

Tax & Exchange Control

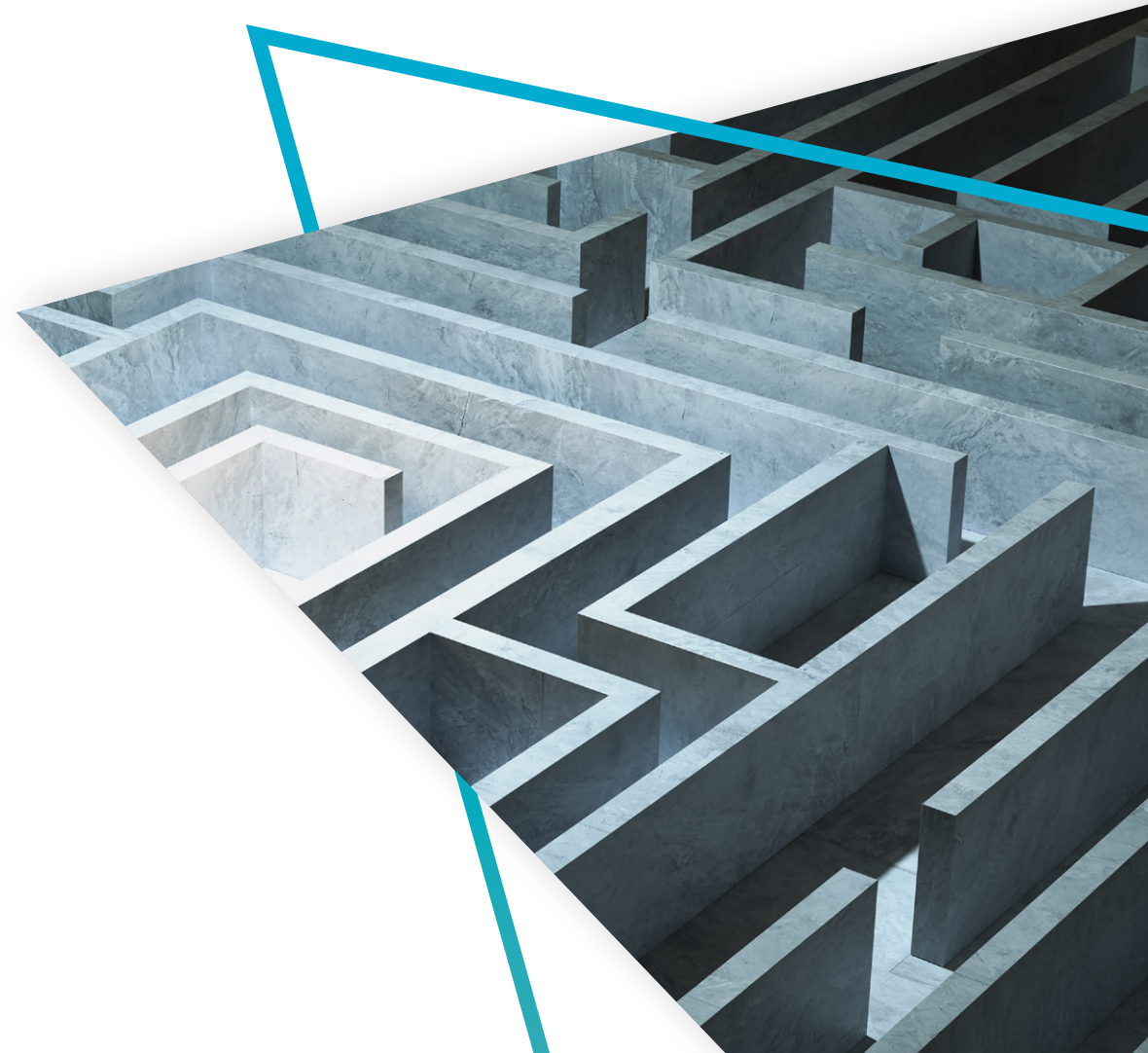


ALERT | 13 February 2025

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SOUTH AFRICA

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**TAX & EXCHANGE CONTROL
ALERT**

The termination of the International Trade Administration Commission's investigation into increased imports of corrosion-resistant steel coils

The Department of Trade, Industry and Competition issued Notice 2932 of 2025 in respect of the termination of the International Trade Administration Commission's (ITAC) investigation relating to the increase in imports of corrosion-resistant steel coils. The termination was gazetted on 17 January 2025.

The before

On 27 December 2024, the ITAC formally commenced an investigation in respect of remedial action against the increased imports of corrosion-resistant steel coils. The notice in respect of this investigation was published in Notice 2916 of 2024 in the *Government Gazette* on the same date.

The now

On 17 January 2025, the ITAC decided to terminate the investigation.

The why

The investigation was terminated by ITAC resulting from an error in the period of surge.

The investigating officers that may be contacted in respect of any queries are:

- Busman Makakola at bmakakola@itac.org.za
- Mosa Sebe at msebe@itac.org.za

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**TAX & EXCHANGE CONTROL
ALERT**

Exchange control update: Payment of royalties and fees by residents to related non-residents now tied to transfer pricing requirements



For a very long time, residents have been required to obtain prior approval from the Financial Surveillance Department of the South African Reserve Bank (SARB) when making payment of royalties or fees to related non-residents.

However, on 26 November 2024 the SARB issued Exchange Control Circular 13/2024, which changes this dispensation. This was preceded by an earlier announcement by the Minister of Finance in the 2024 Budget Review that the rules would be amended.

The reason for the change was indicated as being a continuous effort by National Treasury to reduce red tape, coupled with the fact that the transfer pricing rules in current tax legislation already filter risks relating to improper transfers between related parties.

As is the case with payments of royalties and fees by residents to unrelated non-residents, authorised dealers will be authorised to approve such payment requests in relation to related parties, and will retain an oversight role in considering such requests.

Specifically, in terms of the Currency and Exchanges Manual for Authorised Dealers, authorised dealers must, in addition to reviewing the relevant agreements and invoices, obtain confirmation from senior management of the applicant that transfer pricing documentation is maintained as prescribed by the South African Revenue Service (SARS) in terms of section 29 of the Tax Administration Act 28 of 2011 (TAA), and as read with the Organisation for Economic Co-operation and Development Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

In relation to ad-hoc services between related parties, authorised dealers must obtain written confirmation from senior management of the applicant that the transaction was concluded at fair and market-related prices.

Authorised dealers will be obliged to report all transactions to the SARB, and related party transactions will be specifically identified in such reports.

By way of reference, in public notice (No 1334, GG 40375 of 28 October 2016), in terms of section 29 of the TAA, the Commissioner of SARS has prescribed the transfer pricing documents that certain persons need to retain.

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Exchange control update: Payment of royalties and fees by residents to related non-residents now tied to transfer pricing requirements

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Without going into too much detail, persons who have entered into relevant related party transactions, and where the aggregate of the relevant amounts exceeds or is reasonably expected to exceed R100 million for the year, are required to retain a host of specified records, books of account and documents in relation to transfer pricing.

Persons who have entered into relevant related party transactions, but who fall below the R100 million threshold, are still required to keep such records, books of account or documents that enable them to ensure, and SARS to be satisfied, that the transactions were conducted at arm's length.

The effect is essentially that, when a resident applies to an authorised dealer to make payment of royalties or fees to a related non-resident, that resident will, inter alia, have to provide written confirmation that it has complied with its transfer pricing obligations as prescribed in terms of section 29 of the TAA.

Heinrich Louw



OUR TEAM

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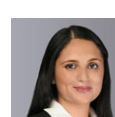
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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

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