows SARS to subjectively "unilaterally" determine the relevance of a requested item.

The determination of relevance is an objective process and insertion of the words "in the opinion of SARS" renders it a unilateral decision with severe consequences that flow from the non-provision of the requested information. Such decisions will not promote the constitutional principle of fair and just administrative action.

DTALAB

Clause 57: Pages 19 - 22 of SAICA's submission

Proposal

To allow SARS to refuse to issue of the taxpayer's tax compliance status if the taxpayer has an outstanding request from SARS to provide relevant material if in the opinion of the SARS official there is no just cause for the delay.

Section 256 of the TAA, as it currently stands, sets out clear circumstances in which a TCC would not be issued to a taxpayer, namely an outstanding tax debt or an outstanding return. This was the purpose of the TCC. The proposed amendments seek to insert an additional reason for the refusal to confirm a taxpayer's status as "compliant".

SAICA

This should not be inserted as this will have a profound and immediate impact on the economy and will prevent many small and medium businesses which rely on tenders and government contracts from operating.

Thank you for your time

Questions

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