



Tax & Legal – News Alert



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SARS issues revised Interpretation Note on section 24C

On 31 March 2026, the South African Revenue Service (**SARS**) issued a revised version of Interpretation Note 78 (**IN 78**), which provides guidance on the interpretation and application of section 24C of the Income Tax Act 58 of 1962 (**the Act**), where income in terms of a contract has been received in advance but the expenditure under the contract will only be incurred in a subsequent year of assessment (**YOA**).

Section 24C – allowance in respect of future expenditure

South African income tax is determined for a particular YOA, whereby a taxpayer:

- is taxed on income received by or accrued; and
- claims a deduction for expenditure actually incurred; within the same YOA.

However, the nature of a taxpayer's business may be such that the taxpayer receives amounts under a contract in one year, which will be utilised to finance expenditure incurred in a subsequent year when the taxpayer carries out their obligations in terms of that contract. A mismatch between income and expenditure therefore arises, where income is taxed in one YOA and the related expenditure is only allowed as a deduction in a subsequent YOA.

Section 24C of the Act was inserted into the Act, as a relief measure to address this mismatch and afford a taxpayer an allowance in respect of the expenditure they are obliged to incur in the subsequent YOA in the performance of their obligations under the contract.

Requirements of the section 24C allowance

An allowance in terms of section 24C is permitted where the following requirements are met:

- Income in a particular YOA includes or consists of an amount which is received by or accrues to the taxpayer under any contract;
- Such income will be used in whole or in part to finance expenditure which will be incurred in a subsequent YOA in performing the obligations under such contract; and
- That expenditure must either be expenditure which will be allowed as a deduction once incurred or is expenditure which will be incurred on the acquisition of an asset for which a deduction will be allowed, in terms of the Act.

A section 24C allowance claimed by a taxpayer in a YOA is deemed to be income of that taxpayer in the succeeding YOA.

Revisions to Interpretation Note 78

IN 78 was first issued by SARS in July 2014, following which there have been legislative amendments and Constitutional Court cases which have impacted the interpretation of section 24C of the Act.

2015 legislative amendments – removal of Commissioners discretion

Section 24C initially granted the allowance subject to the discretion of the Commissioner. Such discretion was removed in 2015, which has been reflected in the revised IN 78 which confirms that the burden of proof in claiming the allowance rests with the taxpayer as per section 102 of the Tax Administration Act 28 of 2011.

The revised IN 78 however confirms that prior case law interpreting the section in the context of the Commissioners discretion, still provides relevant guidance in the application and calculation of the 24C allowance.

New case law – multi-contract scenarios and the concept of contractual sameness

IN 78 initially focused on single-contract scenarios, however following the Constitutional Court judgements of *Big G Restaurants (Pty) Ltd v C: SARS 2020 (6) SA 1 (CC)* and *Clicks Retailers (Pty) Ltd v C: SARS 2021 (4) SA 390 (CC)*, it has been held that a section 24C allowance may be claimed in respect of expenditure to be incurred under *two or more contracts* that are so inextricably linked that they satisfy the requirement of “contractual sameness”, in that both the earning of income and the obligation to fund future expenditure must depend on the existence of both contracts. The revised IN 78 includes the principles enunciated in the aforementioned Constitutional Court cases, allowing for the section 24C allowance to be claimed in multi-contract scenarios provided the “contractual sameness” requirement is met.

Section 24C and the interplay with corporate rules

In terms of the corporate rules, a contract of one company (referred to as the transferor) can be transferred to another company (referred to as the transferee), such that the tax consequences attendant to that transfer are deferred for tax purposes. This deferral occurs as a result of the transferor and transferee being deemed to be one and the same person for tax purposes.

Although not addressed in detail, the revised IN 78 outlines that where a section 24C allowance was claimed by the transferor in the previous YOA, in respect of a contract which has been transferred in terms of the corporate rules in the current YOA:

- the amount which is deemed to be included in income under section 24C must be included in the transferee's income in the year of transfer, not the transferor's income for that year; and
- if applicable, the transferee is entitled to the section 24C allowance in the year in which the transfer occurs.

The above tax treatment essentially results in no tax consequences for:

- the transferor, in that they are not taxed on the deemed inclusion; and
- the transferee, in that they are taxed on the deemed inclusion but at the same time qualify for either a section 24C allowance (if applicable) or a deduction for the expenditure actually incurred.

Key takeaways

IN 78 provides SARS's current, updated view on the interpretation and application of section 24C, which is more refined and aligned with recent jurisprudence and practical issues. Of particular note is the following:

- Although the Commissioners discretion has been removed, previous case law interpreting the pre-2015 version of section 24C is still of interpretative value;
- A section 24C allowance may be claimed in respect of income received and expenditure to be incurred under two or more contracts, provided that those contracts satisfy the requirement of “contractual sameness”; and
- A company can transfer a contract and any resultant section 24C allowance to another company in terms of the corporate rules, and such transfer would not result in adverse tax consequences for either entity.

Where a taxpayer intends on making use of the allowance afforded in terms of section 24C, it is important that they have adequate documentation to support their entitlement to the allowance and the calculation thereof, as there is a risk that claiming such an allowance may trigger a verification from SARS upon submission of the taxpayer's income tax return.

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