

South Africa court ruling raises tax questions for citrus growers

South Africa's Western Cape High Court has ruled that approximately US\$581,000 (R9.6 million) placed by Meiring Citrus in a Santam-structured self-insurance product is not tax-deductible. The court overturned an earlier Tax Court ruling in the citrus producer's favour, confirmed an additional assessment by the South African Revenue Service (SARS), and reinstated a 10 per cent understatement penalty. Meiring Citrus told Farmer's Weekly it is considering whether to appeal.

The company said it understood the product to be insurance and the payment to be deductible. It added that other farmers who purchased similar products on the same basis could now face uncertainty over deductions claimed in previous tax years.

Structured self-insurance allows businesses to build financial reserves to cover future losses. Meiring Citrus said the product helps farmers prepare for disasters and market disruptions where government support may be limited. "The idea is to put money away during the good years so that you have something to fall back on when times are tough," the company explained.

According to the judgment, the product was recommended to Meiring Citrus by its accountant in 2017 after a broker presented it during a roadshow. Meiring Citrus paid about US\$605,000 (R10 million) for six months of cover with an indemnity limit of about US\$726,000 (R12 million). Santam retained about US\$24,000 (R400,000) as an underwriting fee, while approximately US\$581,000 (R9.6 million) was credited to an interest-bearing experience account. Claims were funded mainly from this account, while any remaining balance and interest could be returned to the client or pledged as security.

After renewing the policy annually, Meiring Citrus cancelled it in 2021 following a smaller-than-expected crop and lower prices linked to the exchange rate. The approximately US\$684,000 (R11.3 million) held in the account was returned to the company and declared as taxable income.

The court ruled that the funds remained Meiring Citrus's asset because claims were funded mainly from the company's own money and the balance could be recovered with interest. It therefore classified the R9.6 million as a deposit rather than a deductible insurance expense. Only the underwriting fee qualified as a deductible expense.

The court did not find that the contract was a sham or that Meiring Citrus had committed tax evasion. It said the case concerned the legal and tax classification of the product.

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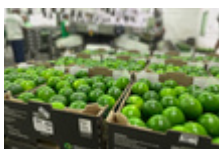
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