

PUBLIC HEARINGS

Standing Committee on Finance

2026 DTALAB & DTLAB

Pieter Faber | 30 September 2026

**#DIFFERENCE
MAKERS**



CA | CA(SA)

AGA | AGA(SA)

at | AT(SA)

SAICA
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PUBLIC CONSULTATION

A process capable of influencing the legislative outcome

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CONCERNS

- Draft bills proceed before meaningful engagement on underlying proposals
- No NT public consultation planned on revisions to the 2026 draft bills
- Late workshop notice and selective agenda's limit participation
- SCoF compliance with its own policy

CONSTITUTIONAL STANDARD

- A reasonable opportunity to know the issues and have an adequate say
- Material amendments require steps to involve the public
- Parliament must ensure all submissions are reasonably considered even when relying on NT

SAICA RECOMMENDATION

- Consult at proposal stage before legislation is drafted
- Publish workshop dates with the draft bills
- Parliament to implement its current reasonableness policy measures
- Consider all submissions
- Document how all comments were accepted, rejected or excluded
- Provide concise written feedback to reduce recurring submissions



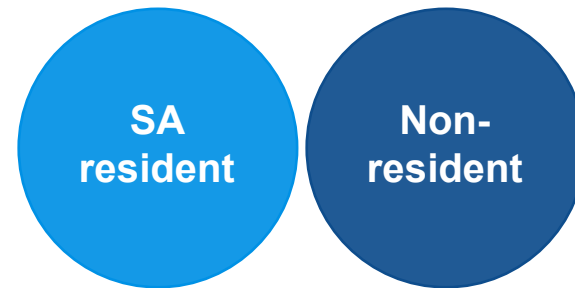
DONATIONS BETWEEN SPOUSES

Section 56: proposed restriction where the recipient spouse is non-resident



WHY THE PROPOSAL IS QUESTIONED

- Existing section 9HB(5), read with paragraph 38, already triggers CGT where assets are donated to a non-resident spouse
- NT conceded the stated avoidance may already be covered by current anti-avoidance rules
- The alleged staggered non-residency strategy does not appear to avoid both donations tax and CGT



Broad rule catches ordinary cross-border marriages

SAICA RECOMMENDATION

- Reconsider the proposal because current rules may already address the stated abuse
- If retained, target avoidance through a purpose-based or connection-based test
- Protect legitimate cross-border family arrangements
- Test residence on the date the donation takes effect
- Any “single economic unit” policy change requires broader consultation and consistent application

ADDITIONAL PROVISIONAL TAX PENALTY

Paragraph 20, Fourth Schedule: payment default converted into estimation failure

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CORE DEFECT

- An accurate estimate is deemed equal to the amount paid, or nil if nothing was paid
- A late-payment default becomes a 20% underestimation penalty by legal fiction
- Administrative non-compliance and culpable conduct are conflated
- Retroactivity without meeting the legal requirements

SYSTEMIC EFFECT

- Existing late-payment penalty and interest already sanction delay
- Provisional tax becomes misaligned with the 10% PAYE and VAT late-payment regimes
- The proposal applies to partial and full non-payment through the deemed estimate mechanism

SAICA POSITION

- Withdraw the proposal absent evidence of widespread intentional abuse
- If retained, exclude late payment without the targeted intention
- Use a stand-alone conduct penalty, not an administrative penalty
- Do not apply the measure retroactively to conduct from 25 February 2026



ADDITIONAL PROVISIONAL TAX PENALTY

Paragraph 20, Fourth Schedule: payment default converted into estimation failure



Payment by due date	Current total cost	Proposed total cost	Incremental burden
0%	R125 890	R225 890	R100 000
25%	R94 418	R169 418	R75 000
50%	R62 945	R112 945	R50 000
75%	R31 473	R56 473	R25 000

KEY MESSAGE

The additional burden equals a further 10% (i.e. nearly 2x) of the unpaid amount, on top of the existing late-payment penalty and interest.

Illustration uses the assumptions and amounts in the submission.

BANK VERIFICATION

Section 190: screening refunds that “will be” deposited

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DRAFTING & OPERATION

- Text refers to screening deposits, while practice appears to screen both the account and the amount
- It is unclear how a bank foresees an amount that “will be” deposited
- “Reasonable suspicion” is undefined and may be applied inconsistently
- No compulsion to inform taxpayer by bank or SARS

TAXPAYER IMPACT

- Covers scenarios before or after money paid to bank, which is different
- Refund stoppers and reversals may occur without clear causal communication
- Taxpayers may not know whether SARS, the bank or another requirement triggered the hold
- System errors can prolong resolution and obstruct access to funds

SAICA RECOMMENDATION

- Align the wording with actual account and deposit screening
- Provide objective implementation guidance, reporting timelines and escalation processes
- Require immediate, causal notification when a refund is withheld or delayed
- Protect banks with limited liability for following SARS instructions while preserving taxpayer recourse



VDP INTEREST RELIEF

Section 229: welcome reform, but transitional fairness remains unresolved

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WELCOME

- Applicants may request remission of interest as part of the VDP application
- The amendment addresses interest remission at the application stage
- Interest accruing between application and agreement may be considered
- The proposal confirms what taxpayers always expected

GAP

- A concluded VDP agreement cannot be reopened under the proposed wording
- Applicants may be treated differently due only to application or agreement timing
- Applicants unaware of the relief may be barred if the request was not in the original application

SAICA RECOMMENDATION

- Allow applicants with no final agreement to add an interest-remission request, including applications before 1 March 2026, it was always the expectation
- Ensure transitional arrangements do not disadvantage good-faith applicants
- Clarify the treatment of agreements signed before promulgation but after the effective date



DECISIONS REQUESTED FROM SCoF

Five targeted interventions to improve fairness, certainty and legislative quality



- 1 Comply with Parliament's policy & consult before drafting / final draft and reconsult on material revisions
- 2 Reconsider and withdraw the spouse rule or target only actual avoidance
- 3 Withdraw the provisional-tax deeming penalty and retroactivity
- 4 Mandate transparent, causal refund-hold communication
- 5 Extend VDP interest relief to unresolved and all post effective date applications

THANK YOU

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