



UNICUS **TAX UPDATE**

28 April 2026

Dr Reid v CSARS
X and Another v CSARS (A117/2025) [2026]
ZAWCHC (16 April 2026)





HELLO & WELCOME!

NICO THERON

BCom Law (cum laude) | LLM (Tax Law) | BCom Honours Taxation | MCom Taxation (SA and International Tax)

MANAGING DIRECTOR



DISCLAIMER:

This training is designed and intended solely for the benefit of employees of Unicus Tax Specialists SA (Pty) Ltd and may only be relied upon by such employees in accordance with the internal rules and policies of Unicus Tax Specialists SA (Pty) Ltd.

While Unicus Tax Specialists SA (Pty) Ltd may, in its sole and absolute discretion, permit non-employees to attend these training sessions, any such attendance is for general interest purposes only. Non-employees acknowledge and accept that they may not rely on the content of this training for any purpose. These training sessions do not constitute professional advice, guidance, or formal training and should not be interpreted or relied upon as such. No advice is provided, nor should any information discussed during these sessions be used as the basis for providing advice to others.

Attendees are strongly encouraged to seek independent professional advice in respect of any matters covered during the training and are advised not to provide advice or rely on any information discussed in these sessions.

BACKGROUND AND PROCEDURAL POSTURE

- Western Cape High Court judgment delivered on 16 April 2026.
- Appeal against the Tax Court's dismissal of a Rule 52(2)(b) application.
- Question before the Court: was the taxpayers' second objection valid under Rule 7, or was SARS entitled to treat it as invalid?
- The case was not a final merits determination of the underlying income tax, VAT and donations tax assessments.
- The dispute arose in the context of estimated additional assessments under section 95(1) read with section 92 of the TAA.

CORE STATUTORY AND PROCEDURAL FRAMEWORK

- Rule 7 requires an objection to set out the grounds in detail, identify the disputed amount / part, identify the disputed grounds of assessment, and submit documents required to substantiate the grounds if not previously delivered to SARS.
- If an objection does not comply with Rule 7(2), SARS may regard it as invalid under Rule 7(4).
- Rule 52(2)(b) allows a taxpayer to ask the Tax Court to declare an objection valid where SARS treated it as invalid.

CORE STATUTORY AND PROCEDURAL FRAMEWORK

- Section 95 permits estimated assessments; section 95(4) says the estimate does not relieve the taxpayer of the obligation to provide the return or relevant material.
- Section 102 allocates the burden of proof, including SARS' burden to prove the reasonableness of a section 95 estimate.

WHAT THE HIGH COURT DECIDED

- The appeal was dismissed.
- The Court held that the taxpayers' second objection was invalid for non-compliance with Rule 7.
- The Court held that the taxpayers were not merely challenging the reasonableness of the estimates; in substance they were challenging the correctness of the assessments.

WHAT THE HIGH COURT DECIDED

- Because the objection advanced positive factual explanations, the taxpayers had to provide the substantiating material required for those grounds.
- The Court described the section 102 onus point as a “red herring” in this Rule 7 validity setting.

WHY THE COURT FOUND THE OBJECTION INVALID ON THESE FACTS

- The taxpayers identified the Healthbridge system as containing material needed to substantiate the objection.
- SARS had repeatedly sought access to that material, both during the audit and during the objection process.
- Although electronic access was tendered, the Court found that workable access was not in fact made available.

WHY THE COURT FOUND THE OBJECTION INVALID ON THESE FACTS

- The objection went beyond a bare “SARS is put to proof” case and advanced explanations for why the assessments were wrong.
- On that factual footing, the Court held that Rule 7 required fuller substantiation.

FIRST-BLUSH CRITICISM OF THE JUDGMENT

- The immediate criticism is that the Court appears to say that section 102 is irrelevant at objection stage.
- That is uncomfortable because Rule 7 must be interpreted within the same statutory scheme that allocates the burden of proof.
- A strong argument exists that the interpretation of Rule 7 should take account of where the TAA places the onus, even if onus is not always decisive of validity.

FIRST-BLUSH CRITICISM OF THE JUDGMENT

- This was the concern raised by the taxpayers and also the concern raised in commentary on the Tax Court judgment.
- If Rule 7 is applied too strictly, there is a risk that SARS' formal burden remains intact in law but is never meaningfully tested in practice.

A NARROWER AND MORE CONTEXTUAL READING

- Judgments must be read in context and for purpose.
- The better reading of Dr Reid is not necessarily that section 102 is always irrelevant at objection stage.
- Rather, in an estimated-assessment case, a taxpayer cannot use a pure “SARS is put to proof” defence to avoid engaging with the merits and with the obligation to provide relevant material.

A NARROWER AND MORE CONTEXTUAL READING

- Paragraphs 64 and 65 support a stricter Rule 7 approach in estimated-assessment cases because section 95(4) preserves the taxpayer's obligation to provide material and section 100(1)(b) underscores the consequence of failing to lodge a valid objection.
- The difficulty is that the Court also used broad language, which leaves room for wider citation in future cases.

CRITIQUE: WHERE THE JUDGMENT IS STRONGEST AND WEAKEST

- Strongest point: the result is easier to justify on these facts because this was an estimated-assessment case, there was a history of difficulty in getting records, and the objection was treated as a positive merits challenge.
- Also strong: the judgment can be read as recognising that estimated assessments justify a stricter Rule 7 approach.
- Weakest point: the Court may have stated the onus point too broadly by calling section 102 a “red herring”.

CRITIQUE: WHERE THE JUDGMENT IS STRONGEST AND WEAKEST

- There remains room to argue that Rule 7 should still be interpreted with the burden of proof in mind, even in estimated-assessment cases.
- The section 95 context is also underdeveloped because the High Court did not identify whether the estimate was under section 95(1)(a), (b) or (c).

PRACTICAL REALITY: WHY THE ONUS DEBATE MAY OFTEN BE MOOT

- Even if a taxpayer wishes to run a narrow “SARS must prove reasonableness” case, that is often only an interim forensic position.
- It is often not difficult for SARS to prove reasonableness because the test looks at the information readily available to SARS at the time of the estimate.
- If the taxpayer did not file properly, provided inadequate material, or withheld source records, SARS' hurdle may actually be easier to cross.

PRACTICAL REALITY: WHY THE ONUS DEBATE MAY OFTEN BE MOOT

- Once SARS proves reasonableness, the taxpayer still has to deal with the merits and show that the assessment is wrong.
- In many cases it is faster and more effective to prepare the objection on the basis that the real case will ultimately have to be met.

WHAT THIS MEANS FOR TAXPAYERS AND ADVISERS

- Objections are technical legal documents, not administrative placeholders.
- Taxpayers should assume that Rule 7 will be applied seriously and that vague or strategically evasive objections are risky.
- Be honest about the case being run: if the objection is really a correctness challenge, support it properly.

WHAT THIS MEANS FOR TAXPAYERS AND ADVISERS

- Do not rely on technicality alone where the surrounding facts show a broader failure to engage with the dispute.
- Practical lesson: unless there is a very strong reason not to, deal with the merits early, build the factual record, and draft the objection carefully.

KEY TAKEAWAY

- Dr Reid confirms that objections can fail before the merits are ever reached.
- The judgment is best read as supporting a stricter Rule 7 approach in estimated-assessment cases, especially where the taxpayer has contributed to the evidential vacuum and the objection is in substance a positive merits challenge.
- There is still room for future debate about how far section 102 should influence the interpretation of Rule 7.
- For now, however, the prudent approach is practical rather than academic: prepare objections properly and engage the merits head on.

Unicus

TAX SPECIALISTS SA

THANK YOU



unicustax.co.za



info@unicustax.co.za



+27 12 944 8888



Irene Link Commercial

