

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

Case number: 85549/15

In the matter between:

EAST METALS AG

First Applicant

MASTERCROFT S.A.R.L

Second Applicant

and

**EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(IN BUSINESS RESCUE)**

First Respondent

(Registration Number: 1960/001900/06)

PIERS MARSDEN N.O.

Second Respondent

DANIEL TERBLANCHE N.O.

Third Respondent

(in their representative capacities as the joint business
rescue practitioners of Evraz Highveld Steel and
Vanadium Limited (in business rescue))

**COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION**

Fourth Respondent

**THE CREDITORS OF THE FIRST RESPONDENT
LISTED IN ANNEXURES "A" AND "B" TO THE
NOTICE OF MOTION**

Fifth Respondent

THE EMPLOYEES OF THE FIRST RESPONDENT

Sixth Respondent

**NATIONAL UNION OF METALWORKERS OF SOUTH
AFRICA**

Seventh Respondent

SOLIDARITY UNION

Eighth Respondent

RMB SECURITIES

Ninth Respondent

**THE REMAINING SHAREHOLDERS OF THE FIRST
RESPONDENT**

Tenth Respondents

SOUTH AFRICAN REVENUE SERVICES

Eleventh Respondent

INTERNATIONAL RESOURCES PROJECT LIMITED

Twelfth Respondent



**FIRST - THIRD RESPONDENTS' SUPPLEMENTARY ANSWERING AFFIDAVIT
IN THE MAIN APPLICATION**

I, the undersigned,

PIERS MICHAEL MARSDEN,

do hereby make oath and state that:

1. I deposed to the answering affidavit in the main application.
2. The facts deposed to in this affidavit are within my personal knowledge and belief, save where the context indicates to the contrary, and are furthermore true and correct. Where I refer to information conveyed to me by others, I verily believe such information to be true. Where I make submissions of a legal nature, I do so on the advice of my legal representatives.
3. In the answering affidavit in the main application I dealt with the two claims of SARS. The applicants made the point in their founding affidavit that no assessments were issued by SARS in respect of the second claim.
4. On Wednesday, 18 November 2015, and after service of the answering affidavit on the applicants, the first to third respondents received an email from SARS attaching what is referred to in the email as an "*audit finalisation letter*" and attached as the "*Evrax letter of assessment*" in respect of the 2007 to 2009 tax period. I attach hereto, marked "**SA1**", a copy of the covering email and letter.



5. It will be noted from SA1 that SARS has finalised its audit in respect of the first respondent's income tax for the 2007 to 2009 tax period. In this regard, SARS would make adjustments totalling R1 452 432 899 to the first respondent's taxable income for the determination of the amount of the first respondent's tax liability to be reflected in the first respondent's assessments.
6. On 19 November 2015, the first to third respondents received a copy of the assessments issued by SARS in respect of the 2007 to 2009 tax period. I attach hereto, marked "SA2", a copy of the assessments. In terms of the assessments, the total amount claimed by SARS for the 2007 to 2009 tax period is R679 861 291.
7. Due to the assessments having been raised by the applicants in their founding affidavit, and the assessments having been received after the filing of the answering affidavit, I request the Court to allow the filing of this affidavit.



PIERS MICHAEL MARSDEN

I certify that:

- I. the Deponent acknowledged to me that :
 - a. He knows and understands the contents of this declaration;
 - b. He has no objection to taking the prescribed oath;
 - c. He considers the prescribed oath to be binding on his conscience.
- II. the Deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God".
- III. the Deponent signed this declaration in my presence at the address set out hereunder on 27th November 2015.

CAROLE SHILL
 Commissioner of Oaths in terms of
 Section 5(1), Justices of the Peace and
 Commissioners of Oaths Act, 1963,
 (Act 16 of 1963)
 9/1/8/2 Randburg, 14/7/2003
 Office Manager Group One
 3rd Floor Block A, Sandown Village
 Cnr Gwen & Maude Street, Sandton
 Tel 011 290 4000



COMMISSIONER OF OATHS

"SA1"

Letitia Field

Subject: FW: Evraz Highveld
Attachments: image001.jpg; ATT00001.htm; Evraz Letter of assessment.PDF; ATT00002.htm

From: Thabang Mochusi <TMochusi@sars.gov.za>

Date: 18 November 2015 at 17:13:58 SAST

To: "businessrescue@mazars.co.za" <businessrescue@mazars.co.za>, "Daniel.Terblanche@mazars.co.za" <Daniel.Terblanche@mazars.co.za>

Cc: "Ntebaleng Sekabate (nsekabate@ensafrica.com)" <nsekabate@ensafrica.com>, "Andries Myburgh (amyburgh@ensafrica.com)" <amyburgh@ensafrica.com>, "Tebogo Mathosa" <TMathosa@sars.gov.za>, Nonkululeko Ntombela <NNtombela@sars.gov.za>

Subject: Evraz Highveld

To whom it may concern:

Attached please find the audit finalisation letter for Evraz Highveld Steel. Kindly contact me should you have any queries.

Best Regards

Thabang Mochusi

*International Tax: Assurance
Large Business Centre
Megawatt Park, Sunninghill
Telephone: 011-602 3764
email: Tmochusi@sars.gov.za*



Large Business
Centre



South African Revenue Service

Office
Megawatt Park

Enquiries
Thabang Mochusi

Switchboard
(011)602-2000

Direct line
(011)602-3764

E-mail
tmochusi@sars.gov.za

Reference
9250/026/60/7

Date
18 November 2015

The Public Officer
c/o Edward Nathan Sonnerbergs Incorporated
Evraz Highveld Steel & Vanadium Ltd

Private Bag 9

PARKTOWN

2122

Large Business Centre

1st Floor, Blocks A and B
Megawatt Park, Maxwell Drive
Sunninghill, Sandton
(No postal deliveries to this
address)

Private Bag, X170, Rivonia, 2128

SARS online: www.sars.gov.za

Attention: businessrescue@mazars.co.za
amyburgh@ensafrica.com

EVRAZ HIGHVEL STEEL & VANADIUM LTD
FINALISATION OF AUDIT : INCOME TAX
YEARS OF ASSESSMENT: FY2007 – FY 2009

The South African Revenue Service ("SARS", "we" or "our") has completed the audit for the tax type and tax periods listed below:

Tax type	Taxpayer reference number	Tax periods
Income Tax	9250/026/60/7	2007 – 2009

Based on our letter of findings dated 27 May 2015 and your response dated 10 July 2015, the following adjustments will be made to your taxable income for the determination of the amount of your tax liability to be reflected in your assessments.

Summary and explanation of adjustments made:

Tax period	Tax type	Description	Amount
2007	Income Tax	Income of CFC included in income by virtue of Section 9D(2) of the Income Tax Act 58 of 1962	R417 135 784
2008	Income Tax	Net income of CFC included in income by virtue of Section 9D(2) of the Income Tax Act 58 of 1962	R879 291 938
2009	Income Tax	Net income of CFC included in income by virtue of Section 9D(2) of the Income Tax Act 58 of 1962	R156 005 177
Total			R1 452 432 899

Details with regard to the manner in which the above amounts have been calculated are furnished in the Annexure to this document.

This letter follows the completion of an audit in respect of Evraz Highveld Steel and Vanadium Ltd's ("Evraz Highveld") compliance with the provisions of the Income Tax Act No.58 of 1962 ("the Act").

Below is an explanation of the adjustments:

1. Background facts

From the audit conducted, we are of the view:

- 1.1 That the exemption provided for in section 9(D)(9)(b) of the Act, that was claimed by Evraz Highveld in relation to the income of a controlled foreign company ("CFC") of Evraz Highveld during the relevant years of assessment is not applicable.
- 1.2 There was a non-disclosure of material facts in the 2007-2009 tax returns and accordingly the assessments have been reopened for audit.

2. The Law

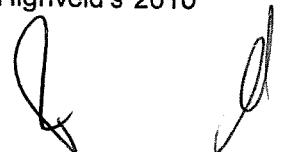
- 2.1 In terms of section 9D of the Act, unless an exemption or exclusion applies, an amount equal to the net income of a CFC must be included in each South African resident's income in the proportion of the participation rights of the South African resident in the CFC to the total participation rights in the CFC.

One such exemption is the foreign business establishment ("FBE") exemption provided for in section 9D(9)(b) of the Act. It provides that in determining the net income of a CFC there must not be taken into account any amount which is attributable to any FBE of that CFC.

3. Response to Letter of Audit Findings

- 3.1 We respond to the contentions contained in the ENS letter dated 10 July 2015 as follows:

- 3.1.1 In paragraph 4.1 of the letter, it is stated that identical queries raised in the letter of findings in respect of the 2007 to 2009 years of assessment have been raised with regard to Evraz Highveld's 2010



to 2012 years of assessment and that our letter appears to be a "copy and paste" of the said letter. In this regard, we highlight that the business model of Evraz Highveld remained the same even prior to 2007 and the toll manufacturing contract with Treibacher Industrie Aktiengesellschaft ("Treibacher") has been in force since November 2004. It therefore follows that the issues as contained in the 2010 to 2012 letter of audit findings are the same as those contained in the letter of audit findings for the 2007 to 2009 years of assessment.

- 3.1.2 We highlight that SARS personnel applied their minds to the facts on hand, which were identical to those in the later years, and then applied the law, which was applicable during the period in question.
- 3.1.3 As pointed by ENS, the law, effective in the 2007 assessment period differed from that in the 2008 and 2009 years of assessment and it was therefore necessary for us to consider the law applicable to each period separately.
- 3.1.4 This was done and the conclusion reached was that it was also not possible in 2007 for a taxpayer to outsource its services to a third party and to qualify for the FBE exemption. The only difference in this regard between the position in 2007 and that in 2008 and 2009 is that a ruling from the Commissioner was required in the event that the resources of another CFC within the same group could be taken into account in determining whether an FBE existed.
- 3.1.5 The statement made by ENS that the 2007 net income of the CFC was estimated is incorrect. The net income that was to be imputed was set out in the IT10, which was submitted by the taxpayer. It is correct that the expenses for 2007 were estimated based on the future years. At the time that the letter of audit findings was issued, the financial statements had not yet been submitted by the taxpayer despite SARS' numerous requests. The financial statements were only submitted to SARS on 17 July 2015, and therefore these figures have been used in the letter of assessment and not the estimated figures as contained in the letter of findings.
- 3.1.6 In paragraphs 4.3 and 4.4 of the ENS letter, reference is made to the expenses incurred in 2008 and 2009 which SARS has disallowed. These expenses have been described in the financial statements of Hochvanadium Handels GmbH ("HH") as "operating expenses taxes".



SARS disallowed the expenses on the basis that taxes are not expenses incurred in the production of income as required by section 11(a) of the Act.

4. Re Opening of the assessments:

4.1 Our response to paragraph 9 of the ENS letter is as follows:

4.1.1 We agree with your contention that Section 79(1) of the Income Tax Act 58 of 1962, Act, as it read at the time, should be applied in the present circumstances.

4.1.2 Section 79 precludes the raising of assessments after the expiration of three years from the date of the assessment unless the Commissioner is satisfied that the fact that the amount which should have been assessed to tax was not so assessed or the fact that the full amount of tax chargeable was not so assessed, was due to fraud, misrepresentation or non-disclosure of material facts.

4.1.3 We are aware that:

4.1.3.1 the Commissioner's satisfaction in terms of section 79(1)(i) is a substantive and far-reaching determination which should be communicated to the taxpayer; and

4.1.3.2 the taxpayer should be informed of the particular conduct in respect of which the Commissioner is satisfied.

4.2 We accordingly set out below the reasons why we are satisfied that the full amount of tax chargeable to Evraz Highveld in its 2007, 2008 and 2009 assessments was not assessed due to non-disclosure of material facts by the taxpayer.



4.3 We, however, consider it appropriate to first examine the meaning of the term "non-disclosure" and "material facts" and to explain why facts about the nature of a CFC's activities are material in the context of the FBE exemption contained in section 9D(9)(b) of the Act.

4.4 Non-disclosure of material facts:

Two handwritten signatures in black ink, one on the left and one on the right, positioned at the bottom right of the page.

- 4.4.1 There is no clear legislative or judicial guidance as to the constituent elements of the expression “non-disclosure of material facts” although the Courts have made reference to “the reasonable reader” in this context.
- 4.4.2 In ITC 1459 51 SATC 142, the Court, having examined the disclosures made in the tax return and the supporting documents found that they contained nothing *“which in the slightest measure afforded the Commissioner information regarding the circumstances and salient features of the transaction in issue. It seems to us that anyone reading that return and supporting documents would conclude that the ‘loss on share-dealing’ referred to was confined to losses sustained in unsuccessful endeavours to earn taxable income, that is to say, income as defined in the Act. Nothing in all this documentation would convey to the reasonable reader the impression that the loss claimed referred to or included any loss sustained in the production of exempt income”*.
- 4.4.3 The same Court rejected the argument that the Commissioner should have been alerted to make further enquiries by what he saw in the return and the accompanying documents. In this regard, the Court stated that:

“The question is whether he had all the material facts when he issued all the original assessments. If not, whatever the reason, then caedit quaestio. It does not matter that his ignorance was partly due to a failure to make enquiries regarding the present transaction and comparing that information with the paucity of detail in the returns read with their supporting documents, it is manifest that the Commissioner or his officer did not have all the material facts. Clearly it was the absence of those facts which led to the issue of the original assessments.”

- 4.4.4 What constitutes compliance with the duty to disclose material facts will depend on the facts of each particular case, but it has been held that an “elliptical description” of the relevant transaction or activities is not sufficient to enable a proper determination by the Commissioner. In ITC 1594 57 SATC 259 it was held that:
- 
- 

"An obligation rests upon a taxpayer to render an accurate and full return on which he can be assessed and not do so in a vague or ambiguous manner casting the onus on the Revenue authorities to elicit the complete picture by a series of queries".

"....the elliptic description 'consulting fees in the running of the factory' does not set out the circumstances or salient features of the transaction entered into between appellant company (taxpayer) and F (the consultant) or the extent of the activities undertaken by F on which the Commissioner could make a proper determination of the liability to taxation of the deduction sought to be claimed. To this extent in our opinion there was a non-disclosure of all the material facts which led to the non-assessment of the deductions it is not suggested that such non-disclosure was intended to defraud or misrepresent the position but this is immaterial except possibly in relation to penalties imposed or interest claimed".

- 4.4.5 Whether a fact is material is also a matter that is fact dependant. It has been held that:

"materiality is not a relative concept; something is either material or it is not. Etymologically the word 'material' denotes substance, as opposed to form. In legal parlance it bears a corresponding meaning: "Of such significance as to be likely to influence the determination of a cause (The Shorter Oxford English Dictionary vol.2 at 1289)".

4.5 The FBE exemption and the materiality of facts about the nature of a CFC's activities.

- 4.5.1 In relation to foreign companies that are controlled by South African residents, the general rule is that their profits must be taxed in the hands of those residents. There are, however, a number of exemptions that are granted where it is evident that the CFC's profit-making operations are not at the expense of the South African tax base.

- 4.5.2 One such exemption is the FBE exemption, which essentially acknowledges that genuine businesses operating abroad pose no



threat to South Africa's tax base. On the other hand, mobile businesses that do not have sufficient economic substance in the foreign country to justify operating there, and which could have been conducted from South Africa are not entitled to the exemption. A FBE is comprehensively defined in section 9D of the Act. Essentially, a FBE is a fixed place of business that is used for the carrying on of the business of the CFC, where that business is suitably equipped with its own on-site management and employees and has its own suitable facilities and equipment for conducting the primary operations of that business.

- 4.5.3 Economic substance and locational permanence are at the heart of this exemption. It follows that the nature of a CFC's activities are integral to the determination of whether the requisite economic substance and locational permanence exists.
- 4.5.4 With regard to the 2007 year of assessment only, where a CFC utilised the resources of a group CFC within the same jurisdiction, the first mentioned CFC could potentially, if subject to a ruling, be considered a FBE. .
- 4.5.5 In 2009, the rulings regime was replaced by a proviso to the definition of a FBE contained in section 9D, that allowed for a pooling of resources in specific circumstances. No third party utilisation of resources or outsourcing was or is allowed.

4.6 A review of the facts:

- 4.6.1 HH is a CFC in relation to Evraz Highveld. For the 2007 to 2009 years of assessment Evraz Highveld submitted an IT10, in which it claimed an exemption, from South African tax on the income earned by HH. The exemption claimed was the FBE exemption provided for in section 9D(9)(b) of the Act

Part 1 of the IT10 is entitled "CFC information", under which certain details, including "Nature of Business" of the CFC are required to be disclosed. In each of the IT10's completed by Evraz Highveld in respect of HH, the "Nature of Business" in Part 1 was stated to be: "Manufacturing of vanadium and ferrovandium and marketing thereof".



4.6.2 Part 6 of the IT10 is entitled "Exclusions in terms of section 9(D)(9)". Under this heading the taxpayer is required to indicate the "Section applicable and the Types of income as listed in the financial statements (of the CFC) and the Amount in foreign currency".

4.6.3 For the relevant years of assessment, and under part 6 of the IT10, section 9D(9)(b) of the Act was stated to be the applicable section and was claimed in relation to the following amounts:

Year	Type of income	Amount
2007	Business Income	€44 280 781/ R427 677 067
2008	Business Income	€80 970 780/ R977 932 692
2009	Sales and Other Income	€65 884 380/ R 775 966 462

4.6.4 Pre-printed on each page of the IT10 is the note: "If space is insufficient, attach a separate schedule". No separate schedule accompanied the IT10's submitted by Evraz Highveld for the relevant years of assessment.

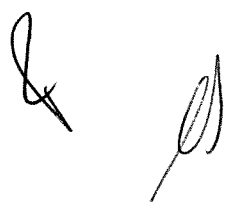
4.6.5 For relevant years of assessment, Evraz Highveld submitted the financial statements of HH together with the relevant IT10.

4.6.6 In October 2013, SARS conducted a transfer pricing risk review of Evraz Highveld. During this process, the following facts emerged:

4.6.6.1 The manufacturing of vanadium and ferrovanadium and the marketing thereof was not conducted by HH. As a matter of fact HH did not have the employees, management, facilities or equipment required to manufacture anything.

4.6.6.2 The manufacturing and marketing activities were outsourced by HH to Treibacher, an independent third party located in Austria; and

4.6.6.3 The primary functions of HH encompassed logistics management, administration, creditor's management process development, quality control and procurement planning. It was only for these functions that HH was



suitably equipped in terms of employees, facilities and equipment.

4.7 Application of the general principles to the facts

- 4.7.1 The question that arises is whether the fact that HH outsources both the manufacturing and the marketing activities to a third party, are material facts.
- 4.7.2 Put another way, is the fact that HH does not, itself, conduct the manufacturing of vanadium and ferrovanadium nor the marketing thereof of "such significance as to be likely to influence the determination of a cause." Bear in mind that the Commissioner is not required to make further enquires to see if what the taxpayer has told them reflects the true state of affairs.
- 4.7.3 It is our view that the fact that HH outsources these activities to a third party is a material fact because it is critical to a determination of whether or not HH has the characteristics of a FBE to which its active income can be attributed. The outsourcing to a third party indicates a fully mobile business which is exactly the type of business that the CFC legislation intends to cover. The only outsourcing allowed during the period was intergroup CFC pooling of assets, employees and facilities.
- 4.7.4 To give the impression that a CFC engages in manufacturing, an activity which by its nature has locational permanence and is operationally equipped i.e. is not a mobile business, is to give the impression that the CFC has economic substance and is therefore of a type that the legislation was not intended to include under the CFC rules. Such permanence would indicate to the assessor that the active income of the CFC was likely to be exempted under the FBE test. The statement that HH engaged in manufacturing and marketing was to give the reasonable reader of the IT10 return, comfort that the income that HH earned was attributable to a substantial business operation in Austria.
- 4.7.5 There was no indication in the IT10 that HH outsourced the manufacturing or marketing activities to another party. It is our view that the description "manufacturing of vanadium and ferrovanadium and marketing thereof" does not set out the



circumstances and salient features or activities of HH's business from which the Commissioner could make a proper determination of the exemption from taxation that was sought to be claimed.

4.7.6 As it is clear that the IT10 did not disclose the material fact that HH outsourced its main business activity to a third party, the question arises whether this was apparent from the accompanying documents.

4.7.7 As mentioned above, the financial statements of HH were submitted with the relevant IT10's. The financial statements of HH do not contain any written explanation of the activities in which HH was engaged and do not state that all of its marketing and manufacturing functions were outsourced.

4.7.8 During the relevant years of assessment, the legislation made it possible (by virtue of a ruling process in 2007 and in terms of the proviso to the FBE exemption in 2008 and 2009) for a CFC to qualify for the FBE exemption if it used the resources of another CFC in the same country and within the same group. It follows that an assessor would have reasonably assumed that a taxpayer would have correctly applied the law, and knowing that no outsourcing to a third party was possible, would not have claimed the FBE exemption, unless the outsourcing was to a CFC within the same group of companies and within the same jurisdiction. It is not reasonable to have expected the assessor to have assumed that HH outsourced to a third party and incorrectly claimed the FBE exemption. If the IT10 had stated the correct set of facts, those being that HH merely acted as a logistics operator or administrator, and the manufacturing and marketing was outsourced to a third party, a reasonable assessor would have requested additional information on the tolling arrangement and would have rejected the FBE exemption claimed.

Conclusion

4.7.9 It was the filing position of HH in each of the 2007, 2008 and 2009 years of assessment that the nature of its business was the manufacturing and marketing of ferrovanadium. The facts that both the manufacturing and the marketing activities were outsourced to




a third party are material to an assessment of whether HH qualified for the FBE exemption as it read at the relevant time.

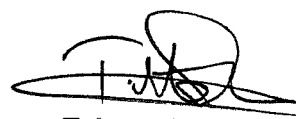
- 4.7.10 These facts were not disclosed. We are therefore satisfied that such non-disclosure led to the granting of the FBE exemption, in relation to the income of the CFC which should have been subject to tax in South Africa. It therefore follows that the Commissioner is satisfied that the fact that the relevant amounts which should have been assessed to tax during the relevant years of assessment were not so assessed was due to the non-disclosure by Evraz Highveld of material facts as envisaged in terms of the proviso to section 79(1) of the Act, as it read at the relevant time and the assessments in respect of the 2007 to 2009 years of assessment have been issued on this basis.
- 4.7.11 It is our view that HH does not have a FBE in Austria. In calculating the taxable income for the 2007, 2008 and 2009 years of assessment, SARS has added back the net income of HH as per the attached Annexure.
- 4.7.12 Interest will be levied in terms of section 89quat of the Act. You have the right to lodge an objection in terms of section 105 of the Tax Administration Act No. 28 of 2011.
- 4.7.13 The objection must be in writing in the prescribed form (NOO) which is available from any SARS office or can be accessed on the SARS website at www.sars.gov.za. The objection must be lodged with this office, within 30 days of the date of assessment. Please email the objection to Gtompa@sars.gov.za and Tmochusi@sars.gov.za.

Please do not hesitate to contact us should you require any further explanations.

Yours faithfully


Thabang Mochusi

Operational Specialist: Assurance


Tebogo Mathosa

Manager: Assurance



CALCULATION OF THE INCOME ATTRIBUTABLE TO EVRAZ HIGHVELD STEEL AND VANADIUM
PTY LTD IN TERMS OF SECTION 9D OF THE INCOME TAX ACT

YEAR OF ASSESSMENT: 31 DECEMBER 2007

		EURO
Net Income/Loss per the annual financial statements	Line 11	-34 982 881.05
Operating taxes	Not an expense incurred in the production of income	37 933.67
Amortisation of Intangibles	No allowance granted in terms of the SA Income Tax Act	79 681 845.40
Net Income (Euro) of HH attributable to Evraz in terms of section 9D(2A)		44 736 898.02
ZAR/ Euro average exchange rate)	SARS website	9.3242
Net Income (ZAR) of HH attributable to Evraz in terms of section 9D(2A)		417 135 784.52




YEAR OF ASSESSMENT: 31 December 2008

Net Income/Loss per the annual financial statements	Line 11 of the Income Statement	29 168 597.36
Income taxes	Not an expense incurred in the production of income	9 487 521.95
Operating taxes	Not an expense incurred in the production of income	35 021.73
Amortisation of Intangibles	No allowance granted in terms of the SA Income Tax Act	42 500 000.00
Net Income (Euro) of HH attributable to Evraz in terms of section 9D(2A)		81 191 141.04
ZAR/ Euro average exchange rate)	SARS website	10.8299
Net Income (ZAR) of HH attributable to Evraz in terms of section 9D(2A)		879 291 938.35



YEAR OF ASSESSMENT: 31 DECEMBER 2009

Adjustments made to the taxable income of HH in terms of section 9D(2A) of the Income Tax Act

		EUR
		2009
Net income/loss per the annual financial statements	Line 11 of the Income Statement	(28 670 276.21)
Income Taxes	Not an expense incurred in the production of income	1 750.00
Operating expenses: Taxes	Not an expense incurred in the production of income	39 228.58
Amortisation of intangible fixed assets	No allowance granted in terms of the SA Income Tax Act	42 500 000.00
Net income (Euro) of HH attributable to Evraz in terms of section 9D(2A) of the Income Tax Act.		13 870 702.37
ZAR: EURO average exchange rate	SARS website	11.2471
Net income (ZAR) of HH attributable to Evraz in terms of section 9D(2A) of the Income Tax Act.		R156 005 177




"SA2"



INCOME TAX

ITA34

Notice of Assessment

EVRAZ HIGHVELD STEEL & VANADIUM
LIMITED
PO BOX 111
WITBANK
1035

Enquiries should be addressed to SARS:

Contact Centre

ALBERTON

1528

Tel: 0800007277

Website: www.sars.gov.za

Details

Reference number: **9250026607**
Document number: **30308**
Date: **2015-11-18**
Year of assessment: **2007**
Type of assessment: **Additional Assessment**
Period (days): **365**
Due date: **2016-01-01**
Second date: **2016-01-31**

Always quote this
reference number
when contacting
SARS

Assessment summary information

	Amount assessed
Income	1808718119.00
Taxable Income	1808718119.00
Tax calculation	
Assessed tax after rebates	550328502.61
Tax credits and adjustments	-297334207.26
Net amount payable under this assessment after allowable credits	252994295.35

Compliance information

Unprocessed payments	0.00	Registered provisional taxpayer	Y
Selected for audit or verification	N		

Dear EVRAZ HIGHVELD STEEL & VANADIUM LIMITED

Thank you for submitting your income tax return for the 2007 year of assessment. Your assessment has been concluded and reflects an amount payable by you of R 252994295.35. Payment should be made by 2016-01-31 after which interest will accrue on this assessment as from 2016-01-01

Please note that this amount only reflects your income tax assessment and does not reflect tax payable under any previous assessment or any other balances on your account. The current balance on your assessed account is R 252777396.51. For a statement reflecting your final balance (including all amounts payable or refundable under any previous assessment, refunds, payments, additional taxes/ understatement penalties, penalties and interest), please request your statement of account from SARS through the following channels:

- Electronically via eFiling
- Call the SARS Contact Centre
- At your nearest SARS branch

The final balance is reflected on the remittance advice at the bottom of the Statement of Account. Please note that interest accrues on all taxes payable after the due date so you are advised to pay in full on or before the due date.

The reference to additional tax/understatement penalty in this notice of assessment depends upon the circumstances.

- If additional tax was imposed before the commencement date of the Tax Administration Act (TAA) then adjustment to that additional tax may be made by an assessment issued in terms of the TAA after the commencement date of the TAA
- An assessment issued after the date of commencement of the TAA, in respect of any period that preceded the commencement date of the TAA, may be subject to the imposition of an Understatement Penalty in terms of the TAA as an "understatement" is considered to be a continuing act or omission in terms of the TAA
- An assessment issued after the commencement date of the TAA, for a period that commences after the commencement date of the TAA, may include the levy of an Understatement Penalty.

According to the information you declared in your income tax return, you were liable to pay provisional tax for this year of assessment. Kindly note that should your tax circumstances remain the same for the next tax year, as a provisional taxpayer you are required to submit an IRP6 tax return that reflects an estimate of your taxable income for that tax year. A provisional tax payment based on the estimated taxable income must also accompany the IRP 6 tax return. For more information on provisional tax, how you can obtain your IRP6 tax return and submission due dates you can visit the SARS website www.sars.gov.za, or you can contact the SARS Call Centre on 0800 00 SARS (7277).

Below you will find the amounts of income included and deductions allowed in calculating this assessment. It is very important that you check these amounts to ensure:

- They are correct

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2. They reflect all your taxable income and allowable deductions for the year

If you are of the view that the assessment contains a processing, calculation or other error, you should submit a revised return.

If you are unsure as to how the assessment was concluded or the reasons for any of the adjustments made, you may write a letter requesting SARS to provide further information as to how the assessment was concluded. This letter must be delivered to your nearest SARS branch within 30 days of the date of this assessment or sent via registered mail to the address at the top of this notice.

If you are aggrieved by this assessment, you may submit a Notice of Objection (NOO) using the form available from eFiling or your nearest branch to you or by calling 0800 00 SARS (7277). You have 30 days from the date of this assessment in which to do this.

NOTE: Your obligation to pay any amount due is not suspended by any objection or appeal. However, SARS will consider a motivated application for the suspension of payment pending the finalisation of an objection or appeal as stipulated in the Tax Administration Act.

Sincerely

ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

**INCOME TAX****ITA34****Notice of Assessment**

Reference number: 9250026607
Document number: 30308
Year of assessment: 2007

Income			
Code	Description and detail	Computations & adjustments	Amount assessed
Capital gain - local			238859071.00
4250	Note for individuals: The calculation of the aggregate capital gain / loss of a CGT transaction relating to a primary residence will be impacted where the property is held jointly or in partnership and / or married in community of property is applicable.		
	Capital gain tax: local	477718142.00	238859071.00
	Apply inclusion rate	-238859071.00	
Business, trade and professional income (incl. rental)			1569859048.00
1204	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss Steel tubes		
		1152723264.00	1152723264.00
4276	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss Imputed net income from cfc		
		417135784.00	417135784.00
Income			1808718119.00

Deductions allowed			
Code	Description and detail	Computations & adjustments	Amount assessed
Deductions Allowed			0.00

Taxable income			Amount assessed
Code	Description and detail		
	Taxable Income - subject to normal tax		1808718119.00

Tax calculation			
Code	Description and detail	Computations & adjustments	Amount assessed
	Normal tax		524528254.51
	Foreign Tax Credits Refunded/Discharged		0.00
	Additional tax / Understatement Penalty		12096937.73
	Omission of income	12096937.73	
	Penalty		13703310.37
	Under estimation - Provisional tax	13703310.37	
Subtotal			550328502.61
	Previous assessment result		3060940.04
Current assessment - before provisional tax credits and Section 89 Quat Interest *			553389442.65
	Provisional tax credits *		-406619817.19
	1 st Provisional payment	-175764099.48	
	2 nd Provisional payment	-230855717.71	
	Section 89Quat(2) interest on underpayment of provisional tax *		106224569.89
Net amount payable under this assessment			252994295.35

*This amount is separately reflected on your Statement of Account.

Notes			Amount assessed
1 Information declared that impacts this assessment:			

**INCOME TAX****ITA34****Notice of Assessment**

EVRAZ HIGHVELD STEEL & VANADIUM
LIMITED
PO BOX 111
WITBANK
1035

Enquiries should be addressed to SARS:

Contact Centre

ALBERTON

1528

Tel: 0800007277

Website: www.sars.gov.za

DetailsReference number: **9250026607**Document number: **30309**Date: **2015-11-18**Year of assessment: **2008**Type of assessment: **Additional Assessment**Period (days): **366**Due date: **2016-01-01**Second date: **2016-01-31**

Always quote this
reference number
when contacting
SARS

Assessment summary information

	Amount assessed
Income	3886759828.00
Taxable Income	3886759828.00
Tax calculation	
Assessed tax after rebates	1088292751.00
Tax credits and adjustments	-704772281.80
Net amount payable under this assessment after allowable credits	383520469.20

Compliance information

Unprocessed payments	0.00	Registered provisional taxpayer	Y
Selected for audit or verification	N		

Dear EVRAZ HIGHVELD STEEL & VANADIUM LIMITED

Thank you for submitting your income tax return for the 2008 year of assessment. Your assessment has been concluded and reflects an amount payable by you of R 383520469.20. Payment should be made by 2016-01-31 after which interest will accrue on this assessment as from 2016-01-01

Please note that this amount only reflects your income tax assessment and does not reflect tax payable under any previous assessment or any other balances on your account. The current balance on your assessed account is R 643180922.50. For a statement reflecting your final balance (including all amounts payable or refundable under any previous assessment, refunds, payments, additional taxes/ understatement penalties, penalties and interest), please request your statement of account from SARS through the following channels:

- Electronically via eFiling
- Call the SARS Contact Centre
- At your nearest SARS branch

The final balance is reflected on the remittance advice at the bottom of the Statement of Account. Please note that interest accrues on all taxes payable after the due date so you are advised to pay in full on or before the due date.

The reference to additional tax/understatement penalty in this notice of assessment depends upon the circumstances.

(i) If additional tax was imposed before the commencement date of the Tax Administration Act (TAA) then adjustment to that additional tax may be made by an assessment issued in terms of the TAA after the commencement date of the TAA

(ii) An assessment issued after the date of commencement of the TAA, in respect of any period that preceded the commencement date of the TAA, may be subject to the imposition of an Understatement Penalty in terms of the TAA as an "understatement" is considered to be a continuing act or omission in terms of the TAA

(iii) An assessment issued after the commencement date of the TAA, for a period that commences after the commencement date of the TAA, may include the levy of an Understatement Penalty.

Below you will find the amounts of income included and deductions allowed in calculating this assessment. It is very important that you check these amounts to ensure:

1. They are correct
2. They reflect all your taxable income and allowable deductions for the year

If you are of the view that the assessment contains a processing, calculation or other error, you should submit a revised return.

If you are unsure as to how the assessment was concluded or the reasons for any of the adjustments made, you may write a letter requesting SARS to provide further information as to how the assessment was concluded. This letter must be delivered to your nearest SARS branch within

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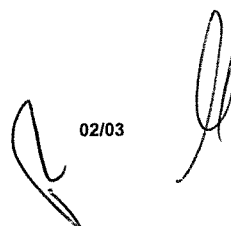
30 days of the date of this assessment or sent via registered mail to the address at the top of this notice.

If you are aggrieved by this assessment, you may submit a Notice of Objection (NOO) using the form available from eFiling or your nearest branch to you or by calling 0800 00 SARS (7277). You have 30 days from the date of this assessment in which to do this.

NOTE: Your obligation to pay any amount due is not suspended by any objection or appeal. However, SARS will consider a motivated application for the suspension of payment pending the finalisation of an objection or appeal as stipulated in the Tax Administration Act.

Sincerely

ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE



**INCOME TAX****ITA34****Notice of Assessment**Reference number: **9250026607**Document number: **30309**Year of assessment: **2008**

Income			
Code	Description and detail	Computations & adjustments	Amount assessed
Capital gain - local			56046710.00
4250	Note for individuals: The calculation of the aggregate capital gain / loss of a CGT transaction relating to a primary residence will be impacted where the property is held jointly or in partnership and / or married in community of property is applicable.		
	Capital gain tax: local	112093420.00	56046710.00
	CGT PROFIT	-56046710.00	
Business, trade and professional income (incl. rental)			3830713116.00
0298	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss Other not specified	2951421178.00	2951421178.00
	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss		
4276	Inputted net income from cfc	879291938.00	879291938.00
Income			3886759826.00

Deductions allowed			
Code	Description and detail	Computations & adjustments	Amount assessed
Deductions Allowed			0.00

Taxable income		
Code	Description and detail	Amount assessed
	Taxable Income - subject to normal tax	3886759826.00

Tax calculation			
Code	Description and detail	Computations & adjustments	Amount assessed
	Normal tax		1088292751.00
	Foreign Tax Credits Refunded/Discharged		0.00
Subtotal			1088292751.00
	Previous assessment result		14785685.76
Current assessment - before provisional tax credits and Section 89 Quat interest *			1103058436.76
	Provisional tax credits *		-856856094.40
	1=Provisional payment	-346575312.44	
	2=Provisional payment	-510281381.96	
	Section 89Quat(2) interest on underpayment of provisional tax *		137318728.84
Net amount payable under this assessment			383520469.20

*This amount is separately reflected on your Statement of Account.

Notes		
		Amount assessed
1 Information declared that impacts this assessment:		



INCOME TAX
Notice of Assessment

ITA34

EVRAZ HIGHVELD STEEL & VANADIUM
LIMITED
PO BOX 111
WITBANK
1035

Enquiries should be addressed to SARS:

Contact Centre

ALBERTON

1528

Tel: 0800007277

Website: www.sars.gov.za

Details

Reference number: **9250026607**
Document number: **30310**
Date: **2015-11-18**
Year of assessment: **2009**
Type of assessment: **Additional Assessment**
Period (days): **365**
Due date: **2016-01-01**
Second date: **2016-01-31**

Always quote this
reference number
when contacting
SARS

Assessment summary information

	Amount assessed
Income	167808317.00
Taxable income	167808317.00
Tax calculation	
Assessed tax after rebates	46986328.76
Tax credits and adjustments	-3639802.31
Net amount payable under this assessment after allowable credits	43346526.45

Compliance information

Unprocessed payments	0.00	Registered provisional taxpayer	Y
Selected for audit or verification	N		

Dear EVRAZ HIGHVELD STEEL & VANADIUM LIMITED

Thank you for submitting your income tax return for the 2009 year of assessment. Your assessment has been concluded and reflects an amount payable by you of R 43346526.45. Payment should be made by 2016-01-31 after which interest will accrue on this assessment as from 2016-01-01.

Please note that this amount only reflects your income tax assessment and does not reflect tax payable under any previous assessment or any other balances on your account. The current balance on your assessed account is R 689824389.50. For a statement reflecting your final balance (including all amounts payable or refundable under any previous assessment, refunds, payments, additional taxes/ understatement penalties, penalties and interest), please request your statement of account from SARS through the following channels:

- Electronically via eFiling
- Call the SARS Contact Centre
- At your nearest SARS branch

The final balance is reflected on the remittance advice at the bottom of the Statement of Account. Please note that interest accrues on all taxes payable after the due date so you are advised to pay in full on or before the due date.

The reference to additional tax/understatement penalty in this notice of assessment depends upon the circumstances.

(i) If additional tax was imposed before the commencement date of the Tax Administration Act (TAA) then adjustment to that additional tax may be made by an assessment issued in terms of the TAA after the commencement date of the TAA.

(ii) An assessment issued after the date of commencement of the TAA, in respect of any period that preceded the commencement date of the TAA, may be subject to the imposition of an Understatement Penalty in terms of the TAA as an "understatement" is considered to be a continuing act or omission in terms of the TAA.

(iii) An assessment issued after the commencement date of the TAA, for a period that commences after the commencement date of the TAA, may include the levy of an Understatement Penalty.

Below you will find the amounts of income included and deductions allowed in calculating this assessment. It is very important that you check these amounts to ensure:

1. They are correct
2. They reflect all your taxable income and allowable deductions for the year

If you are of the view that the assessment contains a processing, calculation or other error, you should submit a revised return.

If you are unsure as to how the assessment was concluded or the reasons for any of the adjustments made, you may write a letter requesting SARS to provide further information as to how the assessment was concluded. This letter must be delivered to your nearest SARS branch within

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30 days of the date of this assessment or sent via registered mail to the address at the top of this notice.

If you are aggrieved by this assessment, you may submit a Notice of Objection (NOO) using the form available from eFiling or your nearest branch to you or by calling 0800 00 SARS (7277). You have 30 days from the date of this assessment in which to do this.

NOTE: Your obligation to pay any amount due is not suspended by any objection or appeal. However, SARS will consider a motivated application for the suspension of payment pending the finalisation of an objection or appeal as stipulated in the Tax Administration Act.

Sincerely

ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE



**INCOME TAX****ITA34****Notice of Assessment**Reference number: **9250026607**Document number: **30310**Year of assessment: **2009**

Income			
Code	Description and detail	Computations & adjustments	Amount assessed
Business, trade and professional income (Incl. rental)			167808317.00
0298	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss Other not specified		
		11776188.00	11776188.00
0298	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss Other not specified		
		28952.00	28952.00
4276	Description: Description: NONE Unique identifier: Unique identifier: 000000000000 Determination of profit / loss Inputted net income from cfc		
		158005177.00	158005177.00
Income			167808317.00

Deductions allowed			
Code	Description and detail	Computations & adjustments	Amount assessed
Deductions Allowed			0.00

Taxable income		
Code	Description and detail	Amount assessed
	Taxable Income - subject to normal tax	167808317.00

Tax calculation			
Code	Description and detail	Computations & adjustments	Amount assessed
	Normal tax		46986328.76
	Foreign Tax Credits Refunded/Discharged		0.00
Subtotal			46986328.76
	Previous assessment result		54964046.48
Current assessment - before provisional tax credits and Section 89 Quat interest *			101950375.24
	Provisional tax credits *		-58268925.68
	1 st Provisional payment	-25327096.62	
	2 nd Provisional payment	-32941829.06	
	Section 89Quat(4) interest on overpayment of provisional tax *		-334923.11
Net amount payable under this assessment			43348526.45

*This amount is separately reflected on your Statement of Account.

Notes		
		Amount assessed
1 Information declared that impacts this assessment:		