



2018 BUDGET SAICA TAX COMMENTARY AND SUMMARY

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1. INTRODUCTION

The following is a summary of and some comment on the tax related budget proposals announced by the Minister of Finance on 21 February 2018.

2. BUDGET HIGHLIGHTS

The tax policy proposals are expected to result in an overall increase in certain taxes and levies which will raise an additional R36 billion revenue. Refer to Chapter 4 (page 41) of the 2018 Budget Review documents for further details.

The more significant tax policy proposals are noted below:

- Predicted for the past few years, but never materialising until now, the **VAT rate will increase from 14% to 15%**, with effect from 1 April 2018, which will raise an **additional R22.9 billion** revenue. It is felt that an increase in the VAT rate will have the least harmful effect to economic growth

Social grants will be increased, albeit minimally, to compensate the poor for the increased VAT rate. Furthermore, government feels that this sector will not be as impacted by the increase given the existing zero rating applicable to certain 'basic' food items

- An overall **52c/litre increase in fuel levies**, made up of a 22c/litre increase in the general fuel levy and 30c/litre on the road accident fund levy, both effective from 4 April 2018. This is likely to have an inflationary effect on the economy given the knock on effect on the cost of transport which will translate into an increase in the cost of goods to the consumer. It is estimated that this will raise an **additional R1.2 billion revenue**
- The dutiable value of an **estate exceeding R30 million will be taxed at a rate of 25%** instead of the current rate of 20%, effective from 1 March 2018 (expected to raise R150 million revenue)
- In respect of **donations exceeding R30 million, donations tax will be imposed at 25%** instead of the current rate of 20%
- A 6% to 10% increase in excise duties on alcoholic beverages and an 8.5% increase in duties on tobacco products – potentially raising **R4.3 billion additional revenue**
- Below inflation adjustments to personal income tax brackets will potentially raise an additional R6.8 billion in revenue
- Increase in **ad valorem** customs duties on 'luxury' items consumed by wealthier individuals – for example, cars and 'smart phones'
- Increases in the plastic bag levy, the motor vehicle emissions tax and the levy on incandescent light bulbs to promote eco-friendly choices
- Carbon tax to be implemented from 1 January 2019.

3. FOCUS ON IMPROVING TAX ADMINISTRATION AND TAX MORALITY

As mentioned in the MTBPS, there is growing concern regarding the decline in tax morality as a result of decreasing confidence in the South African Revenue Service and government as a whole, as a result of inefficiencies, corruption and wasteful expenditure. This has a direct impact on the level of compliance and revenue collection.

Taxpayers will no doubt be interested to note that the Minister of Finance (the Minister) echoed what was stated by President Ramaphosa in the recent State of the Nation Address. A commission of inquiry will be established to look at the functioning and governance of the South African Revenue Service (SARS). In the current year, there will be a focus on improving the governance and accountability of SARS, and amendments are proposed to strengthen the operational independence of the Tax Ombud, following recommendations made by the Davis Tax Committee.

Addressing fruitless and wasteful expenditure

To ensure proper governance of public entities and encourage accountability, government proposes that losses or expenditure classified as fruitless and wasteful will not qualify for a tax deduction.

In addition, the powers of the Auditor General will be extended to assist in addressing the rising unauthorised, irregular, fruitless and wasteful expenditure.

4. INDIVIDUALS AND TRUSTS

Personal income tax (PIT)

PIT contributes R482 billion of the total tax collections of R1.217 trillion - i.e. 38% of total tax revenue.

Given that PIT rates increased over the last few years, a decision was taken to retain the highest PIT rate of 45%, which compared to other countries, is relatively high.

It was notable that despite increases in tax rates in prior years, overall PIT collection is estimated at R21.1 billion less than budgeted. Some of the factors that are thought to contribute to this are lower bonus payments, lower increases job losses and potential tax avoidance in response to the increasing tax rates and limited relief. This last aspect was noted in the 2017 Medium Term Budget Policy Statement (MTBPS), when the Minister raised concerns regarding the overall effect on tax morality and taxpayer compliance when over-burdening certain taxpayers. It was felt that a greater increase in individual tax rates would have more negative than positive consequences on overall growth and investment, as compared to an increase in the VAT rate.

As was the case in the prior year, there is minimal relief provided for 'bracket creep', especially in respect of higher income earners – with no adjustment made in the top 4 tax brackets and below inflation adjustments in the bottom 3. The additional tax expected from this lack of relief due to bracket creep, is R6.8 billion. Staying with higher income earners, or 'wealthy individuals' as referred to by National Treasury, there is increased *ad valorem* excise duties on luxury goods and as well as higher estate duties.

The primary tax threshold has increased to R78 150 in 2018/19 (2017/18: R75 750).

Despite the tax rates not increasing, the increase in the VAT rate will have the biggest impact on higher income earners, given that 85% of VAT revenue is contributed by the wealthiest 30% of households. There are also proposals to increase duties on luxury products with duties on motor vehicles to increase to 30%, from 25% and consultations will be held to increase duties on smart phones, at progressive rates – i.e. based on the value of the phones.

Exemption for interest and dividend income

The annual exemption on interest earned by individuals younger than 65 years (R23 800) for individuals 65 years and older (R34 500) remains the same.

This is in line with the National Treasury policy to encourage the use of Tax Free Investment and to phase out the interest exemption. This is further supported by the increase in the annual threshold.

Interest earned by non-residents who are physically absent from South Africa for at least 181 days during the 12-month period before the interest accrues and the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa, is exempt.

Contributions

Medical tax credits

It has been identified that some individuals are excessively benefiting from the medical schemes contribution rebate, specifically where multiple taxpayers contribute toward the medical scheme or expenses of another person (for example, adult children jointly contributing to their elderly mother's medical scheme). Each contributor is currently enjoying a full rebate, even though the joint cost is for a single beneficiary. It is proposed that the medical tax credit should also be apportioned between the various contributors, in cases like these.

Monthly medical scheme fee tax credit will from, 1 March 2018 be increased from R303 to R310 per month for the first two beneficiaries. For each additional beneficiary, the increase will be from R204 to R209. The increases are below inflation and government has earmarked the additional revenue which will flow from the below inflationary rebate to contribute towards funding of the National Health Insurance (NHI). The expected impact is additional revenue of R700m in 2018/19, R640m in 2019/20 and R586m in 2020/21.

This proposal is in line with proposals made in the NHI White Paper released in June 2017. However, it is unlikely that the proposals will have a significant impact on the NHI cost, given that the 2025 estimated cost is in the region of R256 billion.

Retirement reforms

Tax treatment of contributions to retirement funds situated outside South Africa

Currently, retirement benefits from a foreign source for employment rendered outside of South Africa is exempt from taxation. The interaction of this exemption with double taxation agreements and other provisions of the Income Tax Act, 1962 (the ITA) will be reviewed to ensure that deduction of contributions will be allowed only in cases where benefits are to be taxable.

Align tax treatment of preservation funds upon emigration

Upon formal emigration, an individual is able to withdraw the full value of their retirement annuity, after paying the applicable taxes. Government will consider aligning the tax treatment of different types of retirement fund withdrawals in such circumstances.

Allowing transfers to pension and provident preservation funds after retirement

In 2017, amendments were made to allow the transfer of pension or provident fund amounts to a retirement annuity fund after the retirement date of an employee. However, pension preservation and provident preservation funds were excluded given that the administration required to disallow once-off withdrawals from these funds was considered too onerous. Industry consultations indicate that the system changes will not be burdensome and it is therefore proposed that transfers to these funds be catered for in the legislation.

Rectifying tax anomalies on the transfer of retirement funds

The transfer of fund amounts between, or within, retirement funds at the same employer has inadvertently led to a tax liability for members, due to the current wording of the legislation. In principle, there should be no additional tax consequence for members if the transfers refer to amounts that have already been contributed to the retirement fund.

Legislative amendments will be retrospectively introduced to correct these unintended tax liabilities.

Other tax proposals affecting individuals

Removing the fringe benefit for preferential interest rates to employees for housing

In 2014 the fringe benefit that previously applied to employees with remuneration below R250 000 for the acquisition of low-cost housing with a value below R450 000, was removed. Further relief is now proposed, in that loans at preferential interest rates, which are solely for housing, made to employees who satisfy the same remuneration criteria for loans with a value of less than R450 000, will not be subject to fringe benefits tax.

Clarifying the tax treatment and obligations of funds managed by bargaining councils

Bargaining councils were consulted in 2017 regarding the correct tax treatment of employee and employer contributions to, and payments from, bargaining council funds. A general consensus emerged that the majority of existing funds can be accommodated by withholding taxes on contributions at the employer level, which also has the best administrative architecture in place. Transitional arrangements can be considered for a small minority of more complicated fund types to ensure smooth implementation.

Tax on sugary beverages

The tax on sugary beverages will be implemented from 1 April 2018. More information on this is available on the SARS website. SARS is also conducting workshops in March to engage with industry stakeholders on this topic.

5. COMPANIES

Corporate tax rates

No change is proposed to corporate tax rates.

Clarifying the tax treatment of doubtful debts

In 2015, the SARS Commissioner's discretion in administering the ITA was amended in anticipation of the move to a self-assessment income tax system. The Commissioner's discretion on a doubtful debts allowance under section 11(j), ITA, was deleted with effect from a date to be announced. The intention of such a deletion was that, in future, the allowance would be claimed according to criteria set out in a public notice issued by the Commissioner. However, no criteria have been formulated. We therefore welcome the proposal that the criteria for determining the allowance should instead be included in the ITA, in order to provide certainty regarding the allowance claimable.

Amendments resulting from the application of debt relief rules

In 2017, the ITA was amended to address the tax consequences of applying debt relief rules. Government has noted concerns about unintended consequences that may arise from the application of these tax amendments. It is proposed that further amendments be made to address these concerns.

Refining anti-avoidance rules dealing with share buybacks and dividend stripping

In 2017, anti-avoidance rules dealing with share buybacks and dividend stripping were strengthened. One of the legislative provisions specified that anti-avoidance rules would override corporate reorganisation rules to prevent taxpayers from stripping dividends out of a target company, and thereby devaluing the company, before a reorganisation transaction. It has come to government's attention that these changes may affect some legitimate transactions and arrangements. As a result, it is proposed that the interaction of these anti-avoidance rules and some of the corporate reorganisation rules be reviewed. In addition, anti-avoidance rules dealing with share buybacks and dividend stripping regarding preference shares should be clarified.

Addressing the abuse of collateral lending arrangement provisions

Since 2015, tax relief has been provided for the transfer of listed shares or both local and foreign government bonds in collateral lending arrangements. If a listed share is transferred as collateral in a lending arrangement, there are no income tax and securities transfer tax implications for 24 months.

However, this means that foreign shareholders can reduce their dividends tax rate to zero by taking a loan from a South African resident company and using the listed shares as collateral. The resident company receives a tax-free dividend and thereafter, per the collateral agreement, pays an amount (called a manufactured dividend) based on the dividend received by that resident company to that foreign company, free of dividends tax. It is proposed that legislation be amended to prevent this abuse.

Corporate reorganisation rules

Refining rules for debt-financed acquisitions of controlling interest in an operating company

Following the proposed suspension of intra-group transactions in 2012, a special interest deduction was introduced instead of allowing implementation of debt push-down structures, applicable where companies used debt funding to acquire a qualifying controlling interest in an operating company.

In 2015, the legislation was amended to prevent the abuse of this deduction. To qualify for this deduction, an operating company is now defined as a company where at least 80 per cent of its receipts and accruals constitute income for tax purposes. However, amendments to the current provisions are needed to clarify when this test should be applied. In addition, it is proposed that the legislation be reviewed to determine whether this test should be applied when an operating company transfers its business, as a going concern, to a company that forms part of the same group of companies as that operating company.

Financial Sector

Clarifying tax amendments relating to long-term insurers

The ITA was amended to introduce the risk policy fund for long-term insurers, effective from 2016. The tax treatment of long-term insurers was also amended due to the introduction of the solvency assessment and management framework. Recent amendments affecting the risk policy fund did not take effect when the fund was introduced and it is therefore proposed that the effective date of the relevant amendments be so changed.

Review of the provisions of the ITA referring only to the Johannesburg Stock Exchange

Certain provisions of the ITA refer to the Johannesburg Stock Exchange (JSE) Limited or JSE Limited listing requirements. Following the introduction of additional stock exchanges in South Africa, it is proposed that the relevant tax provisions be reviewed to include the newly introduced stock exchanges, subject to certain regulatory and transparency criteria.

Clarifying tax treatment of amounts received by portfolios of collective investment schemes

In 2009, the ITA was amended to provide for collective investment schemes operating on behalf of investors with participatory interests. Amounts (other than capital amounts) are taxable in the portfolio of a collective investment scheme unless they are distributed to participatory interest holders within 12 months of accrual. Some collective investment schemes are trading frequently and arguing, contrary to current case law, that the profits are of a capital nature. It is proposed that the current rules be clarified to provide certainty on the treatment of trading profits in this context.

Taxation of short-term insurers

The ITA provisions regulating the taxation of short-term insurance apply only to short-term insurers resident in South Africa. However, the Insurance Act (2017) permits foreign reinsurers to operate reinsurance businesses in South Africa through branches rather than subsidiaries. In view of this development, the relevant provisions will be extended to apply to non-residents operating short term insurance business through branches in South Africa.

Incentives

Review of venture capital company rules

The uptake of government's venture capital companies' tax incentive regime, which aims to encourage investment in small and medium-sized business, has grown significantly over the past two years. However, administrative and technical issues are obstructing increased uptake.

It is proposed that the legislation be amended to address rules relating to the investment income threshold limitations in the qualifying company test, as well as when the controlled company test needs to be applied. The rules relating to the connected person test will also be reviewed, specifically that relation to retroactive withdrawal of venture capital company status.

Reviewing the write-off period for electronic communication cables

Most companies that provide telecommunications infrastructure have been moving from copper to fibre optic cables. To align the tax system with technological advances and international practice, government proposes reducing the period over which electronic communication lines and fibre optic cables are written off. Government will consider further alignment between taxpayers that own these assets and those with the right to use them.

Increasing the distribution period for small business funding entities

The ITA requires small business funding entities to distribute or incur an obligation to distribute 25 per cent of all amounts received or accrued from assets held during the tax year, excluding amounts from disposing of any of the assets held during the same tax year. However, practical difficulties arise when the small business funding entity receives an amount on the last day of the year of assessment and is consequently required to distribute or incur an obligation to distribute on the same day. It is proposed that small business funding entities be required to distribute 25 per cent of all amounts received or accrued from assets held during the tax year within 12 months of the end of the relevant tax year.

Employment tax and other incentives in six special economic zones (SEZs)

The Minister will approve six SEZs to benefit from additional tax incentives, specifically in the manufacturing and tradable services sectors in Coega, Dube Trade Port, East London, Maluti-a-Phofung, Richards Bay and Saldanha Bay. This with a view to support exports and economic growth, as well as to create jobs. The attractive incentives, include a reduced corporate tax rate for qualifying firms and an employment tax incentive for **workers of all ages**. The legislation will be reviewed to ensure that the granting of these additional tax incentives does not create opportunities for local companies to shift their activities and reduce their tax liability.

Changes to reduce complexity to R&D incentives

The benefit of the R&D allowance of 150% of qualifying R&D expenditure has been hampered by delays in processing applications and general complexity of the legislation. Steps are in place to improve the process by the Department of Trade and Industry and simplification of legislation is proposed.

6. INTERNATIONAL TAX

Overlap in the treatment of dividends as defined in section 1 and section 31 of the ITA

There is potential overlap between the treatment of a dividend as defined under section 1 and the treatment of a dividend under the transfer pricing provisions of section 31 of the ITA. To remove this anomaly, it is proposed that an amount should be treated as a dividend *in specie*, for purposes of applying the transfer pricing provisions of section 31, unless the amount already constitutes a dividend as defined in section 1.

Reversing exchange difference for exchange items disposed of at a loss

Currently, the ITA provides for the reversal of foreign currency exchange differences when an exchange item becomes irrecoverable. It does this by reversing any exchange gains and losses relating to the portion of the exchange item that has become irrecoverable. However, the legislation does not provide relief where an exchange item is disposed of at a loss as a result of market forces and not because the debtor is unable to pay. It is proposed that the application of this relief be clarified.

Review of the definition of “international shipping income”

The definition of a South African ship limits the application of the income exemption for international shipping to South African ships only. The limitation may create unintended operational issues where a South African operator uses a replacement ship on a short-term basis, and no South African ship is available. For example, a South African shipping company may occasionally use a third-party vessel when their South African ship is undergoing maintenance, or experiencing port delays or fleet rotations.

If this ship is not registered as South African, then the operator will lose the tax exemption. It is proposed that the definition of “international shipping income” be reviewed to take the issue described above into account under certain circumstances.

Extension of the application of controlled foreign company rules to foreign companies held through foreign trusts and foundations

The Taxation Laws Amendment Act, 2017 extended the application of controlled foreign company rules to foreign companies held through foreign trusts and foreign foundations. The draft Taxation Laws Amendment Bill, 2017 developed related rules to classify distributions of discretionary foreign trusts or foreign foundations to individuals and trusts as income of the South African resident beneficiaries. This was done to discourage the use of trusts to defer tax or re-characterise the nature of income. However, due to the complexity and broadness of the proposal, the specific rules were withdrawn and postponed to 2018. These rules will now be reconsidered.

Interest paid to the non-resident beneficiary of a trust

In the current tax rules regarding interest paid to a non-resident beneficiary from a trust, it is unclear who bears the withholding obligation after vesting. Furthermore, the rules dealing with trust income and beneficiaries do not deem the trust to have paid interest to beneficiaries if they are non-residents. A rule will be considered to address this anomaly.

7. ENVIRONMENTAL TAXES

Carbon Tax

The Carbon Tax is expected to be enacted before the end of 2018, with the tax taking effect from 1 January 2019.

Tyre levy

The tyre levy was introduced to reduce waste, while encouraging reuse, recycling and recovery, and discouraging disposal into landfills.

The tyre levy is effective since 1 February 2017 and remains the same at a rate of R2.30/kg per tyre.

Incandescent globe tax

An environmental levy on incandescent light bulbs was introduced in 2009 to encourage the use of more efficient compact fluorescent bulbs and reduce electricity demand.

This levy will be increased from R6 to R8 per globe.

Plastic bag levy

The plastic bag levy to counter the dispersion of plastic bags that end up as wind-blown litter or in waste facilities. The levy was introduced in 2003 and has not generally been considered effective in changing consumer behavior. However, government seems to be of the opinion that increasing the levy by 50%, to 12 cents a bag, effective from 1 April 2018, will dissuade consumers from buying plastic bags.

Motor vehicle emissions tax

The motor vehicle emissions tax aims to encourage consumers to use more fuel-efficient, low-carbon-emitting vehicles, and manufacturers to improve fuel efficiency.

The rates have increased to R110 (PY: R100) for every gram of emissions/km above 120 gCO₂/km for passenger vehicles and R150 (PY: R140) for every gram of emissions/km in excess of 175 gCO₂/km for double cab vehicles. This is effective from 1 April 2018.

8. INDIRECT TAXES

Value-added tax (VAT)

As mentioned in the section dealing with the main tax proposals, the VAT rate will increase for the first time since 1993, from 14% to 15%. Given the fact that PIT rates have been increasing over the past few years (with limited relief for bracket creep) and the fact that South Africa's corporate income tax rates are significantly higher than many of our trading partners, an increase in the VAT rate was considered to have to least consequences in relation to growth and investment.

Furthermore, it was felt that this would have the least impact on lower income earners due to the fact that there are 19 zero rated basic food items, mainly consumed by lower income earners and

there will be a marginal increase in social grants to reduce any effects on this sector as a result of the VAT rate increase. Furthermore, it is the 30% wealthiest households that contribute to 85% of VAT revenue, so this sector will be by far, more impacted by the increased rate.

The increase in the VAT rate is expected to raise an additional R22 billion tax revenue.

Other, specific proposals are dealt with below.

Expansion of scope of VAT on electronic services

VAT on electronic services was introduced on 1 June 2014 to provide for foreign suppliers to register for VAT in South Africa in respect of supplies made in South Africa. The types of electronic supplies were defined to ensure that the implementation of this world leading proposal would be successful. However with Australia and New Zealand expanding the scope of the electronic services South Africa was starting to lag.

The Minister announced that National Treasury will be updating the current VAT regulations, invariably to expand the scope of its application. Draft regulations will be issued for comment.

Insertion of the definition of “face value of a debt transferred”

A VAT-registered vendor is permitted to claim a deduction for VAT on taxable supplies that have to be written off, as they were provided on credit and the debt is irrecoverable, per section 22(1) of the VAT Act, 1991. If the vendor cedes or sells the debt that has been written off on a non-recourse basis for an amount that is less than the amount owing, then the sale of the debt is exempt from VAT and the vendor is not required to make any adjustments to the previous VAT deduction. It has come to government’s attention that some vendors (such as collection agents or banks) that buy the book debt in terms of the abovementioned arrangement then attempt to claim a further VAT deduction if they write off all or part of this debt in future. This results in a double VAT deduction, which is against the intention of the legislation, as seen in the definition of “face value of a debt transferred” in the Explanatory Memorandum to the Taxation Laws Amendment Bill, 1997. To prevent this double VAT deduction, it is proposed that the term “face value of a debt transferred” be defined in the VAT Act to take into account the policy rationale explained in the explanatory memorandum.

Postponing the abolishment of the zero-rating of the supply of goods and services for the national housing programme

In 2015, amendments were made to the VAT Act to abolish the zero-rating of the supply of goods and services for government’s national housing programme, with effect from 1 April 2017. In 2017, the legislation was amended to postpone the abolishment date for a further two years to 1 April 2019, as both the National Treasury and municipalities were not ready to enforce this change. Due to budgetary constraints, it is now proposed to postpone the effective date for this amendment indefinitely. Once confirmed, the Minister of Finance will publish the effective date in the Government Gazette.

Correction of tax invoices

In some cases, a vendor may issue a tax invoice that includes incorrect information in addition to correct VAT, value and supply information. As the document issued by the vendor does not qualify as a tax invoice, the recipient is unable to use it to deduct input tax, and may request a new

version with the correct information so that it qualifies as a tax invoice. An amendment is proposed to clarify that, under the circumstances described above, a vendor that cancels the initial document and reissues an invoice with the correct information will not be committing an offence. The amendment will also require the vendor to maintain a proper audit trail across the initially issued document, the manner of cancellation and the reissued invoice.

Credit notes for supplies after sale of an enterprise as a going concern

It is proposed that an amendment be made to clarify issuance of credit notes when an enterprise is sold as a going concern.

In this case the purchaser of the enterprise will be allowed to issue a credit note for goods supplied by the seller of the enterprise and returned to the purchaser.

Special returns for VAT purposes to be retained by vendors and be available on audit

An amendment is proposed that will require a vendor to retain relevant material instead of submitting special returns to SARS.

Separate treatment of branches or divisions of a juristic person for VAT debt-collection purposes

The VAT legislation allows a vendor to register branches or divisions of a juristic person separately.

Furthermore, the legislation regards such branches or divisions as separate enterprises, even though they are operated by a single person. An amendment is proposed to provide legal certainty that the provisions for collecting VAT debt will apply across all branches and divisions.

Extension of joint and several liability for VAT to members of a joint venture

An amendment is proposed to provide legal certainty that the members of a joint venture may also be jointly and severally liable for the VAT debts of that venture.

Customs and excise

Holistic reform of the diesel refund administration system and separation from the VAT system

The 2015 *Budget Review* announced the holistic reform of the diesel refund administration system. The National Treasury and SARS published a discussion document for public comment in February 2017. Extensive comments were received and processed. In 2018, the National Treasury and SARS will engage with affected industries and other role players as a next step in the reform process. These stakeholder-specific consultations will inform the design of the new diesel refund administration system, which will be announced in Budget 2019.

The reform will also separate the diesel refund system from the VAT system. The introduction of a separate diesel refund system will supersede provisions of the VAT Act that refer specifically to the diesel refund system. It is proposed that section 16(3)(l) of the VAT Act be repealed with effect from the date at which the new diesel refund system commences.

The Diamond Export Levy Act

Rectifying an anomaly in the diamond export levy thresholds

The Diamond Export Levy Act (2007) distinguishes between large, medium and small producers, based on turnover thresholds. The larger the producer, the more stringent the requirements for sales to local cutters and polishers. To avoid penalties, at least 40 per cent of the value of large producers' sales must be sold to diamond beneficiation licence holders (local cutters and polishers). Medium-sized producers must sell at least 15 per cent to licence holders. As diamonds are traded solely in US dollars, rand depreciation against the dollar since 2007 has effectively halved the turnover thresholds in US dollar terms. It is proposed that the thresholds are adjusted to reflect the original US dollar equivalents to retain the policy intent.

9. TAX ADMINISTRATION/OTHER

Tax treatment of cryptocurrency transactions

It is National Treasury's view that cryptocurrencies are addressed by existing provisions in South African tax law. Cryptocurrencies pose risks to the income tax system as they are extremely volatile and their sustainability is uncertain. At the same time, the supply of cryptocurrency can cause administrative difficulties in the VAT system. To address these issues, it is proposed that the income tax and VAT legislation be amended.

Adjusting "official rate of interest" in the ITA

The "official rate of interest" is currently the current repurchase rate plus 100 basis points. This rate is used to quantify the fringe benefit of low interest rate loans provided by employers and the amount of a donation for low interest loans to trusts, by connected persons, in terms of section 7C. Given that interest rates lower than prime are now uncommon, it is proposed that the official rate be increased to a level closer to the prime rate of interest. This would allow the benefit of lower rates to be measured with reference to a rate that approximates the rate offered by commercial banks to low-risk clients.

Repeal of requirement to submit returns by persons who received exempt dividends

In order to ease the administrative burden, it is proposed that the requirement for a person receiving tax-exempt dividends to submit a return be repealed.

Notification of commencement of an audit

It is proposed that a taxpayer be notified at the start of an audit as part of efforts to keep all parties informed.

Deregistration of non-compliant tax practitioners

An amendment is proposed to ensure that non-compliant tax practitioners are deregistered. If a tax practitioner has not complied (presumably in respect of their personal taxes) on a continuous or repetitive basis and does not correct their behaviour after being notified by the SARS Commissioner, they will be deregistered as a tax practitioner.

10. TAX GUIDE (including tables)

Individuals and trusts

Income tax rates for natural persons and special trusts Year of assessment ending 28 February 2019	
Taxable income (R)	Taxable rates
0 – 195 850	18% of each R1
195 851 – 305 850	35 253 + 26% of the amount above 195 850
305 851 – 423 300	63 853 + 31% of the amount above 305 850
423 301 – 555 600	100 263 + 36% of the amount above 423 300
555 601 – 708 310	147 891 + 39% of the amount above 555 600
708 311 – 1 500 000	207 448 + 41% of the amount above 708 310
1 500 001 and above	532 041 + 45% of the amount above 1 500 000

Natural persons

Tax thresholds		
	2018/19	2017/18
	R	R
Below 65 years of age	78 150	75 750
Aged 65 and below 75	121 000	117 300
Aged 75 and over	135 300	131 150

Tax rebates		
	2018/19	2017/18
	R	R
Primary – all natural persons	14 067	13 634
Secondary – persons aged 65 and below 75	7 713	7 479
Secondary – persons aged 75 above	2 574	2 493

Trusts

The tax rate on trusts (other than special trusts which are taxed at rates applicable to individuals) is 45%.

Retirement fund lump sum withdrawal benefits

Taxable income	Rate of tax
R	R
0 – 25 000	0% of taxable income
25 001 - 660 000	18% of taxable income above 25 000
660 001 - 990 000	114 300 + 27% of taxable income above 660 000
990 001 and above	203 400 + 36% of taxable income above 990 000

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal (including assignment in terms of a divorce order).

Tax on a specific retirement fund lump sum withdrawal benefit (lump sum X) is equal to –

- the tax determined by the application of the tax table to the aggregate of lump sum X plus all other retirement fund lump sum withdrawal benefits accruing from March 2009, all retirement fund lump sum benefits accruing from October 2007 and all severance benefits accruing from March 2011; less
- the tax determined by the application of the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing before lump sum X from March 2009, all retirement fund lump sum benefits accruing from October 2007 and all severance benefits accruing from March 2011.

Retirement fund lump sum benefits

Taxable income	Rate of tax
R	R
0 – 500 000	0% of taxable income
500 001 – 700 000	18% of taxable income above 500 000
700 001 – 1 050 000	36 000 + 27% of taxable income above 700 000
1 050 001 and above	130 500 + 36% of taxable income above 1 050 000

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to attaining the age of 55 years, sickness, accident, injury, incapacity, redundancy or termination of the employer’s trade.

Severance benefits consist of lump sums from or by arrangement with an employer due to relinquishment, termination, loss, repudiation, cancellation or variation of a person’s office or employment.

Tax on a specific retirement fund lump sum benefit or a severance benefit (lump sum or severance benefit Y) is equal to –

- the tax determined by the application of the tax table to the aggregate of amount Y, plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all other severance benefits accruing from March 2011; less
- the tax determined by the application of the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum Y from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all severance benefits accruing before severance benefit Y from March 2011.

Dividends

Effective from 22 February 2017, the dividend withholding tax rate increased to 20% (previously 15%), in respect of dividends paid (as defined) on or after 22 February 2017. Government increased the dividend withholding tax rate to reduce the difference between the top marginal personal income tax rate and the combined statutory tax rate.

Dividends received by South African resident individuals from REITs (listed and regulated property owning companies) are subject to income tax and non-residents in receipt of those dividends are only subject to dividends tax.

Foreign Dividends

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 20%. No deductions are allowed for expenditure to produce foreign dividends.

Withholding tax on immovable property sales

The rate of withholding tax payable on disposal of immovable property by **non-residents** remains unchanged.

The rate for individuals is 7.5%. Whilst the rate for companies is 10% and a rate of 15% applies to trusts.

Exemptions

Interest

Interest from a South African source earned by any natural person under 65 years of age, up to R23 800 per annum, and persons 65 and older, up to R34 500 per annum, is exempt from taxation.

Interest is exempt where earned by non-residents who are physically absent from South Africa for at least 181 days during the 12 month period before the interest accrues or the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa of that non-resident.

Deductions

Pension, provident and retirement annuity fund contributions

Amounts contributed to pension, provident and retirement annuity funds during a tax year are deductible by members of those funds. Amounts contributed by employers and taxed as fringe benefits are treated as contributions by the individual employee. The deduction is limited to 27.5% of the greater of remuneration for PAYE purposes or taxable income (both excluding retirement fund lump sums and severance benefits).

Furthermore, the deduction limit is unchanged at a maximum of R350 000. Any contributions exceeding the limitations are carried forward to the next tax year and are deemed to be contributed in that following year. The amounts carried forward are reduced by contributions set off when determining taxable retirement fund lump sums or retirement annuities.

Donations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits). The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying public benefit organisations in the following tax year.

Allowances

Subsistence allowances and advances

Where the recipient is obliged to spend at least one night away from his or her usual place of residence on business and the accommodation to which that allowance or advance relates is in the Republic of South Africa and the allowance or advance is granted to pay for—

- meals and incidental costs, an amount of R416 (previously R397) per day is deemed to have been expended;
- incidental costs only, an amount of R128 (previously R122) for each day which falls within the period is deemed to have been expended.

Where the accommodation to which that allowance or advance relates is outside the Republic of South Africa, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website under Legal Counsel / Secondary Legislation / Income Tax Notices / 2018.

Travelling allowance

Rates per kilometer which may be used in determining the allowable deduction for business travel, where no records of actual costs are kept are determined by using the following table.

Value of the vehicle (including VAT)	Fixed cost	Fuel cost	Maintenance cost
R	R per annum	c per km	c per km
0 – 85 000	28 352	95.7	34.4
85 001 – 170 000	50 631	106.8	43.1
170 001 – 255 000	72 983	116.0	47.5
255 001 – 340 000	92 683	124.8	51.9
340 001 – 425 000	112 443	133.5	60.9
425 001 – 510 000	133 147	153.2	71.6
510 001 – 595 000	153 850	158.4	88.9
Exceeding 595 000	153 850	158.4	88.9

Note:

- 80% of the travelling allowance must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.
- No fuel cost may be claimed if the employee has not borne the full cost of fuel used in the vehicle and no maintenance cost may be claimed if the employee has not borne the full cost of maintaining the vehicle (e.g. if the vehicle is the subject of a maintenance plan).
- The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.

- The actual distance travelled during a tax year and the distance travelled for business purposes substantiated by a log book are used to determine the costs which may be claimed against a travelling allowance.

Alternative simplified method:

- Where an allowance or advance is based on the actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee up to the rate of 361 cents per kilometer (previously 355 cents), regardless of the value of the vehicle.
- However, this alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

Other deductions

Other than the deductions set out above an individual may only claim deductions against employment income or allowances in limited specified situations.

Fringe Benefits

Employer contributions to retirement funds for employees' benefit

- The taxable fringe benefit is equal to the actual contribution where the benefits payable to the employee consists solely of defined contribution components.
- Where the benefits payable to the employee do not consist of defined contribution components, the taxable fringe benefit is calculated in terms of a formula.

Employer-owned vehicles

- The taxable value is 3.5% of the determined value (retail market value) per month of each vehicle. Where the vehicle is—
 - the subject of a maintenance plan when the employer acquired the vehicle the taxable value is 3.25% of the determined value; or
 - acquired by the employer under an operating lease the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel.
- 80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes;
- On assessment the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a log book divided by the actual distance travelled during the tax year;

- On assessment further relief is available for the cost of licence, insurance, maintenance and fuel for private travel, if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income.

Residential accommodation

The fringe benefit to be included in gross income is the rental value thereof, which must be determined in terms of a formula as set out in paragraph 9 of the Seventh Schedule. If the employee is paying any consideration for the use of the accommodation and/or household goods, the rental value calculated must be reduced by this consideration.

Where the rental value of the accommodation is lower than that calculated in terms of the formula (due to the situation, nature or condition, etc of the accommodation), the Commissioner may determine such rental value at a lower amount which to him appears fair and reasonable. The value determined in terms of the formula will apply if the accommodation is owned by the employer, by an associated institution in relation to the employer, or under certain limited circumstances where it is not owned by the employer. Where the employer or associated institution is paying an arm's length rental to a non-connected person for use of the accommodation, the fringe benefit value in the hands of the employee will be the lower of the formula value or the actual rental paid.

Corporate tax rates

Companies, PSPs and foreign resident companies

YEARS OF ASSESSMENT ENDING BETWEEN 1 APRIL 2018 AND 31 MARCH 2019 (unchanged since prior year)		
Normal tax		
Companies and close corporations	Basic rate	28%
Personal service provider companies	Basic rate	28%
Foreign resident companies which earn income from a SA source	Basic rate	28%

Small business corporations

Financial years ending on any date between 1 April 2018 and 31 March 2019

Taxable income	Rate of tax
R	R
0 – 78 150	0% of taxable income
78 151 – 365 000	7% of taxable income above 78 150
365 001 – 550 000	20 080 + 21% of taxable income above 365 000
550 001 and above	58 930 + 28% of the amount above 550 000

Financial years ending on any date between 1 April 2017 and 31 March 2018

Taxable income	Rate of tax
R	R
0 – 75 750	0% of taxable income
75 751 – 365 000	7% of taxable income above 75 750
365 001 – 550 000	20 248 + 21% of taxable income above 365 000
550 001 and above	59 098 + 28% of the amount above 550 000

Micro businesses

Financial years ending on any date between 1 March 2018 and 28 February 2019 (unchanged since prior year)

Taxable turnover	Rate of tax
R	R
0 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	1 650 + 2% of taxable turnover above 500 000
750 001 and above	6 650 + 3% of taxable turnover above 750 000

Effective capital gains tax rates

Capital gains on the disposal of assets are included in taxable income.

Maximum effective rate of tax		
	2018/19	2017/18
Individuals and special trusts	18%	18%
Companies	22.4%	22.4%
Other trusts	36%	36%

Other taxes, duties and levies

Value-added Tax (VAT)

From 1 April 2018, VAT will be levied at the standard rate of 15% (previously 14%) on the supply of goods and services by registered vendors. A vendor making taxable supplies of more than R1 million per annum must register for VAT. A vendor making taxable supplies of more than R50 000 but not more than R1 million per annum may apply for voluntary registration. Certain supplies are subject to a zero rate or are exempt from VAT.

Transfer duty

Government proposed to raise the duty-free threshold on the purchase of a residential property from R750 000 to R900 000, in order to provide relief for lower- and middle-income households.

Transfer duty is payable at the following rates on transactions in respect of acquisition of property on or after 1 March 2017 which are not subject to VAT.

Value of property (R)	Rate
0 – 900 000	0%
900 001 – 1 250 000	3% of the value above 900 000
1 250 001 – 1 750 000	10 500 + 6% of the value above 1 250 000
1 750 001 – 2 250 000	40 500 + 8% of the value above 1 750 000
2 250 001 – 10 000 000	80 500 + 11% of the value above 2 250 000
10 000 001 and above	933 000 + 13% of the value above 10 000 000

Estate duty

Estate duty is levied on property of residents and South African property of non-residents less allowable deductions. The duty is levied on the dutiable value of an estate at a rate of 20% on the first R30 million and at a rate of 25% above R30 million.

A basic deduction of R3.5 million is allowed in the determination of an estate's liability for estate duty as well as deductions for liabilities, bequests to public benefit organisations and property accruing to surviving spouses.

Donations tax

- Donations tax is levied at a flat rate of 20% on the value of property donated, up to R30 million.
- Donations exceeding R30 million is taxed at a rate of 25%.
- The first R100 000 of property donated in each year by a natural person is exempt from donations tax;
- In the case of a taxpayer who is not a natural person, the exempt donations are limited to casual gifts not exceeding R10 000 per annum in total;
- Dispositions between spouses and South African group companies and donations to certain public benefit organisations are exempt from donations tax.

Securities transfer tax

The tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

Tax on International Air Travel

The tax amounts to R190 per passenger departing on international flights, excluding flights to Botswana, Lesotho, Namibia and Swaziland, in which case the tax is R100 per passenger, remains unchanged.

Skills Development Levy

A skills development levy (SDL) is payable by employers at a rate of 1% of the total remuneration paid to employees. Employers paying annual remuneration of less than R500 000 are exempt from the paying the levy.

Unemployment Insurance Contributions

Unemployment insurance contributions are payable monthly to SARS by employers on the basis of a contribution of 1% by employers and 1% by employees, based on employees' remuneration

below a certain amount. Employers not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

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