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## **SCOPE OF SERVICES**

### **1. INTRODUCTION**

The PetroSA Tax Department is responsible for providing tax advisory and compliance services to PetroSA and its group subsidiaries. South Africa is fast becoming one of the jurisdictions with stringent and complicated Tax Laws in the international market, this requires thorough knowledge of the tax legislation and an up to date understanding of acceptable practices. For PetroSA to remain abreast of these changes, the trend in the tax practising community is for individuals to specialise in certain taxes. The Tax Department does not only provide these specialised services in respect of South African taxes, but also in respect of all other jurisdictions where PetroSA conducts business.

It is the Tax Department's responsibility to seek opinions on highly technical areas of taxation to highlight all inherent tax risk to their internal customers, in order to make well informed decisions. Based on the complexity of the tax legislation in and outside South Africa, the risks associated with the current tax environment and transitional fiscal legislation (such as the new customs and excise legislation), the Tax Department requires services of external advisors from time to time.

### **2. SCOPE OF SERVICES**

PetroSA's Tax Department requires the service of the consultant to assist, on an ad hoc basis, on any or all of the following areas: **Tenderers to clearly indicate which Tax Services / Section(s) they are tendering for – Tenderers to complete Annexure A (Returnable Schedule) and attached same to its Tender on ISS.**

## **2.1 OIL AND GAS TAXATION**

### **2.1.1 Tax Advisory- Other**

Part of the PetroSA business, involves the exploration of natural oil. In view of the complexities in PetroSA's income tax return (such as split of mining and non-mining etc.) as well as the changing South African tax legislation, PetroSA has identified the ongoing need to consult and obtain a second opinion on Oil and Gas activities conduct by the company, including tax issues relating to farm-in and farm-out agreements.

PetroSA is subject stringent audits by external auditors and the Auditor General of SA. Issues that arise during the year and during the audit process, especially where these issues could lead to a high tax exposure. Legal opinions may be requested on court cases and the application thereof; and assistance required in terms of representations made to SARS such as Advanced Tax Ruling requests, etc.

### **2.1.2 Tax Return**

Tax computation review and tax return review and related to Oil and Gas before submission to SARS as and when required.

## **2.2 DIRECT TAXES**

Part of the PetroSA business, involves the exploration of natural oil, GTL refining and selling of crude, fuel and petrochemicals locally and internationally, this triggers unique tax issues for PetroSA.

### **2.2.1 Tax Advisory- Other**

PetroSA has identified the ongoing need to consult and obtain a second opinion on direct tax issues as they arise, especially where these issues could lead to a high tax exposure. Legal opinions may be requested on court cases and the application thereof; and assistance required in terms of representations made to SARS such as Advanced Tax Ruling requests.

### **2.2.2 Tax Return PetroSA Group**

The consultant may be engaged to review tax returns (or assist with the original preparation) ensuring that all allowances and deductions are properly claimed and that income (local and offshore) is correctly accounted for. As part of the external audit, tax findings may be identified. The consultant may be engaged to verify that the tax return filed has been appropriately revised in relation to the tax findings or to affirm management's response to the audit finding is correct and reasonable.

### **2.2.3 Capital Gains Tax (“CGT”)**

The consultant may be engaged to provide the following services:

- Establish proceeds and base cost for CGT purposes.
- Advise on CGT implications of asset disposals and the waiver of inter-company loans,
- Advise on record-keeping and the need to change systems to capture CGT data,
- Review of SAP system asset register etc. for compliance with legislative requirements.

### **2.2.4 Dispute Resolution**

PetroSA may require the assistance of the consultant to resolve disputes with SARS. Such assistance may be in form of:

- Preparation for SARS audit
- Response to SARS audit findings
- Notice of objection
- Notice of Appeal
- ADR (Alternative Dispute Resolution)
- Tax Court/litigation

### **2.2.5 Transitional Fiscal Legislation**

PetroSA would expect the consultant to keep the Tax Department abreast of tax developments that relate to PetroSA's business, as they become applicable.

Furthermore, the consultant should have a strong relationship with SARS and National Treasury in order to participate in submissions in relation to proposed new legislation such as state participation or Resource Rental Tax under the Petroleum Resources Development Bill or determination and acceptance of Z-factor for Carbon Tax.

## **2.3 TRANSFER PRICING**

### **2.3.1 Transfer Pricing Documentation**

PetroSA participates in international transactions with its “connected person” Joint Venture partners and according maintains a transfer pricing policy explaining the methodology applied in determining prices paid between the residents and non-residents concerned. This policy is required to be updated as the market dictates. The company may be engaged to revise the PetroSA transfer pricing policy, determine arm's length prices and conduct benchmark searches.

PetroSA may engage the consultant to assist in the compilation/revision of the transfer pricing policy in alignment with the new BEPS SARS requirements for presentation of masterfile and country by country reporting.

### **2.3.2 Transfer Pricing Advisory**

PetroSA may engage the consultant on value chain restructuring in relation to the international acquisition of feedstock for the refinery or the sale of finished products in the international market via subsidiaries located outside of South Africa. Assistance with obtaining Advance Pricing Agreements for the payment of commission or market up on sale of products or management fees may be requested.

### **2.3.3 Internal Transfer Pricing**

The consultant may be engaged to document the areas across PetroSA's value chain, where value is created and value is eroded. The consultant may be asked to advise on appropriate transfer pricing methodologies and benchmarks for internal transfer prices. This will allow PetroSA to measure the performance of upstream, the GTL refinery and marketing against international benchmarks to identify areas for improvement in profitability.

## **2.4 VALUE ADDED TAX**

### **2.4.1 VAT Advisory**

PetroSA would require assistance with VAT technical issues on an ad hoc basis when the need arises to ensure that the PetroSA group as a whole, nationally and internationally, including the joint ventures, complies with the statutory requirements of the relevant laws such as the South African VAT law and Netherlands VAT law. The consultant may be engaged to provide VAT advice such as:

- Reviewing the VAT accounting procedures of joint ventures and business structures.
- Importation and exports of products and equipment
- Implications of transactions and evaluating alternatives
- Identifying and benefiting from VAT opportunities
- Managing VAT risk/exposures of businesses and tax disputes from SARS
- Detailed or high-level VAT reviews to identify VAT savings or to ensure compliance
- Assistance and securing VAT rulings from SARS
- Tax training and tax updates in change in legislation
- DATA analytics or software to identify potential VAT savings

## **2.5 CUSTOMS AND DUTY AT SOURCE**

### **2.5.1 Customs Duty and Duty at Source (DAS) Advisory**

The consultant may be engaged to provide customs and DAS assistance in relation to:

- Customs and DAS audit reviews
- Provision of tax updates and legislative changes
- Customs training
- Reviewing systems to ensure both Customs and DAS compliance.
- DAS accounts – data analytics or software necessary to verify acquittals or reconciliations.
- Registrations and licensing requirements with SARS
- Importation and exportation requirements and documentation
- Surety and bonds lodged with SARS including in transit bonds, Special storage warehouses (“SOS”)
- Warehousing
- Acquittals to foreign and BLNE countries
- Removal of goods in bond
- Payment of customs and excise duties
- Responding to SARS letter of intent
- Assessments raised by SARS
- Tariff classifications, applications and determinations
- Customs tariff valuation determination and structuring
- Incoterms and customs values
- Trade agreements
- Accreditation
- General and industrial rebates and applications thereof
- Valuations and value determination
- Customs and DAS advice on in transit goods from a foreign destination to BLNE and non-BLNE countries
- Customs and DAS advice on goods imported from a foreign destination into a SOS bond store for export to BLNE and non-BLNE countries

## **2.5.2 Customs and duty at source audits**

PetroSA's Tax Department manages the company's excise risk and has identified the need to review past practises and tighten future compliance. The consultant should be able to assist PetroSA's Tax Department to ensure that past excise accounting is regularised, the correct DAS payments are made timeously, and that PetroSA is not exposed in this regard.

The consultant may be requested to perform DATA analytics to identify outstanding acquittals per customer or removals that were not invoiced.

## **2.5.3 Other indirect taxes**

The consultant should have industry specific experience in relation to indirect taxes that may be accessed when considering the peculiarities relating to our refining activities, such as slate, IP Tracer, petroleum products levy, aviation fuel levy, International Oil Pollution Levy Fund (IOPC) etc.

## **2.6 EMPLOYEE'S TAXATION**

### **2.6.1 Employee's tax services**

PetroSA has approximately 1800 employees, employed at its GTL Plant, Voorbaai, Saldanha, Tzaneen, Bloemfontein, Sandton and at its Parow Head Office sites. These employees are all paid via the SAP payroll system. The consultant should have technical expertise in relation to all taxes levied via the payroll, namely PAYE, Skills Development Levy, Unemployment Insurance and Workman's compensation, in conjunction to practical expertise such the setup of the SAP payroll parameters and IRP5 validation.

Furthermore, an understanding of the ancillary legislation in relation to contributions and payments from benefit funds such as Provident and Medical Aid Funds and termination of an employee's services such as retrenchments would be beneficial.

The range of services that should be provided includes:

- Structuring of remuneration packages
- Reviewing employment contracts, letters of employment and remuneration policies
- Comprehensive employee's tax reviews
- Responding to SARS audits

- Assisting with employees' tax calculations
- Advice related to independent consultants, labour brokers and personal service companies.
- Presentation of workshops to train staff associated with the payroll function.
- Liaising with SARS to resolve issues relating to employees' tax affairs.
- Opinions on the taxation of employee fringe benefits and allowances.

## **2.7 EXPATRIATE'S TAXATION**

### **2.7.1 Expatriate's Tax Compliance**

In light of PetroSA's international expansion and joint ventures with foreign multinationals, expatriate tax services are important. The services that we anticipate the consultant should be able to provide are:

- Preparation and submission of the annual income tax returns
- Attending to the calculations of provisional tax payments
- Reviewing tax assessments and final tax payable on assessments
- Registering expatriates with the taxation authorities
- Dealing with all enquiries from the tax authorities
- Remuneration structuring advise.
- Outsourced payroll activities for employees seconded to foreign jurisdictions.
- Outsourced payroll activities for foreign employees employed in foreign jurisdictions where PetroSA does not have an established presence.

## **2.8 PROJECT TAXATION**

### **2.8.1 Due diligence**

The nature of PetroSA's business involves the acquisition of opportunities both inside and outside of South Africa. This requires that a due diligence be completed within a short period of time to be able to meet tight deadlines. The consultant would be required to have international representation and proven experience in international oil and gas industries. Specific experience should include: farm-in and farm-out venture arrangements, joint venture arrangements and tax treatment of Production Sharing Contracts etc. The company's capabilities should include:

- Status of tax compliance
- Outstanding tax issues

- Identification of any contingent or actual material tax liabilities
- Identification of tax planning opportunities

## **2.8.2 Outbound investment**

The consultant may be engaged to provide practical advice and assistance on establishing offshore operations. This assistance should include advising on optimal cross-border funding structures etc.

## **2.8.3 Tax Risk Management**

Tax risks that are common to multinationals in the oil and gas industry arise out of cross-border transactions and financing, Customs and Excise duty management and the VAT treatment of transactions.

PetroSA may require assistance with the identification and management of tax risks inherent in the business that, if not adequately addressed, could negatively impact on the achievement of PetroSA's business objectives and strategy.

## **2.8.4 International taxes**

PetroSA has business activities in countries outside of South Africa. These activities impact on both PetroSA's tax reporting in and outside of South Africa. The Consultant should be able to assist in the completion of tax returns and other statutory tax returns in the various countries in which PetroSA operates. Based on this it is important that company should have experience of:

- Controlled Foreign Corporations
- Interpretation of international treaties
- Place of effective management and tax residence of offshore activities
- Applications for Section 6A tax credits etc.
- International group structuring
- Exchange control advice and compliance assistance
- Profit extraction mechanisms and withholding tax
- Funding strategies, thin capitalisation and management of taxation of exchange differences
- Capital gains tax in respect of offshore transactions

## **2.8.5 Economic valuation models**

The consultant may be engaged to prepare or review economic models to determine the valuation of a new acquisition or disinvestment, ensuring proper modelling of the fiscal terms applicable to South Africa and/or the foreign jurisdiction in which the investment is to be held/is held.



## 2.9 ROYALTIES

The consultant may be engaged to review/perform economic models to support/establish a methodology for internal pricing of gas and condensate for purpose of the arm's length to be used for the determination of gross sales value for the Mineral and Petroleum Royalties.

The consultant may be requested to assist in securing memorandum of agreement with National Treasury for the Mineral and Petroleum Royalties.

## 2.10 INTERNATIONAL TAX/CO-ORDINATION WITH FOREIGN JURISDICTIONS

PetroSA invest in foreign jurisdictions. It is important to understand the tax implications of these investments both locally and in the foreign jurisdiction. Our local advisors should be able to advise us on the optimal structure, be it branch, foreign company taking into account DTA's and other relevant legislation. It should be noted that all PetroSA subsidiaries are effectively managed and controlled in SA due to requirements of the Public Finance Management Act. The local advisor should be able to coordinate information supplied by our foreign advisors based on the instruction from the Tax Department. The Tax Department reserved the right to appoint its own foreign advisors.

## 2.11 CARBON TAX

With effect from 1 July 2019, Carbon Tax came into effect. PetroSA is required to account for its Carbon emissions on both process emissions and combustion emissions from the GTL Refinery and fugitive emissions from the FA platform gas processing. PetroSA would require the consultant to provide assistance with:

- Determination of appropriate Z-factor to be used by synfuels refinery based on international benchmarks
- Securing carbon offsets, rebates and exemptions from the carbon tax
- Advisory on the implementation of the pass through and collection of carbon tax on combustion of fuel levy products in the monthly excise account.

## 3. ENQUIRIES

Any enquiries regarding this tender should be addressed to **Hennie Fortuin and Caroline Widmer** in the Tender Office at telephone no. **(021) 929-3211 / (021) 929-3006**, or e-mail address [MartinHennie.Fortuin@petrosa.co.za](mailto:MartinHennie.Fortuin@petrosa.co.za) / [caroline.widmer@petrosa.co.za](mailto:caroline.widmer@petrosa.co.za).