



DAVEY'S Locker



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Balcony oratory & tax equity

Dealing with the SARS debt collectors can be rough

by Tony Davey

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Balcony oratory syndrome

Juliet in Verona, Eva Person on the Casa Rosada. Both displayed mastery when they stepped onto the balcony to address their audiences, because, effectively, theirs were emotional soliloquy's, judged nowadays by millions of Facebook tweets and counter tweets.

The secret of such success, however, is, in my view, not to confuse unilateral balcony talk and conduct with legal testimony, as Julian Assange (Wikileaks) recently attempted at the Ecuadorian Embassy in London. Sometimes only a tribunal (including a court of law) is the appropriate forum for justice, where principles of natural justice, including the *audi alteram partem* principle is applied.

Tax equity

In the context of tax, balcony oratory syndrome reminds me of a recent encounter with the Pay-Now-Argue-Later system, now contained in s 164 of the Tax Administration Act (and soon to go live).

The bottom line is that, albeit after a year of liaising with SARS, including the ADR process, a taxpayer recently settled a VAT dispute at 5% of the capital amount assessed in a VAT audit.

The biggest challenge I

encountered was not with Legal and Policy's ADR department (which, I consider to be professional, courteous and efficient) but the SARS debt-collection department, constantly demanding full payment in advance.

The adverse economic realities of cash flow and the cost of providing security to SARS are such, particularly in the current economic climate, that the assessment of Pay-Now-Argue-Later issues should not be the preserve of SARS officials tasked with tax collections.

Yes, I am aware of theoretical access to natural administrative justice, first, in the factors for consideration (in s 164 of the Tax Administration Act) plus the Constitution and PAJA, which apply to the Tax Administration Act, but many taxpayers will be financially crippled en route.

Practical natural justice

A specifically constituted independent tribunal, the tax court or at least the new Tax Ombud should be the evaluation body for Pay-Now-Argue-Later issues, once a predetermined threshold is exceeded.

