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2020**

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Budget Analysis and Commentary

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A summary of the tax related budget proposals announced by the Minister of Finance today,
Wed, 26 February 2020



CONTENTS

1.	FOREWORD	4
2.	BUDGET OVERVIEW	5
3.	EXPENDITURE ANALYSIS	7
4.	FOCUS ON IMPROVING TAX ADMINISTRATION	15
5.	INDIVIDUALS	16
	Personal income tax (PIT)	16
	Exemption for interest and dividend income	16
	Reimbursing employees for business travel	16
	Clarifying deductions in respect of contributions to retirement funds	17
	Addressing the circumvention of anti-avoidance rules for trusts	17
	Addressing an anomaly in the rollover of amounts claimable under the employment tax incentive (ETI)	17
	Addressing an anomaly in the tax exemption of employer-provided bursaries	17
	Foreign employment tax exemption	17
	Other proposals affecting individuals	18
6.	COMPANIES	18
	Corporate tax rates	18
	Addressing anomalies on the acquisition of assets in exchange for debt issued	19
	Refining the corporate reorganisation rules	19
	Taxation of insurance	20
	Refining the tax treatment of doubtful debt - section 11(j) of the Act	20
	Curbing potential tax avoidance caused by dividend deductions	21
	Refining the taxation of real estate investment trusts	21
	Refining the tax treatment of transfer of collateral in securities lending arrangements	22
7.	INCENTIVES	22
	Reviewing the special economic zone (SEZ) tax incentive regime	22
	Reviewing the venture capital company (VCC) tax incentive regime and addressing anomalies	23
	Mining capital expenditure	23
	Aligning immunity from taxation of international organisations	23
	Refining tax treatment of foreign donor-funded projects	23
	Reviewing expenditure deductions incurred related to the National Key Points Act	24
	Tax expenditure overview 2018	24
8.	INTERNATIONAL TAX	24
	Amending the anti-avoidance provision regarding change of residence	24
	Changing the anti-avoidance provision regarding taxation of foreign dividends received by residents	24
	Refining the definition of an "affected transaction" in the transfer pricing rules	25
	Refining the tax treatment of capital flows	25
9.	ENVIRONMENTAL TAXES	26
	Carbon tax	26
	Allowing a carbon tax "pass-through" for the regulated liquid fuels sector	26
	Incandescent globe tax	27
	Plastic bag levy	27
	Motor vehicle emissions tax	27
10.	INDIRECT TAXES	27
	Value-added tax (VAT)	27
	Reviewing the VAT accounting basis option available for an intermediary	28
	Changing the VAT treatment of transactions under the corporate reorganisation rules	28

	Reviewing section 72 arrangements and decisions	28
	Clarifying the VAT treatment of irrecoverable debts	28
	Introducing measures to address undue VAT refunds on gold	29
11.	TAX ADMINISTRATION/OTHER	29
	Tax Administration Act	29
	Income Tax Act	30
	Customs and Excise Act	30
12.	TAX GUIDE (including tables)	31
	Individuals and trusts	31
	Corporate tax rates	38
	<i>Companies, PSPs and foreign resident companies</i>	38
	<i>Small business corporations</i>	38
	<i>Micro businesses</i>	38
	<i>Effective capital gains tax rates</i>	39
	Other taxes, duties and levies	39
	Value-added Tax (VAT)	39
	Transfer duty	39
	Estate duty	40
	Donations tax	40
	Securities transfer tax	40
	Tax on International Air Travel	40
	Skills Development Levy	40
	Unemployment Insurance Contributions	40

1. FOREWORD

When an iceberg is spotted, the captain of the ship must make some very quick decisions which will have severe consequences. These decisions are informed by the distance from the iceberg, the speed of the ship and the knowledge that the iceberg above the water is only a third, the rest can't be seen, but he needs to cater for it.

Any indecision by the captain will lead to a decision, namely the ship hitting the iceberg.

South Africa's fiscal health is like such iceberg and our President as captain and our Finance Minister as his navigator, need to make drastic decisions quickly, with the knowledge that they can't see the full iceberg, but need to budget for it.

The tip of the iceberg is R326,6 billion and we need to reduce that to R0 to start reducing debt effectively. Concomitantly, the speed of debt increases equates to the speed of the ship. The iceberg under the water still remains, such as our imploding water infrastructure, including sewage and river systems, state debt guarantees that are becoming state debt and imploding municipalities, the main income of which is from water and electricity, commodities which are being lost quickly.

SAICA's main concern remains the continual increase in public expenditure in an economic environment that does not match its tax collections. Since 2008, debt was used as an interim measure to smooth over this difference, but soon after 2010 it became apparent that government did not have the fiscal discipline to match its reality, the economy was structurally faltering.

In the main, Budget 2020 does follow the same recipe as previous years by making nominal spending cuts and financing the difference through debt. We also do not see more measures in holding officials accountable for spending and also providing more value for spending. These remain a serious concern.

Two of the largest factors in our economic implosion remain unaddressed, namely a coherent policy framework (not just macroeconomic) and significant reduction in crime. The latter is even more important as you cannot implement policy and legislation changes that no one adheres to or many actively undermine. No small business whether in retail, manufacturing or tourism can survive in our current crime ridden country where you cannot connect goods and services to customers in all areas. No child can learn in an unsafe environment where schools are looted and destroyed, funds misappropriated, children robbed and murdered, whilst living in the dark.

We require a proper coherent plan in this regard across all of government.

However, SAICA agrees with the Minister that all is not lost and we have overcome before. We know what the challenges are, it just requires political will to stop talking about them and start addressing them.

In this regard there are positive signs in this Budget 2020 that the Minister and the President have started to listen and implement change which include:

- Moving to a low rate broad base fiscal policy with enhanced tax simplicity. Ireland and New Zealand have both migrated from fiscal disaster in the 1980's to good and stable finances based on these principles
- Fairly burdening taxpayers and we welcome no substantial tax increases
- Creating certainty and transparency in macroeconomic framework and we hope that broad consultation will inform this
- Reducing borrowing costs by reducing debt, though only R156 billion over 3 years is too low, it is double the previous "austerity measures"
- Reducing the wage bill by R160 billion over 3 years is welcomed. In reality this is less than a 10% reduction of the consolidated wage bill with a R37 billion already in next year. SAICA does hope that trade unions do constructively engage and participate, contrary to what has been happening at SAA. SAICA does hope that structurally the staffing in government is also addressed and agree with trade unions of a skills audit, that is, if we have 5 PA's and 1 engineer, reducing the 1 engineer reduces the wage bill, but does not structurally fix the problem.

It will be on everyone's mind whether government has done enough to convince Moody's to retain its investment rating. Government is definitely making more of the right sounds. However, looking at the again revised estimates for national expenditure and its R23,5 billion increase, Moody's may not be convinced that South Africa has the fiscal discipline and political will to implement these plans.

SAICA hopes government does and will.

National government should lead by example and SAICA has started analysing expenditure by Ministry to determine where we are spending, what we are spending on and are we getting value for money. This has provided some insights to these questions, but does pose significant questions which we hope Parliament can also explore in the appropriations process.

2. BUDGET OVERVIEW

For various reasons, revenue collection in relation to estimates continues to decline.

The revenue collections **shortfall** increased to **R63.3 billion** compared to the 2019 Budget estimate of R52.5 billion – that is, an **increase in the expected shortfall between October and now, by R10.8 billion**. Total tax collections is estimated at around R1.4 trillion for the year.

National Treasury has attributed the shortfall to the following factors:

- **Weaker-than-expected economic growth** – affecting business profitability, wages and consumption, resulted in lower than estimated corporate and personal income tax collections as well as poor VAT collections due to reduced spending. These three taxes contribute 80% of total revenue collections;
- Growth in VAT collections has stabilised following an initial increase as a result of the VAT rate increase a couple of years ago. There has been an increase in payments of outstanding **VAT refunds** which SARS committed to in the prior year and this has also resulted in lower

overall 'collections'. It is concerning that as a result of the increased refund payments, there has been increasing incidents of fraudulent VAT claims. It is therefore expected that VAT refund payments will stabilise given the SARS audits and criminal investigations in respect of potential fraudulent claims;

- Collections from **dividends tax was lower than expected** due to the economic recession experienced since 2018;
- **Poor tax administration** continues to be of concern and is also considered as being a factor in lower than expected collections.

The ongoing revenue shortfalls as well as additional expenditure over the last few years has resulted in significant tax increases. It is notable that despite significant increases in tax rates over the last five years, the difference between expected and actual revenue collections has just gotten larger as a result of the persistent slowdown in economic growth as well as an ineffective SARS. For example, from a growth perspective whilst the 2019 Budget forecast real economic growth in 2019 at 1.5%, the revised forecast is actually as low as 0.3%. Treasury has acknowledged that increasing tax rates in the current economic climate will therefore be counter-productive and is not envisaged in the 2020/21 Budget.

In the short term, there is relief for individual taxpayers through an above-inflation increase in tax brackets and rebates - resulting in R2 billion relief in respect of personal income tax. This will be directly offset by collections in respect of indirect taxes - specifically, carbon tax and the plastic bag levy.

Looking forward, there are plans to increase the overall tax base by reconsidering incentives currently available, restricting interest expenditure claimable by corporates and restricting the use of assessed losses carried forward by corporates. Consideration will be given to decrease the corporate tax rate in time, in order to encourage investment in South Africa and improve economic growth.

In addition to the above, the new SARS Commissioner has taken steps to revive this institution. Those who were implicated in the Nugent Commission have since left SARS and some of the senior SARS officials who were 'unfairly' displaced are returning to their previous positions within SARS. For those who have been paying attention, you would have noted that there have also been increased efforts lately to re-capacitate SARS by filling other senior positions, many of which were left vacant over the last few years. It is believed that these efforts, in the medium term, will go a long way in improving overall revenue collections.

Although, as expected, no major changes are planned, the more significant tax proposals are noted below:

- Above-inflation increase in the **personal income tax brackets and rebates**, resulting in **relief of R2 billion**. The change in the **primary rebate** increases the tax free threshold **from R79 000 to R83 100**, for taxpayers under 65 years old
- **Below-inflation adjustments to the medical tax credits** to contribute in some way towards funding the NHI, in the medium term
- Limiting corporate interest deductions to combat base erosion and profit shifting as well as restricting the ability of companies to fully offset assessed losses from previous years against taxable income

- Increases of **25c per litre to the fuel levy**, which consists of a 16c per litre increase in the general fuel levy and a 9c per litre increase in the RAF levy
- Increase in the **annual contribution limit to tax-free savings accounts** by R3 000, to **R36 000**, from 1 March 2020
- The **carbon tax rate will increase by 5.6%** for the 2020 calendar year. Accordingly, the carbon tax rate will increase from R120 per tonne of carbon dioxide equivalent to R127 per tonne of carbon dioxide equivalent
- Increase in excise duties on alcohol and tobacco by between 4.4 and 7.5 per cent. Also, government will introduce a **new excise duty on heated tobacco products**, to be taxed at a rate of 75 per cent of the cigarette excise rate with immediate effect. A **tax on e-cigarettes** (for example, vapes) is also being considered to take effect in 2021, in line with international trends
- The **duty-free threshold on the purchase of a residential property** will increase from R900 000 to **R1 million** to take into account inflation. The last time this was adjusted was in 2017
- The cap on the **exemption of foreign remuneration** earned by South African tax residents will increase to **R1.25 million per year** from 1 March 2020, when the amendment first takes effect. Given the increase in what has been termed 'financial emigration', steps will be taken to curb this practice from 2021

3. EXPENDITURE ANALYSIS

Whilst there has always been a focus on increasing revenue collections, it is important to acknowledge that there is only so much that can be done in this regard as can be seen from the results - the gap between the actual collections and budgeted collections and therefore, the budget deficit, has grown larger and larger despite significant tax rate increases over the last five years.

For some time now, SAICA's view has been that rather than focusing on increasing revenue collections, there should be a focus on reducing expenditure.

The real challenge lies in reducing expenditure to such an extent, in order to make a big enough dent in the huge budget deficit. Whilst there has been talk of the significantly high costs of compensation, fruitless and wasteful as well as irregular expenditure, this is really just the tip of the iceberg and one needs to look below the surface and analyse all costs to find some means of identifying what is unnecessary and how to reduce these. Of the R326.6 billion deficit, a significant contributor is the debt servicing cost which amounted to R205 billion in 2019/2 and the number is growing. Again, this is one of the 'known' high costs contributing to the deficit. What about the other expenses?

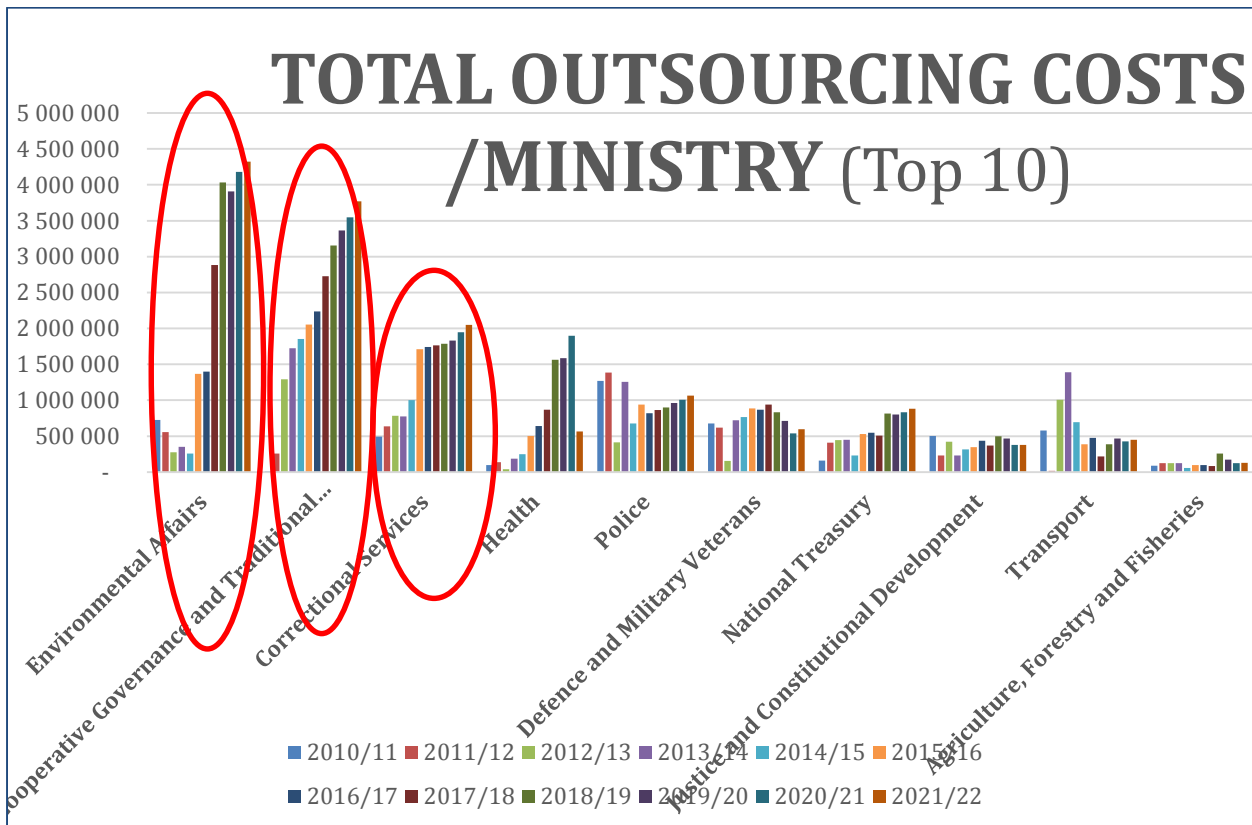
SAICA has started the process of analysing costs at a high level, considering whether these costs incurred are in fact necessary for the running of the particular ministry. We looked at eight of the separately disclosed expenses and provide high level insight on these below.

General Concerns on Data integrity

Based on our initial analysis, the following is apparent:

- Data does not seem to tie up year on year and audited outcomes seem to change significantly each year - for example, the audited outcome for 2015 in respect of certain expenses changed from the 2016 report to the 2019 report - for the exact same financial year. Treasury should be indicating where audited numbers have changed and why these have been adjusted
- There are huge anomalies in the growth of specific expense line items which could be errors or could be correct. However, in most instances, no explanation is provided where there are large increases from one year to the next
- There is insufficient or no explanation as to spending on certain items and outcomes sought
- The numbers reported on are often difficult to analyse. For example main budget, consolidated at national / provincial and consolidated with listed entities do not have the same comparative detail to ensure you can consistently compare data sets

Total outsourcing costs: Consolidation of costs in respect of consultants, contractors and agency

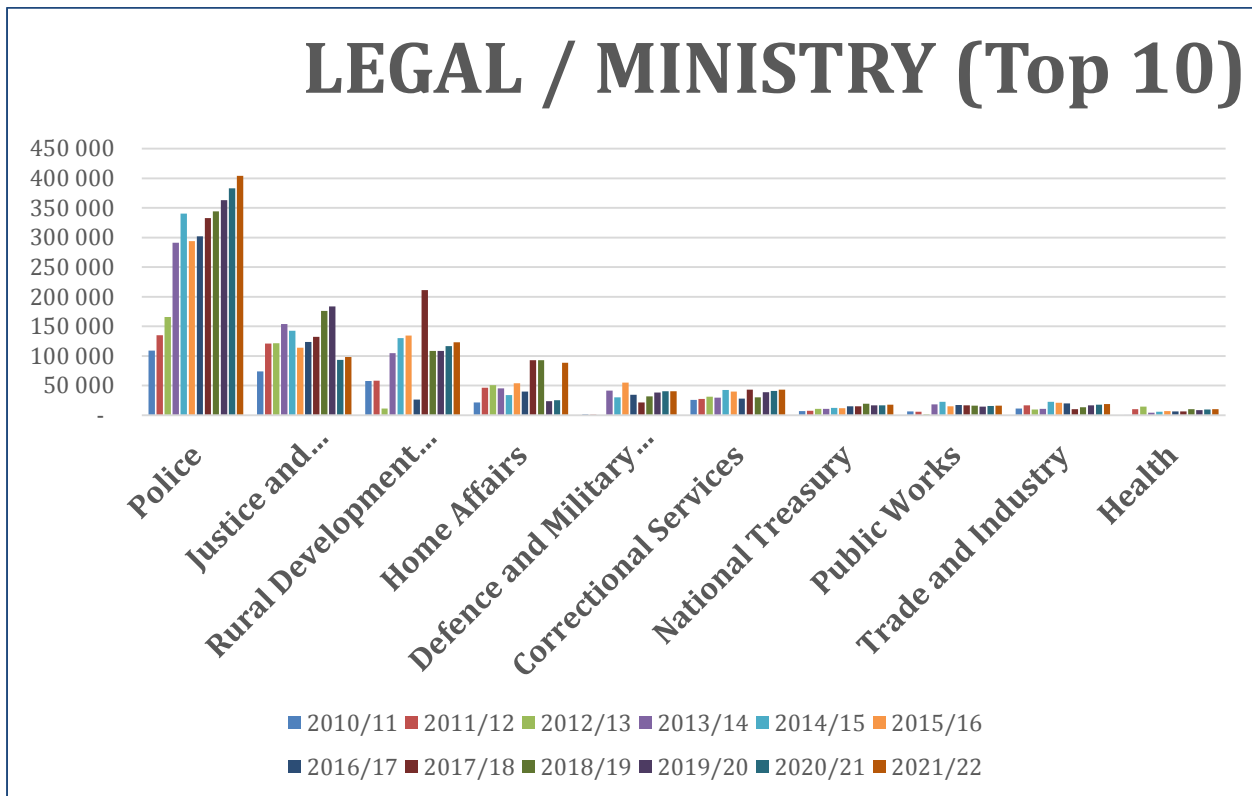


The cost incurred in respect of outside consultants, contractors and agencies over the last 12 years caught our attention merely due to the quantum of the costs and it is questionable as to why these costs are so high when compensation for full time employees is also high. There seems to be a trend in that the ministries that are consistently incurring high costs in this regard are Environmental Affairs, Cooperative Governance and Traditional Affairs and Correctional

Services. More investigation is required to determine what these costs relate to and whether there is room to reduce these by capacitating the departments with full time/permanent staff.

For example, the Environmental Affairs ministry which has more than 400 employees spends R4,3 billion on outsourcing which means they could have employed 2 800 people at R1,5 million/pa salary. How could they get the human capacity needs so wrong or did they?

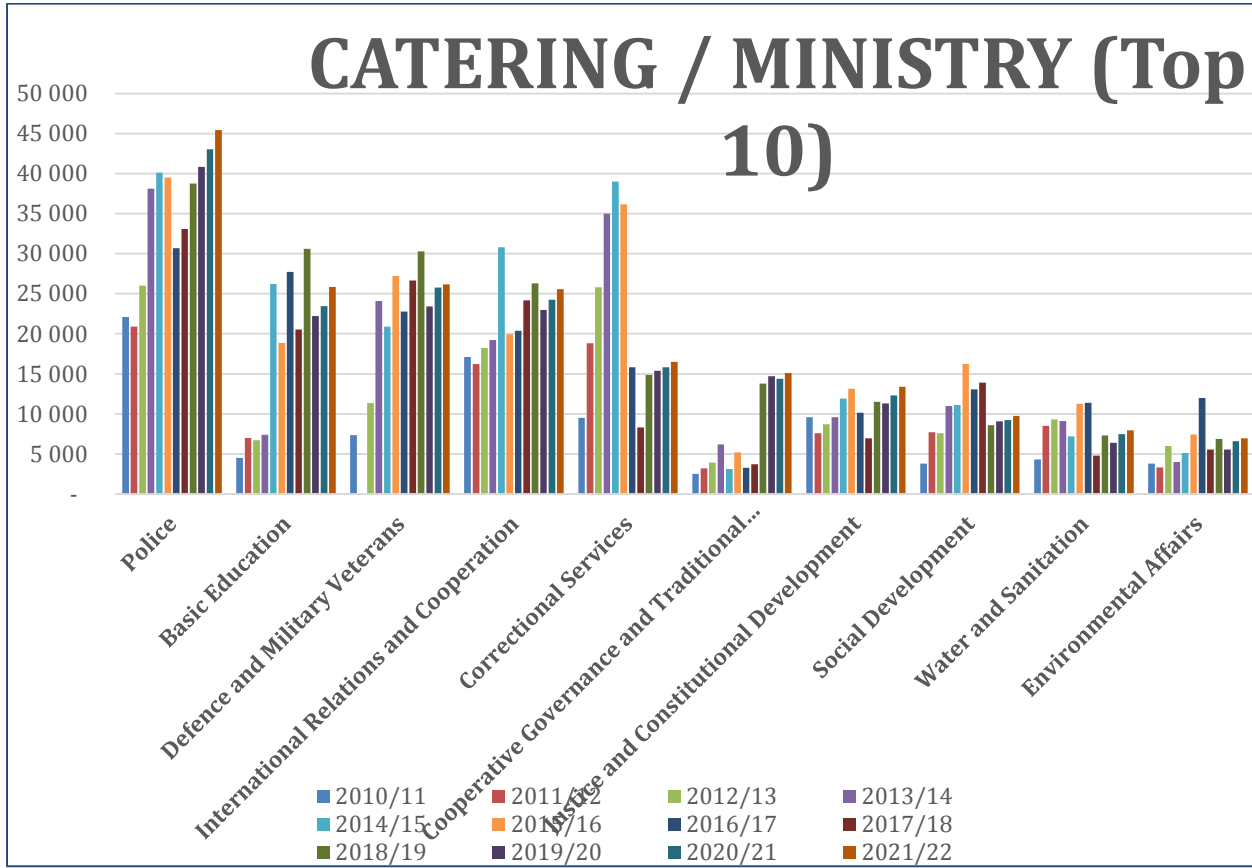
Legal services



The increase in legal fees, especially in the police seems to be directly related to competence in performing duties. Why Rural Development, Defense and Correctional services are on this list begs a few questions including what exactly is the role and scope of the State Law Advisor whose website states:

“MISSION: To provide reliable legal advice, representation, legislation and legislative drafting services to the State in a cost effective and efficient manner”

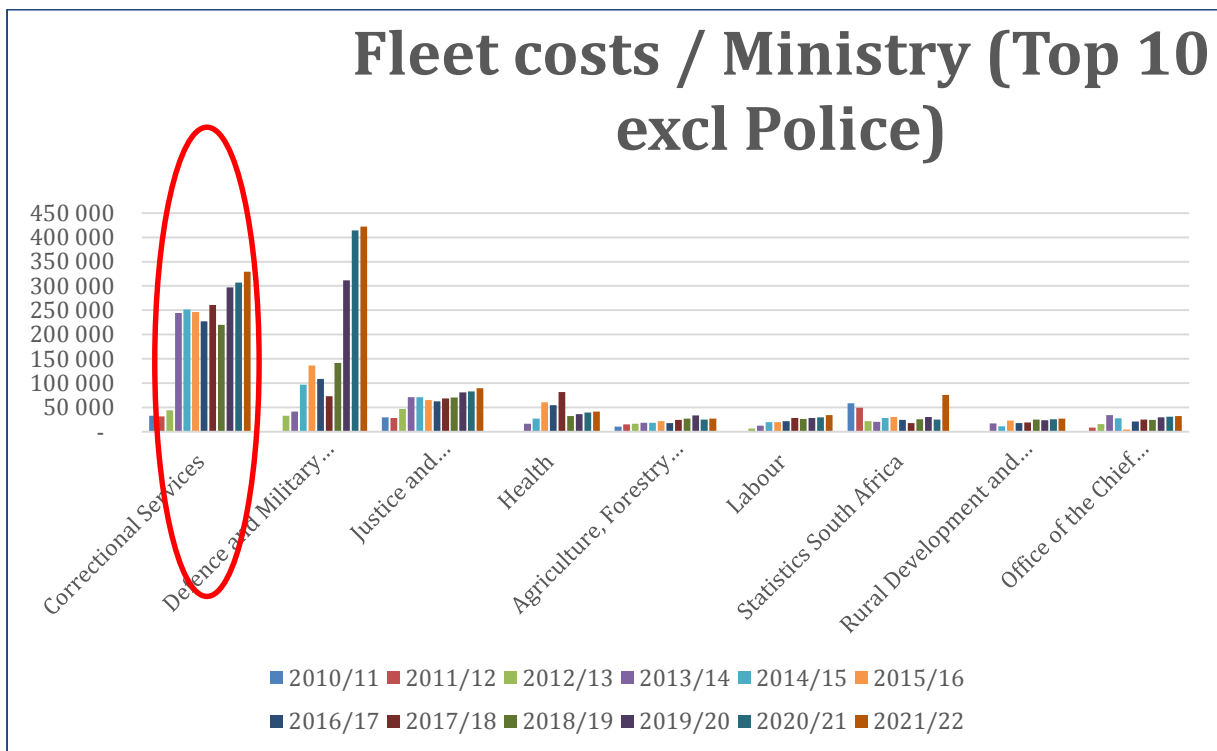
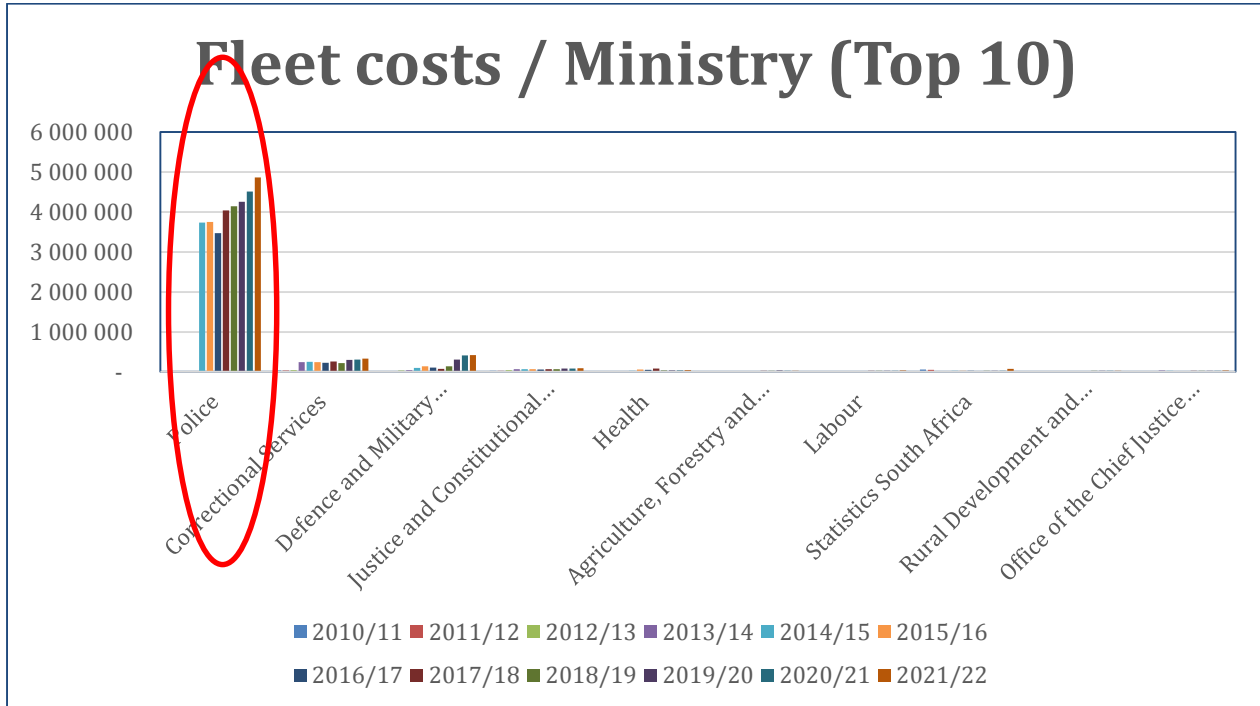
Catering



National Treasury noted in a prior years that catering costs in respect of some departments need to be reviewed with a view to reducing expenditure in this area. Based on the analysis of the expenditure, it is unclear why certain departments, for example the Police and Correctional Services, are incurring significantly high catering costs. Basic Education, Water and Sanitation and Environmental Affairs also make unseemly appearances.

Unfortunately, the reports year on year do not provide sufficient details as to what constitutes catering and whether this is used on staff or on other events. For one department the cost of catering per employee amounted to R30 000 a year and who exactly are they catering for? Worrying is that despite “austerity” measures in place, a lot of these ministries show year on year increases or even continual growth.

Fleet services

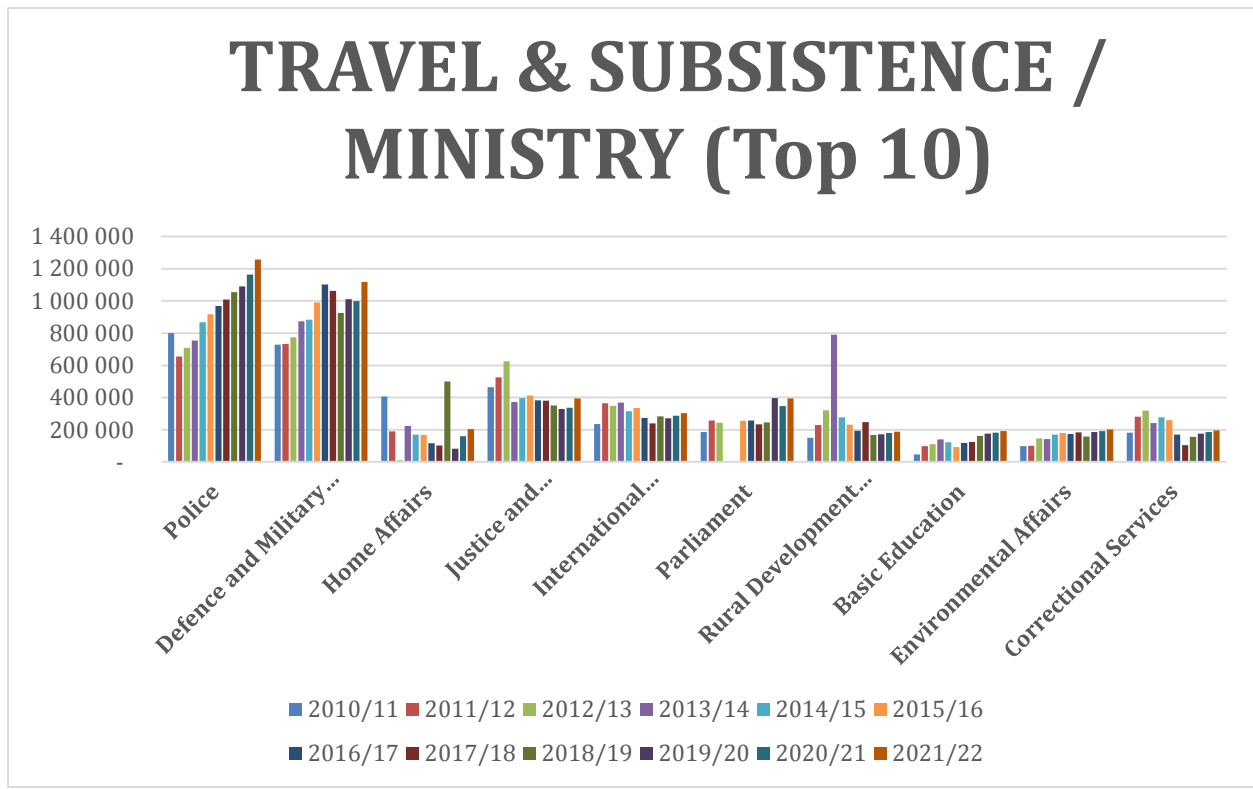


The first of the above graphs reflect fleet costs for the Top 10 where one can easily see that the costs attributable to the Police Services significantly exceeds that of the other 9 in the Top 10. The second graph shows Fleet Costs in respect of the lower 9 of the Top 10 for this expense. The fleet costs for Police are significantly higher than the other departments and it appears that this

department acquired a significant number of vehicles over the last 4 years, but in our view, this may be justifiable given the focus on reducing crime. It is, however, questionable as to whether the increased fleet costs has led to higher police visibility and a reduction on crime. Crime continues to be a huge concern and one of the significant factors contributing to poor economic growth. Both from a compensation perspective and a fleet perspective, one would expect the Police Services to be more effective in reducing crime.

Anomalous is Defense and Military veterans and why they would need to purchase so many normal vehicles given their mandate.

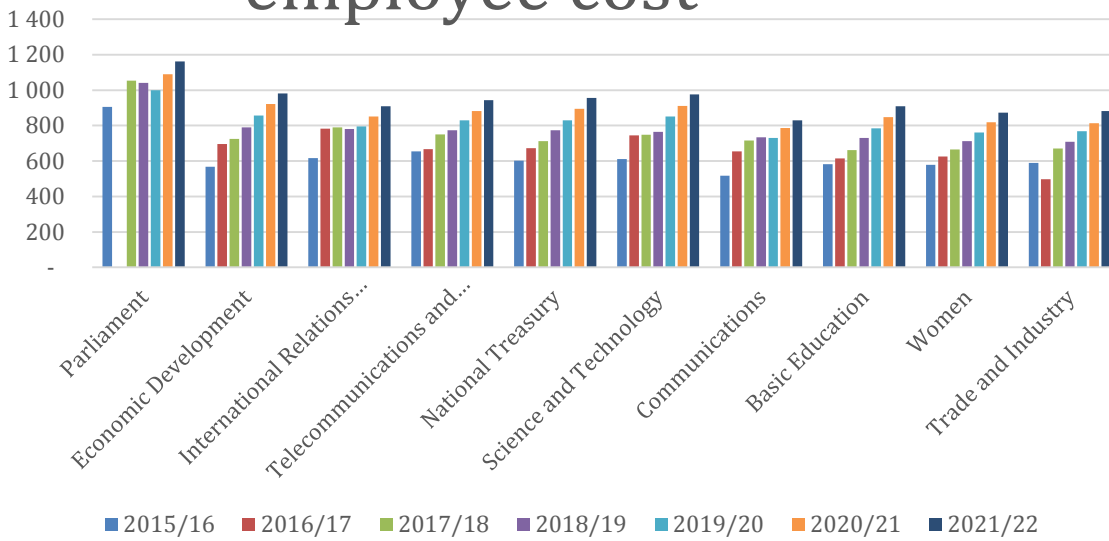
Travel & subsistence



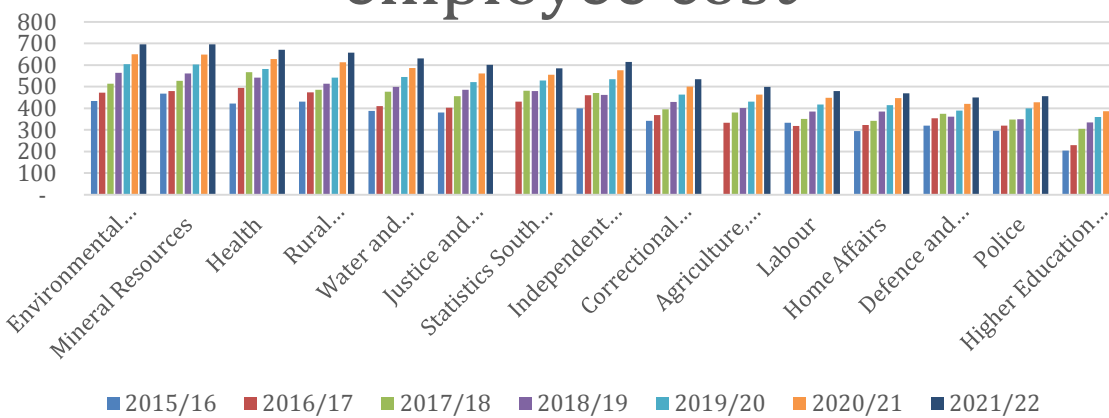
As identified in this year's Budget, travel and subsistence needs to be addressed. Again Police and Defense lead this expenditure and understanding this is crucial. Basic Education and Environmental Affairs may have some more difficult tasks to justify why they are on this list. Parliament, however, has itself not been blameless and travelling continues to grow.

Employment

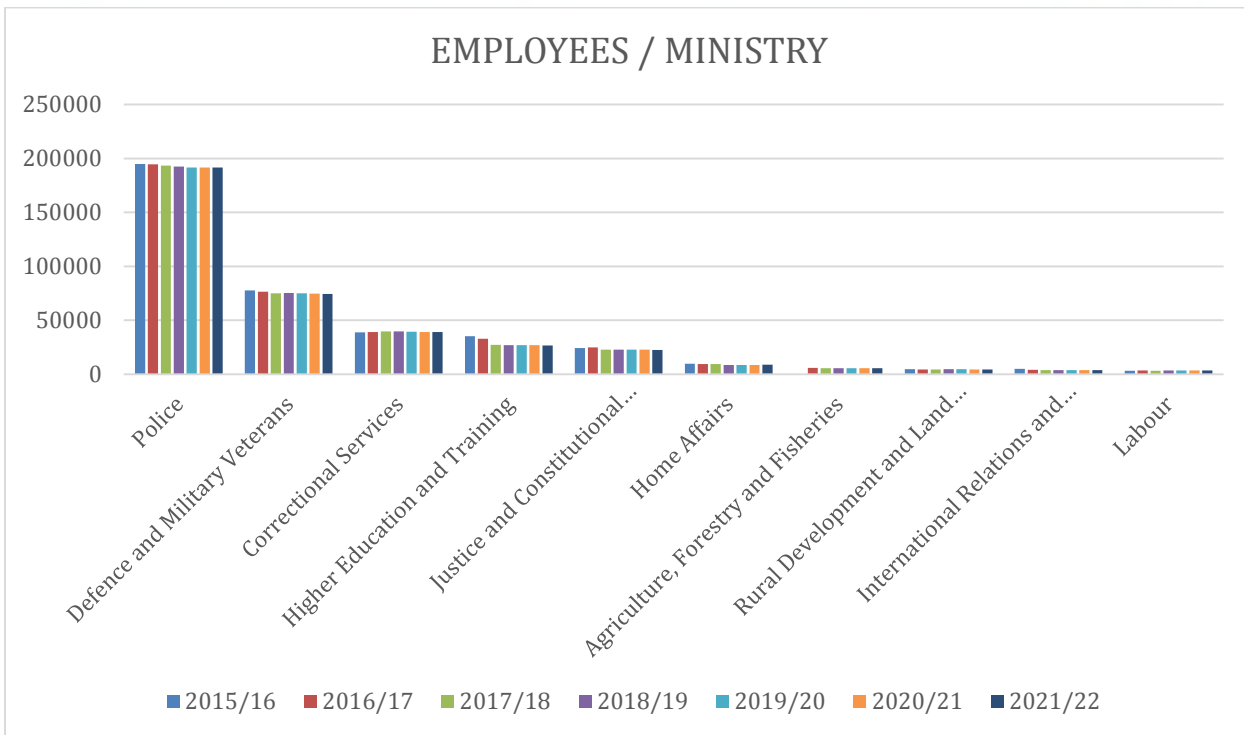
TOP 10: Average per employee cost



Bottom 10: Average per employee cost



EMPLOYEES / MINISTRY



The Minister of Finance noted that staff numbers are decreasing and will make up for the increased compensation. However, what we see is confirmation of stagnant or decreased staff numbers, but still an increase in the compensation cost, that is, staff wages are increasing faster than the saving from staff leaving. It also means they consume budget for vacancies.

Most of the annual reports note that the high average salary does not mean being overpaid, but represents the level of skill. Parliament leads this top 10. Further, how do we need more skilled people in Basic Education (8th) than in Higher Education (40th) given who they need to consult, manage and create learning environments for?

Public vs Private sector salaries

	2018/19	2019/20
National Government Avg salary – p/a	R595 000	R642 000
Avg salary – p/m	R 49 551	R 53 464
Private sector Avg salary – p/m	R 22 358	

Table O : Estimates of average monthly earnings, including bonuses and overtime payments, at current prices, by industry within 95% confidence limits

Industry	May 2019				August 2019			
	RSE	Lower limit	Estimate	Upper limit	RSE	Lower limit	Estimate	Upper limit
Mining and quarrying**	0.0	25 042	25 042	25 042	0.0	26 967	26 967	26 967
Manufacturing	1.1	18 445	18 844	19 242	1.2	18 670	19 122	19 574
Electricity, gas and water supply	1.2	42 164	43 202	44 240	1.2	42 481	43 491	44 491
Construction	3.5	15 658	16 809	17 960	3.2	15 756	16 804	17 852
Wholesale and retail; repair of motor vehicles, motor cycles and personal and household goods; hotels and restaurants	1.5	13 874	14 301	14 728	1.5	13 830	14 277	14 724
Transport, storage and communication	1.6	24 810	25 608	26 406	1.6	24 714	25 535	26 356
Financial intermediation, insurance, real estate and business services	2.5	22 696	23 845	24 994	2.5	22 972	24 148	25 324
Community, social and personal services	1.7	24 624	25 461	26 298	1.7	25 303	27 232	28 161
Total	0.9	21 041	21 414	21 787	0.9	21 874	21 968	22 358

Source: Stats SA Quarterly Employment Statistics – Sept 2019

*Revised estimates.
**Data obtained from the Department of Mineral Resources (See explanatory notes)

It is not only the total wage bill that is problematic. As indicated in last year’s Budget, the public sector wages are also comparatively to the private sector, overstated. At national level the average salary is R49 551 compared to the private sector at R22 358. What is also interesting is that in the quasi-private sector of Water and Electricity, average salaries are R44 491, 80% more than the rest of the private sector, but very close to the public sector average.

A lot more questions need to be asked regarding how our public sector in its current state can command such salaries and also guaranteed pension benefits. The latter means taxpayers not only incur exorbitant costs while public servants are employed, but will do so for their entire retirement as well where base salary is overstated. Again a lot more questions need to be asked and answered in this regard.

4. FOCUS ON IMPROVING TAX ADMINISTRATION

As noted in Chapter 4 of the Budget Review, as with the prior year the challenges faced with respect to our tax administration, contributes partly to poor revenue-collection. We agree with the premise that improving collections hinges on capacitating and restoring the efficiency of SARS. SAICA has always maintained that such improvements may be more effective in raising revenue than further substantial tax increases and will go some way to improving taxpayer behaviour.

The Nugent Commission’s main finding is that the failings of SARS stem from a “massive failure of governance and integrity” after the appointment of the entity’s previous Commissioner in 2014. Some of the recommendations made by Judge Nugent and reported on last year have since been implemented. For example, the new Commissioner was appointed last year and the large business unit, which was a major source of tax collection was reintroduced.

SARS is working on strengthening its IT team and its IT systems and this is crucial for tax collection efforts.

The new SARS Commissioner is focusing on stabilising the organisation, re-establishing integrity and compliance functions and restoring employee confidence and public trust. Revenue recovery plans include assistance from the re-established Davis Tax Committee to address tax leakages, customs fraud, trade mispricing and harmful tax practices, setting up a new centre focused on wealthy individuals who have complex tax arrangements and renewing the focus on illicit and criminal activity, including non-compliance of religious public-benefit organisations.

SARS is also in the process of reviewing its procurement processes. Contracts that did not represent value for money have not been renewed. A number of senior officials implicated by the Nugent Commission have left, and experienced staff are returning to roles from which they had been displaced over the last few years. It is believed that strengthening SARS will take time, but will result in improved revenue collections in the years ahead

5. INDIVIDUALS

Personal income tax (PIT)

PIT contributed R528 billion of the total tax collections of R1.359 trillion - i.e. 43% of total tax revenue.

As noted in the overview, despite increases in tax rates over the last few years, overall PIT collection is less than budgeted, in this case by an estimated R25 billion (prior year deviation, R5.4 billion). Contributing to this is the slow economic growth resulting in sluggish employment and wage growth as well as job losses as a result of the many businesses which have either shrunk or shut down completely.

As noted in the overview, there is an above-inflation increase in the personal income tax brackets and rebates, resulting in relief of R2 billion. The change in the primary rebate increases the tax free threshold from R79 000 to R83 100, for taxpayers under 65 years old.

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.

There is a proposed increase in the annual contribution limit to tax-free savings accounts by R3 000, that is from R33 000 to R36 000, effective from 1 March 2020.

Reimbursing employees for business travel

Currently, when an employee spends a night away from home for business purposes, an employer may reimburse the employee for meals and incidental costs and this reimbursement is not taxed, as long as it does not exceed the limits set by SARS. If an employee is away from the office on a day trip, advances or reimbursements are not taxed if the employee can prove the expense was incurred on the instruction of the employer, in the furtherance of the employer's trade. An anomaly arises when an employee purchases meals and incurs incidental costs during a day trip for work, but the employer has not explicitly instructed the employee to do so. To

address this anomaly, it is proposed that the legislation be amended to exempt reimbursement expenses incurred by an employee for meals and incidental costs during a business day trip, provided the employer's policy allows for such reimbursement.

Clarifying deductions in respect of contributions to retirement funds

Paragraphs 5(1)(a) and 6(1)(a) of the Second Schedule to the Income Tax Act, 1962 (the Act), make provision for a deduction of retirement fund contributions that did not qualify for a deduction in terms of section 11F of the Act. These paragraphs refer to "own contributions", which inadvertently prevents employer retirement fund contributions on behalf of employees (made on or after 1 March 2016) from qualifying for a deduction under either paragraph. It is proposed that the legislation be amended to remove this anomaly.

Addressing the circumvention of anti-avoidance rules for trusts

In 2016, section 7C was introduced as an anti-avoidance measure to curb the transfer of growth assets to trusts using low interest or interest-free loans. In 2017, these rules were strengthened to prevent the transfer of growth assets through low interest or interest-free loans made to companies owned by trusts. It has come to light that some taxpayers are undermining the adjusted rules by subscribing for preference shares in companies owned by trusts that are connected to the individuals. To curb this new form of abuse, it is proposed that the rules preventing tax avoidance through the use of trusts be amended.

Addressing an anomaly in the rollover of amounts claimable under the employment tax incentive (ETI)

In respect of compliant employers, any unclaimed monthly ETI claims must be claimed by August or February, whichever is the last month of each reconciliation period. If the unclaimed ETI is not claimed by that time, the compliant employer forfeits that claim. However, if a non-compliant employer did not claim any ETI for an employee they were entitled to claim for, the employer is able to claim the ETI in any subsequent month when it becomes compliant.

This creates an anomaly because non-compliant employers benefit more than compliant employers. It is proposed that the legislation be amended to address this anomaly.

Addressing an anomaly in the tax exemption of employer-provided bursaries

A number of employer bursary schemes seek to reclassify ordinary remuneration as a tax-exempt bursary granted to the dependants of an employee. SAICA discussed this in a recent Tackle Tax session in 2019 regarding schemes to structure salaries to include a 'tax exempt bursary' to cover the cost of school fees of dependents of employees.

Government proposes to close this loophole, by making amendments effective on 1 March 2020.

Foreign employment tax exemption

As a result of a prior year amendment, from 1 March 2020, South African residents who spend more than 183 days in employment outside the country will be subject to South African taxation on any foreign employment income that exceeds R1.25 million - according to initial legislation,

this amount was set at R1 million. No doubt, those individuals affected by the change will welcome the increase in the limit.

SAICA have made a number of submissions to National Treasury regarding the practical implications and challenges in this regard. However, these do not seem to have been resolved and the implications are imminent.

National Treasury has also noted some advisors have recommended emigration, as recognised by the South African Reserve Bank (SARB), as a way to break tax residency. However, it is very important to note that this is only one factor considered by SARS and is not in itself conclusive of a break in tax residency. Government wants to encourage all South Africans working abroad to maintain their ties to the country. Consequently, this concept of emigration will be phased out by 1 March 2021.

From a SARB perspective, there are proposals to remove the exchange control treatment for individuals, whilst strengthening the tax treatment. This, if implemented, will take effect from 1 March 2021. The intention is to allow individuals who work abroad more flexibility, provided funds are legitimately sourced and the individual is in good standing with SARS. Individuals who transfer more than R10 million offshore will be subjected to a more stringent verification process, including verification with regards to certification of tax status and the source of funds, and assurance that the individual complies with anti-money laundering and countering terror financing requirements prescribed in the Financial Intelligence Centre Act (2001).

Under the new system, natural person emigrants and natural person residents will be treated identically. Additional restrictions on emigrants – such as the restrictions on emigrants being allowed to invest, and the requirement to only operate blocked accounts, have bank accounts and borrow in South Africa – have been repealed. The concept of emigration as recognised by the Reserve Bank will be phased out, to be replaced by a verification process based on the requirements above.

Tax residency for individuals will continue to be determined by the ‘ordinarily resident’ and ‘physical presence’ tests as set out in the Act. South Africa participates in the automatic sharing of information between tax authorities on individuals’ financial accounts and investments to ensure that South African tax residents who have offshore income and investments pay the appropriate level of tax.

Other proposals affecting individuals

PIT administration

Proposed changes in the administration of PAYE may result in individual salaried employees not having to file personal income tax returns in the future.

6. COMPANIES

Corporate tax rates

No change is proposed to corporate tax rates.

General corporate tax policy proposals are noted below.

Addressing anomalies on the acquisition of assets in exchange for debt issued

The Income Tax Act sets out rules for the tax treatment of “share for share” and “asset for share” transactions and for curbing value-shifting arrangements under these transactions. The Act contains a rule to determine the base cost of assets acquired by a company in exchange for the issue of debt by that company. The interaction between the specific base cost rule for debt issued on the acquisition of assets and the Act’s general provisions for determining the base cost creates unintended consequences. Some taxpayers are of the view that the specific rule overrides other anti-avoidance measures dealing with disposals between connected individuals. To address these concerns, it is proposed that the legislation be amended.

Refining the corporate reorganisation rules

Refining the interaction between the anti-avoidance provisions for intra-group transactions:

Current corporate reorganisation rules allow for the tax-neutral transfer of assets between companies that are part of the same group. Anti-avoidance provisions also apply, in the below instances:

- Early disinvestment in transferred assets;
- External distribution of intra-group sale proceeds;
- Transfers of assets and assumption of related debt; or
- De-grouping the group of companies that entered into an intra-group sale.

In 2019, the legislation was amended to clarify the interaction between the anti-avoidance provisions for degrouping a group of companies and/or for the early disinvestment in transferred assets. However, the interaction between the anti-avoidance rules for de-grouping, and rules for the transfer of assets and the assumption of related debt may result in double taxation. It is proposed that the legislation be amended to address this anomaly.

Clarifying rollover relief for unbundling transactions:

The Act makes provision for rollover relief where shares of a resident company (unbundled company) that are held by another resident company (unbundling company) are distributed to the shareholders of that unbundling company in accordance with the effective interest of those shareholders.

However, these unbundling transactions are subject to an anti-avoidance rule that excludes the shareholders and the unbundling company from benefitting from the rollover relief if 20% or more of the shares in the unbundled company are held by non-residents – either alone or together with individuals connected to those non-residents – after the transaction. This rule aims to limit the extent to which taxpayers may distribute tax-free shares in resident companies to non-residents. The current rule creates a loophole and it is therefore proposed that the legislation be amended to make provision for the 20% rule to apply irrespective of whether non-resident shareholders are connected to each other.

Taxation of insurance

Tax treatment of deposit insurance scheme:

Government is establishing a deposit insurance scheme to protect depositors in the event of a bank failure, which in turn will contribute to the stability of the South African financial system. It is envisaged that each bank will make stipulated contributions to the scheme. It is proposed that tax implications relating to the deposit insurance scheme be considered.

Clarifying the meaning of “asset” for the taxation of long-term insurers:

The rules in the Act dealing with the taxation of long-term insurers make provision for assets to be allocated to the relevant fund and the profit to be taxed when annual transfers are made to the corporate fund. The transfer amounts are calculated by deducting the adjusted IFRS value of liabilities from the market value of assets in the policyholder and risk policy funds. A problem arises with the treatment of assets that do not have an open market value, for example, prepayments. Prepayments are treated as assets for financial reporting purposes and they cannot be separately disposed of in the open market. To address these concerns, it is proposed that the legislation be amended to make provision for those assets that do not have a market value.

Reviewing the interaction between rules for the taxation of benefits received by short-term insurance policyholders and the tax treatment of related expenses:

The Act allows short-term insurance premiums to be deductible provided they are disclosed as expenses for the purposes of financial reporting in line with IFRS 9. The Act also makes provision for including short-term insurance policy benefits received or accrued during a year of assessment in gross income. However, another rule prohibits the deduction of any loss or expense, to the extent that it is recoverable under any contract of insurance, guarantee, security or indemnity. It is proposed that the interaction between the different rules for the taxation of benefits received by short-term insurance policyholders and the tax treatment of related expenses be reviewed.

Refining the tax treatment of doubtful debt - section 11(j) of the Act

Clarifying the tax treatment of doubtful debt for non-bank taxpayers with security:

Section 11(j) of the Act sets out specific criteria for determining a doubtful debt allowance deduction for non-bank taxpayers that are not applying IFRS 9 to debt for financial reporting purposes. An allowance of either 25% or 40% may apply depending on the age analysis. Application may be made to apply a higher rate.

These deductions do not account for the taxpayer's debt security. It is proposed that the determination of deductions in respect of secured debt arrears owed to non-bank taxpayers not applying IFRS 9 should be reviewed.

Clarifying the tax treatment of doubtful debt in respect of certain impairments for banking regulated taxpayers:

Section 11(j) makes provision for the specific tax treatment of doubtful debt owed to taxpayers subject to prudential banking regulations. However, unlike the rules relating to non-banks, bank rules do not only restrict the allowance to be granted to a debt that would have been deductible if

it had become a bad debt. As a result, certain impairments such as financial guarantee contracts that would otherwise not be deductible in terms of the Act's bad debt deduction provisions are deductible in terms of IFRS 9. This creates unintended consequences. To address these concerns, it is proposed that the determination of deductions in respect of impairments under IFRS 9 should be reviewed.

Clarifying the tax treatment of doubtful debt in respect of taxpayers operating a leasing business:

Given that lease receivables are specifically excluded in the determination of a doubtful debt allowance, taxpayers conducting a leasing business (lessors) and applying IFRS 9 for financial reporting purposes cannot claim a doubtful debt allowance. To address the unintended consequences of this exclusion, it is proposed that changes be made in the tax treatment of doubtful debts for both banking regulated and other taxpayers to exclude lease receivables that have not been received or accrued.

Curbing potential tax avoidance caused by dividend deductions

A bank or other "covered person" must, subject to exclusions, include in or deduct from their statement of comprehensive income all amounts from qualifying financial assets and financial liabilities that are recognised as profits or losses. One of the exclusions is a dividend or foreign dividend received by or accrued to a "covered person".

Some covered individuals are providing investment opportunities to investors by inserting a special purpose vehicle in a banking group between an investor and a "covered person". This vehicle issues shares (a financial liability) to the investors that yield dividends while it receives interest or other income on its financial assets. The special purpose vehicle effectively converts income to dividends for the benefit of investors. To close this loophole, it is proposed that the exclusions from the rules for the taxation of covered individuals be extended to dividends declared.

Refining the taxation of real estate investment trusts

Clarifying the definition of real estate investment trusts (REITs):

The current definition of REIT in the Income Tax Act refers to the approval of listing requirements by the appropriate authority under the Financial Markets Act (2012) in consultation with the Minister of Finance.

This definition needs to be updated to be in line with the Financial Sector Regulation Act (2017). In addition, it is proposed that the consultation requirements regarding listing criteria in an approved exchange should be reviewed.

Clarifying the meaning of a share in the definition of REITs:

To qualify as a REIT for tax purposes, the entity must be a resident and the trust's shares must be a listed on an exchange as defined in section 1 of the Financial Markets Act and licensed under section 9 of that Act. However, it has come to government's attention that some REITs wish to issue and list preference shares. It was never envisaged that holders of preference shares should benefit from the REIT tax dispensation because preference shares are mainly used for

financing and not to provide full equity exposure to investors. It is proposed that the legislation be clarified to exclude preference shares and non-equity shares from the shares that must be listed on an exchange to qualify as a REIT.

Amending the anti-avoidance provision regarding taxation of foreign dividends received by REITs:

A REIT holding shares in a non-resident property company qualifies for a participation exemption in terms of the Act in respect of foreign dividends from that non-resident company. The REIT also gets a full deduction when it distributes profits from those foreign dividends. To address this mismatch, it is proposed that the legislation be amended so that the full dividend is subject to tax if the recipient company is a REIT.

Refining the tax treatment of transfer of collateral in securities lending arrangements

The Income Tax Act contains rules to address dividend tax avoidance transactions whereby listed shares are lent or transferred as collateral from a person that would be liable for the tax to a tax-exempt person. The borrower or recipient of the collateral receives the exempt dividend and pays a manufactured dividend to the lender or provider of the collateral. It is proposed that the anti-avoidance rules be extended to also cover situations where additional exempt parties are involved to facilitate the avoidance transactions.

7. INCENTIVES

Government will be reviewing incentives over the medium term with a view to repeal or restructure those that are considered to be inefficient or inequitable. It is believed that this will go some way to broadening the tax base as currently incentives are available to a select few and may not have achieved the intended outcomes.

The broad criteria used to assess whether a particular incentive is justified include:

- Has it ever been reviewed?
- Does it have a sunset clause?
- Is it in line with current government objectives?
- Does it support job creation?
- How many taxpayers are claiming the incentive?
- Does its provision create unintended consequences or distortions?

Reviewing the special economic zone (SEZ) tax incentive regime

Government proposes to amend the sunset clauses for sections 12R (determining applicable corporate tax rate) and 12S (accelerated capital allowances) to clearly stipulate an end date for these incentives. No company would be eligible for approval beyond these dates. The end date would also provide government with a natural point for reviewing these incentives to determine whether they should be continued.

Reviewing the venture capital company (VCC) tax incentive regime and addressing anomalies

The VCC tax incentive regime has a sunset clause of 30 June 2021. Government will review the effectiveness, impact and role of this regime to ascertain whether the incentive should be discontinued.

Over the past two years, changes were made in the VCC incentive tax regime to curb abuse and limit the regime's revenue costs. There are potential unintended consequences within the current legislation that may affect the successful closure of legitimate VCCs. It is proposed that the legislation be amended to address these unintended consequences.

Mining capital expenditure

Addressing the tax treatment of allowable mining capital expenditure:

The Income Tax Act makes provision for any taxpayer that derives income from mining operations to be allowed an accelerated capital expenditure deduction. At issue are the definitions of mining and mining operations for purposes of claiming the capital expenditure deductions, and whether a contract miner – who excavates for a fee – and the mineral rights holder – as principal – should both qualify for accelerated capital expenditure deductions. To address these concerns, it is proposed that the provisions dealing with allowable mining capital expenditure be reviewed.

Removing the Minister of Finance's discretion in ring-fencing capital expenditure per mine:

The tax-deductible capital expenditure incurred on a mine may not be used to reduce the taxable income of another mine, unless the Minister of Finance, in consultation with the Minister of Mineral Resources and Energy and having considered the relevant fiscal, financial and technical implications, decides otherwise. The application of this discretion is apparently problematic in practice, so it is proposed that the discretion be reviewed with the aim of its removal or restructuring.

Aligning immunity from taxation of international organisations

South Africa is a member of many internationally recognised organisations. The international agreements underpinning these memberships make provision for these international organisations to be immune from taxation in South Africa. The Income Tax Act makes provision for such exemptions, but it is proposed that amendments be made to all tax acts to make provision for these exemptions and ensure South African legislation aligns with international agreements.

Refining tax treatment of foreign donor-funded projects

In 2006, changes were made to the Act to make provision for the tax treatment of foreign donor-funded projects in terms of the Official Development Assistance Agreement. Given that some of these projects were entered into long ago, it has come to government's attention that the interaction between the provisions of the Act and the provisions of the Official Development Assistance Agreement creates unintended consequences. It is proposed that amendments be made to the legislation to address these concerns.

Reviewing expenditure deductions incurred related to the National Key Points Act

The National Key Points Act (1980) makes provision for deduction of expenditure incurred by taxpayers in respect of any national key point. The Act will be repealed when the Critical Infrastructure Protection Act (2019) comes into effect. It is proposed that the current expenditure deduction for national key points be reviewed to ascertain whether this deduction should be discontinued or aligned with the Critical Infrastructure Protection Act, but with certain limitations.

Tax expenditure overview 2018

There is lag in tax expenditure reporting as tax returns come in 12 months later and have to be assessed hence only the 2018 numbers being available. Tax expenditure represents revenue forgone by the fiscus as incentives. This represents R209bn (decrease from R210 billion). The largest incentives are pension deductions (R77 billion), Medical credit (R24 billion), VAT zero ratings (R54 billion) and MIDP (R28 billion). The VAT zero ratings remain a controversial instrument with even Treasury estimating that more than 60% (R32 billion) is going to unintended groups, that is, the middle class and the rich. For this money we could increase each of the 18 million social grant recipients monthly grant by R148.

The diesel refund has decreased significantly from R5 billion and to R3 billion from a high of R9 billion in 2016 and may reflect challenges taxpayers have in actually claiming this incentive. The ETI has also decreased which means uptake may have decreased or there are also significant challenges in claiming. Small Business Allowances also decreased from R2,8 billion to R2,5 billion showing that small business profits are under pressure. The immaterial overall amount also indicates how small a group our SME entrepreneurs are notwithstanding governments intent to make this the foreground of our economy.

8. INTERNATIONAL TAX

Amending the anti-avoidance provision regarding change of residence

A CGT 'exit charge' is levied when a person ceases to be a South African tax resident. When a company ceases to be a resident, there is a deemed disposal of its assets that triggers CGT. Despite these rules, residents that hold shares in the company could subsequently dispose of the shares and qualify for a participation exemption for the sale of company shares. It is proposed that amendments be made to the legislation to close this loophole.

Changing the anti-avoidance provision regarding taxation of foreign dividends received by residents

The participation exemption rules for foreign dividends do not contain a similar limitation for general foreign dividends exemption rules. This limitation denies tax exemption for foreign dividends if there is a deductible expense or reduction that is determined directly or indirectly with reference to a dividend. For example, where a resident owns 20% of the shares in an unlisted foreign company, no tax is imposed on the foreign dividends, even though these dividends arose from amounts that previously qualified for a tax deduction. To address this concern, it is proposed that changes be made to the legislation.

Refining the definition of an “affected transaction” in the transfer pricing rules

Transfer pricing rules apply if a taxpayer or a controlled foreign company (CFC) enters into a transaction with a non-resident “connected person”, on terms and conditions that are not at arm’s length, and derives a tax benefit from that transaction. In the case of a transaction between a CFC and a non-resident “connected person”, a tax benefit may not be derived by the foreign company, but may be derived by a South African resident shareholder as a result of a lower inclusion of controlled foreign company net income for the resident. To address this situation, it is proposed that the legislation be amended to refer to a tax benefit that may be derived by a person, in relation to a controlled foreign company, that is a resident.

Refining the tax treatment of capital flows

Restricting the artificial reduction of dividends and capital gains tax:

The current exchange control provisions restrict the use of loop structures, in part to protect the tax base. Tax legislation is a more appropriate tool to combat tax avoidance. For example, if a resident individual or trust holds at least 10% of the total equity shares and voting rights in a foreign company, they qualify for a participation exemption and all foreign dividends received are exempt from tax. If the resident shareholding is more than 50%, the foreign company is a controlled foreign company and all of the CFCs dividend income is exempt from tax. If loop structures are no longer restricted, it would be possible to set up a structure where the controlled foreign company owns a South African company, and any dividends flowing from the resident company to the resident individual or trust through the CFC are exempt for the individual or trust. This would enable the resident individual or trust to reduce their dividend tax liability in respect of dividends declared by a resident company from 20% to, in some instances, zero.

A further loop structure risk exists if a resident disposes of shares in a controlled foreign company that owns South African assets. The unrealised gains attributable to the South African assets may not be taxed if the resident qualifies for the participation exemption for capital gains. Government proposes that the CFC legislation be amended to limit the dividend exemption available to a resident individual or trust relating to the accrual or receipt of dividends from a resident company to a CFC. As a result, such dividends would be taxed at an effective rate of 20%, in line with cases where resident individuals receive dividends from resident companies.

In addition, it is proposed that the participation exemption for capital gains on the disposal of shares in CFCs by residents should not apply to the extent that the value of those shares is derived from South African assets.

Withdrawing retirement funds upon emigration:

Individuals are currently able to withdraw funds from their pension preservation fund, provident preservation fund and retirement annuity fund upon emigrating for exchange control purposes through the SARB. As a result of the exchange control proposals noted earlier, the concept of emigration as recognised by the SARB will be phased out. It is proposed that the trigger for individuals to withdraw these funds be reviewed. Any resulting amendments will come into effect on 1 March 2021.

Transferring dual-listed shares abroad:

A resident individual or company that owns a listed domestic security is not permitted to export that security without approval. This approval requirement is one of the exchange control provisions that will be phased out. As a result, government proposes that these events be deemed a disposal that would attract CGT or normal tax. If the person or company remains a tax resident, they would be liable for tax on further gains when the security is sold in future.

9. ENVIRONMENTAL TAXES

Carbon tax

Increase in carbon tax rate

The carbon tax rate will increase by 5.6% for the 2020 calendar year. This increase includes an annual inflation rate of 3.6% plus two percentage points in line with the Carbon Tax Act, 2019. Accordingly, the carbon tax rate will increase from R120 per tonne of carbon dioxide equivalent to R127 per tonne of carbon dioxide equivalent.

Update on the Trade Exposure and Performance Allowance Regulations

The Carbon Tax Act came into effect on 1 June 2019. Following an extensive 5-year stakeholder consultation process on the design, scope and methodology, the National Treasury published draft regulations for trade exposure and performance allowances for public comment in December 2019. After taking into account the public comments received, the draft regulations will be revised and gazetted in March 2020, when the National Treasury will also publish a notice for the renewable energy premium credit and, in April 2020, the Department of Environment, Forestry and Fisheries will publish the methodology and accounting framework for greenhouse gas emissions sequestration.

Aligning the carbon fuel levy adjustment with Carbon Tax Act

Non-stationary greenhouse gas emissions from petrol and diesel used for road transport are incorporated in the current fuel levy in terms of the Customs and Excise Act. Under section 5 of the Carbon Tax Act, the rate of the carbon tax must be increased annually based on the CPI inflation rate for the preceding tax period plus 2% for the first phase of the carbon tax up to December 2022. To provide clarity on the quantum of the annual carbon fuel levy rate adjustment, it is proposed that changes to the carbon fuel levy should be aligned with adjustments to the principal carbon tax rate under the Carbon Tax Act and become effective on the first Wednesday in January for a particular tax period. The rates of 7 cents and 8 cents per litre for petrol and diesel respectively will remain unchanged for the 2020 tax period. Government will also publish a technical note outlining the methodological approach and administrative process for future carbon fuel levy rate adjustments by June 2020.

Allowing a carbon tax “pass-through” for the regulated liquid fuels sector

Currently, stationary sources of greenhouse gas emissions from crude oil and synthetic coal-to-liquid and gas-to-liquid refining processes are covered by the carbon tax and qualify for tax-free allowances up to a maximum of 90% and 95% respectively. Due to the regulated nature of petrol and diesel fuel prices, refineries are unable to recover these carbon tax costs. The 2013 *Carbon*

Tax Policy Paper recommended a limited, transparent and equitable “pass-through” mechanism for carbon tax costs.

Taking into account the maximum tax-free allowances for fuel combustion and fugitive emissions, amendments are proposed to allow a limited recovery of the carbon tax costs for regulated fuels. It is proposed that the cost recovery mechanism applies as a deduction against the carbon tax liability of petroleum refineries and government will publish the applicable rates for specific regulated fuels in a notice in the gazette.

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.

From 1 April 2020, this levy will be increased to R10 from R8 per globe - that is a R2 increase - in order to encourage use of energy efficient globes.

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. It is proposed that the levy will increased from 12 cents a bag to 25c a bag, effective from 1 April 2020.

A review of the current levy as well as clarification of the tax treatment of compostable bags will be undertaken.

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.

It is proposed that, effective 1 April 2020, the rates will increase to R120 (PY: R110) for every gram of emissions/km above 95gCO₂/km (PY: 120gCO₂/km) for passenger vehicles and R160 (PY: R150) for every gram of emissions/km in excess of 160gCO₂/km (PY: 175gCO₂/km) for double cab vehicles.

The threshold for emissions has therefore also increased in line with the Euro 6 emission standards.

10. INDIRECT TAXES

Value-added tax (VAT)

Revising the definition of “telecommunication services” for electronic services regulations

With effect from April 2019, the regulations prescribing electronic services were changed to broaden the scope of electronic services that are subject to VAT in South Africa. However, the definition of “telecommunication services” in the regulations currently contains an incorrect

reference that creates unintended consequences. It is proposed that further changes be made to the regulations to address these consequences.

Reviewing the VAT accounting basis option available for an intermediary

In terms of section 54(2B) of the VAT Act, 1991, certain supplies made by an underlying foreign electronic services supplier are deemed to be made by the intermediary, who is then required to levy and account for South African VAT on these supplies. Section 15(2)(a)(vii) allows a vendor that is a foreign electronic services supplier to apply to the SARS Commissioner to account for VAT on a payment basis. However, it does not allow a vendor that is an intermediary to account for VAT on this basis. It is proposed that an intermediary vendor be allowed to account for VAT on a payment basis.

Changing the VAT treatment of transactions under the corporate reorganisation rules

Section 8(25) of the VAT Act ensures that transactions entered into between a group of companies have no VAT consequences. This is achieved by treating the supplier and the recipient of goods or services as the same person, provided the relevant rollover relief provisions of the Income Tax Act are met. The income tax relief provisions may not apply to the transfer of certain assets, which means that their transfer will also not qualify for the VAT relief, even though the assets form part of the entire transaction.

This limitation of relief creates unintended consequences for VAT, as the entire transaction could qualify for VAT relief under the going-concern provisions, but are excluded because the transaction falls within the ambit of the corporate reorganisation rules, which automatically require the provisions of section 8(25) of the VAT Act to apply. It is proposed that changes be made in the relief provisions in section 8(25) of the VAT Act to address these limitations.

Reviewing section 72 arrangements and decisions

In 2019, changes were made in section 72 of the VAT Act, which deals with the SARS Commissioner's discretion to make arrangements or decisions regarding the application of the VAT Act to specific situations where the manner in which a vendor or class of vendors conducts their business leads to difficulties, anomalies or incongruities.

These changes have an impact on the arrangements and decisions made before 21 July 2019. On enquiry by SAICA, SARS Legal shared its views on this late last year and SAICA raised concerns regarding how this would impact business with existing rulings in place.

It is heartening to note that to address these concerns, government will review the impact and the role of these arrangements and decisions to ascertain whether they should be discontinued or extended in accordance with the new provisions of section 72.

Clarifying the VAT treatment of irrecoverable debts

Where a vendor, who is required to account for VAT on an invoice basis, has made an input tax deduction for the VAT they were charged on a taxable supply and that vendor has not paid the full consideration within a 12-month period, that vendor will be required to account for output tax on the unpaid amount.

The VAT Act provides clarity on the time of supply within which such output tax is to be declared. However, there is uncertainty regarding the value of supply rule that applies in certain circumstances. It is proposed that clarity be provided in the legislation to address the uncertainty.

Introducing measures to address undue VAT refunds on gold

Schemes and malpractice to claim undue VAT refunds have been detected in the value chain relating to gold exports. The schemes and malpractice generally involve the import of coins, purchase of Krugerrands and illicit gold. It is proposed that appropriate regulations be considered or legislation be amended to address this.

11. TAX ADMINISTRATION/OTHER

Tax Administration Act

Aligning the Mineral and Petroleum Resources Royalty (Administration) and the Tax Administration Acts:

Chapter 12 of the Tax Administration Act, 2011 created a framework to support the modernisation of the SARS accounting system for interest. Due to the similarities in the interaction between provisional and income tax on the one hand and the estimation and final payment of royalties for mineral and petroleum resources on the other, it is proposed that the Mineral and Petroleum Resource Royalty (Administration) Act (2008) and Chapter 12 of the Tax Administration Act be amended to ensure they align. This includes aligning interest payable for royalties, for the first and second payment, with provisional tax interest under Chapter 12.

Estimated assessments for non-compliance:

SARS may issue an estimated assessment to a taxpayer who does not file a return. The assessment may only be disputed where the relevant return is filed and SARS has failed to revise the assessment in light of the return. This ensures that all the facts are available when the assessment is revisited and that the dispute resolution timelines that would otherwise apply may be relaxed in appropriate circumstances.

It is proposed that this approach be extended to cases where specific relevant material was requested from a taxpayer on more than one occasion, without an adequate response.

Withholding PAYE refunds where returns are outstanding:

In terms of the Income Tax Act, SARS may refuse to authorise a refund until a taxpayer furnishes any outstanding returns. A similar but broader provision exists in the Employment Tax Incentive Act, 2013.

Given the tight integration between the PAYE, skills development levy, unemployment insurance contributions and employment tax incentive systems, it is proposed that this power also apply to the Skills Development Levies Act (1999) and the Unemployment Insurance Contributions Act, 2002. It is also proposed that the similar provisions across tax legislation be reviewed to determine if they can be consolidated into a single provision applicable to all tax types under the Tax Administration Act.

Withholding refunds where a matter is under criminal investigation:

The Tax Administration Act provides that SARS may withhold a refund until such time that the refund is verified, inspected or audited. It is proposed that this provision be extended to include criminal investigations.

Income Tax Act

Failure by public benefit organisations (PBO) approved to receive tax-deductible donations to submit audit certificates:

If a PBO fails to comply with specific requirements for receiving tax-deductible donations, SARS may regard these donations as taxable income for the organisation. If the failure is not addressed within a reasonable period, the receipts issued by the organisation will no longer be valid for claiming tax deductions. The sanctions do not apply to the requirement that an organisation conducting mixed activities, some of which qualify for the issue of receipts and some of which do not, obtain an audit certificate for the use of the funds for which receipts have been issued. It is proposed that this be corrected.

Refunds of withholding tax on royalties where the royalty becomes irrecoverable:

The interest-withholding tax provisions provide for a refund of tax withheld when interest became due and payable, if the interest subsequently becomes irrecoverable. It is proposed that the same principle should apply in cases where royalty-withholding tax was paid and the royalty becomes irrecoverable.

Customs and Excise Act

Exchanging information with the Department of International Relations and Cooperation:

A review was initiated in a prior year, aimed at minimising abuse and risks associated with duty-free shops was announced in the 2019 *Budget Review*. The abuse of duty-free purchases by certain diplomats has become an increasing problem and disclosure of relevant information to the Department of International Relations and Cooperation will enable a response at a diplomatic level. It is proposed that SARS be permitted to disclose information regarding duty-free purchases by diplomats to the Director-General of the Department of International Relations and Cooperation.

Providing for the publication of tariff determinations:

The World Customs Organisation advocates capacity building, skills development and knowledge sharing by customs authorities to enhance compliance with customs and excise legislation. Publishing tariff classifications will be useful in this regard and will contribute to consistency and transparency in the classification of goods. It is proposed that the Customs and Excise Act be amended to provide for the publication of tariff determinations and rules prescribing the circumstances in which such publication may take place, the kind of information that may be published and the manner of publication.

Liability for duty in respect of imported goods:

The liability for import duties rests with the master, pilot or carrier and only ceases when the goods are lawfully delivered, after due entry, to the importer or agent of the importer. Complaints by stakeholders have highlighted certain difficulties relating to the cessation of liability of the master, pilot or carrier at that stage. These difficulties include high shipping line charges for landside operations and the transport of goods for scanning, the favouring of shipping line transport, and the removal of containers to certain container depots with which shipping lines have private agreements. It is proposed that the Customs and Excise Act be amended to address these challenges by providing for licensed removers of goods in bond to move containerised goods from container terminals before they are released. The liability of the master, pilot or carrier will cease on delivery of the goods to a licensed remover. Provision will also be made for the assumption of liability by the licensed remover on receipt of the goods until their delivery.

Progress with the review of the diesel refund administration:

SARS recently published draft diesel refund rules and notes to the Customs and Excise Act for public comment. The draft is the result of National Treasury and SARS consultations with affected industries, including the 2017 discussion paper, *Review of the Diesel Fuel Tax Refund System*, industry-specific workshops conducted in 2018 and further technical inputs received from stakeholders during 2019. The draft presents a provisional outline for the review of the diesel refund administration to facilitate further industry engagements during 2020. The reform proposals and legislative framework will be refined further based on the outcome of the engagements.

Members are encouraged to provide their [comments](#) on these draft rules and notes to SAICA by no later than 9 March 2020. For ease of reference, the draft documents may be access here:

- [Draft 2020 Diesel Declaration](#)
- [Draft Schedule 6, Note 6 Diesel Refunds](#)
- [Draft Rule in terms of section 75A Diesel Refunds](#)

12. TAX GUIDE (including tables)

Individuals and trusts

Income tax rates for natural persons and special trusts Year of assessment ending 28 February 2021	
Taxable income (R)	Taxable rates
0 – 205 900	18% of each R1
205 901 – 321 600	37 062 + 26% of the amount above 205 900
321 601 – 451 100	67 144 + 31% of the amount above 321 600
451 101 – 584 200	105 429 + 36% of the amount above 451 100
584 201 – 744 800	155 505 + 39% of the amount above 584 200
744 801 – 1 577 300	218 139 + 41% of the amount above 744 800
1 577 301 and above	559 464 + 45% of the amount above 1 577 300

Natural persons

Tax thresholds		
	2020/21	2019/20
	R	R
Below 65 years of age	83 100	79 000
Aged 65 and below 75	128 650	122 300
Aged 75 and over	143 850	136 750

Tax rebates		
	2020/21	2019/20
	R	R
Primary – all natural persons	14 958	14 220
Secondary – persons aged 65 and below 75	8 199	7 794
Secondary – persons aged 75 above	2 736	2 601

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 or severance 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.

Withholding tax on royalties

A final tax, at a rate of 15%, is imposed on the gross amount of royalties from a South African source payable to non-residents.

Interest withholding tax

A final tax, at a rate of 15%, is imposed on interest from a South African source, payable to non-residents. Interest is exempt if payable by any sphere of the South African government, a bank, or if the debt is listed on a recognised exchange.

Withholding tax on foreign entertainers and sportspersons

A final tax, at the rate of 15%, is imposed on gross amounts payable to non-residents, for activities exercised by them in South Africa as entertainers or sportspersons.

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 year of assessment are deductible by members of those funds. Amounts contributed by employers and taxed as fringe benefits are treated as contributions by the individual employees.

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). The deduction is further limited to the lower of R350 000 or 27.5% of taxable income, before the inclusion of a taxable capital gain. Any contributions exceeding the limitations are carried forward to the next year of assessment, and are deemed to be contributed in that following year. The amounts carried

forward are reduced by contributions set off against retirement fund lump sums and against 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.

Medical and disability expenses

In determining tax payable, individuals are allowed to deduct:

- monthly contributions to medical schemes (a tax rebate referred to as a medical scheme fees tax credit) by the individual who paid the contributions up to R319 (PY: R310) for each of the first two persons covered by those medical schemes, and R215 (PY: R209) for each additional dependant; and
- in the case of
 - an individual who is 65 and older, or if an individual, his or her spouse, or his or her child is a person with a disability, 33.3% of the sum of qualifying medical expenses paid and borne by the individual, and an amount by which medical scheme contributions paid by the individual exceed 3 times the medical scheme fees tax credits for the tax year; or
 - any other individual, 25% of an amount equal to the sum of qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 4 times the medical scheme fees tax credits for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

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 R452 (previously R435) per day is deemed to have been expended;
- incidental costs only, an amount of R159 (previously R134) 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 / 2019.

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 - 95 000	31 332	105.8	37.4
95 001 – 190 000	55 894	118.1	46.8
190 001 – 285 000	80 539	128.3	51.6
285 001 – 380 000	102 211	138.0	56.4
380 001 – 475 000	123 955	147.7	66.2
475 001 – 570 000	146 753	169.4	77.8
570 001 – 665 000	169 552	175.1	96.6
Exceeding 665 000	169 552	175.1	96.6

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 **398 cents per kilometer** (previously 361 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 license, 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 value of the fringe benefit to be included in gross income is the lower of the benefit calculated by applying a prescribed formula, or the cost to the employer if the employer does not have full ownership of the accommodation.

The formula applies if the accommodation is owned by the employee, but it does not apply to holiday accommodation rented by the employer from non-associated Institutions.

Corporate tax rates

Companies, PSPs and foreign resident companies

YEARS OF ASSESSMENT ENDING BETWEEN 1 APRIL 2019 AND 31 MARCH 2020 (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 2020 and 31 March 2021

Taxable income	Rate of tax
R	R
0 – 83 100	0% of taxable income
83 101 – 365 000	7% of taxable income above 78 150
365 001 – 550 000	19 733 + 21% of taxable income above 365 000
550 001 and above	58 583 + 28% of the amount above 550 000

Financial years ending on any date between 1 April 2019 and 31 March 2020

Taxable income	Rate of tax
R	R
0 – 79 000	0% of taxable income
79 001 – 365 000	7% of taxable income above 79 000
365 001 – 550 000	20 020 + 21% of taxable income above 365 000
550 001 and above	58 870 + 28% of the amount above 550 000

Micro businesses

Financial years ending on any date between 1 March 2019 and 28 February 2020 (unchanged since prior year)

Taxable turnover	Rate of tax
R	R
1 – 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		
	2019/20	2018/19
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 is 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 R900 000 to R1 million, in order to adjust for inflation.

Transfer duty is payable at the following rates on transactions in respect of acquisition of property **on or after 1 March 2020** which are not subject to VAT.

Value of property (R)	Rate
0 – 1 000 000	0%
1 000 001 – 1 375 000	3% of the value above 900 000
1 375 001 – 1 925 000	11 250 + 6% of the value above 1 375 000
1 925 001 – 2 475 000	44 250 + 8% of the value above 1 925 000
2 475 001 – 11 000 000	88 250 + 11% of the value above 2 475 000
11 000 001 and above	1 026 000 + 13% of the value above 11 000 000

Transfer duty is payable at the following rates on transactions in respect of acquisition of property **on or after 1 March 2017, but before 1 March 2020** 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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NOTE: A word version of this document is available on the [SAICA Budget 2020 webpage](#).

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