national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

Revenue Laws Amendment Bills, 2008

The Minister of Finance is releasing for public comment today the draft Revenue Laws Amendments Bills, which may be obtained from the National Treasury (www.treasury.gov.za) or SARS (www.sars.gov.za). This legislation, together with the earlier Taxation Laws Amendment Acts (introduced on 19 March 2008), gives effect to the tax proposals presented by the Minister of Finance in the 2008 National Budget as tabled in Parliament on 20 February. The earlier Acts dealt with rates, thresholds, urgent policy and administrative matters and technical corrections. The draft Bills released today address the more substantive matters previously announced. In addition to the brief overview provided by this media statement, an Explanatory Memorandum is also published to assist in interpreting the Bills.

The Bills released today deal with the following key matters:

1. *Conversion of the Secondary Tax on Companies to the New Dividends Tax:* The Secondary Tax on Companies (STC) will be converted into a Dividends Tax at the shareholder-level in line with international practice. The new Dividends Tax will contain a withholding mechanism so that the company declaring the dividend is the party mainly responsible for collection. Responsibility for collection may be shifted to intermediaries in several circumstances as a matter of practicality.

   One notable point relates to the continued existence of what are popularly known as STC credits. In the 20 February 2008 media statement on the conversion, it was announced that all STC credits would be completely eliminated upon conversion to the new Dividends Tax due to concerns of administrative feasibility. However, after further analysis and consideration, it was decided that STC credits be maintained within the new Dividends Tax system for a limited period. Hence, STC credits will be available as an offset against the new Dividends Tax for a three-year transition period, after which all remaining STC credits will fall away.

   It is reiterated that the new Dividends Tax will come into effect only once a number of tax treaties, that have already been renegotiated, have been ratified by the respective governments. Once these ratifications have been confirmed, the Minister of Finance will make an announcement via notice in the Government Gazette with the new Dividends Tax taking effect three months later. The target date set for the new Dividends Tax is late 2009. The proposed legislation is being enacted as part of the Revenue Laws Amendment Bills, 2008, in order to provide all stakeholders with sufficient time to adjust their systems by the target date.

As a final point, it is noted that the Revenue Laws Amendment Bills, 2008, only cover the core elements of the new Dividends Tax. A number of collateral issues must still be considered, including the taxation of foreign dividends, the taxation of deemed dividends, anti-avoidance rules (e.g. rules to prevent companies from disguising sales proceeds through pre-sale dividends). These issues will require separate policy announcements and will be addressed in 2009.

2. *Pre-retirement withdrawals from retirement funds:* In 2007, Government simplified the taxation of retirement lump sums and eliminated tax avoidance schemes at the upper-end of the market. These draft Bills close this circle by simplifying the taxation of pre-retirement lump sum withdrawals. Pre-retirement lump sum withdrawals will henceforth be taxed as stand-alone income under the standard personal income tax structure applicable in the year of withdrawal. The current R1 800 exemption will be adjusted upward and be set at taxable income equivalent to 50 per cent of the primary rebate. This translates into a tax free amount of R23 000 in the current fiscal year although the effective date will only be 1 March 2009. It should be noted that additional pre-retirement withdrawals from retirement funds will be taxed on a cumulative basis.

   The Revenue Laws Amendment Bills, 2008, also cover a number of collateral adjustments relating to withdrawals. The tax rules will be adjusted so that the defaults operate in favour of retaining funds within retirement saving vehicles. For instance, parties leaving their employment will be taxed only upon actual cash withdrawals from retirement savings as opposed to the current "accrual" trigger. Other proposals relate to the division of retirement savings upon divorce with the non-member spouse being taxed should the non-member spouse decide to withdraw the funds from retirement savings.

3. *Very Small Business Presumptive Tax:* The Revenue Laws Amendment Bills, 2008, enact a new tax regime in order to simplify the compliance burden for very small businesses (i.e. businesses with an annual turnover up to R1.0 million). The new regime allows these very small businesses to opt out of the income tax, STC and value-added tax in favour of a simplified turnover tax. Qualifying very small businesses can be either sole proprietors or companies. The rate schedule for this new tax regime, which represents a reduction from that proposed in the 2008 Budget Review, is as follows:

Turnover	Tax Liability and Marginal Rates
R0 – R100 000	0%
R100 001 – R300 000	1% of each R1 above R100 000
R300 001 – R500 000	R2 000 + 3% of the amount above R300 000
R500 001 – R750 000	R8 000 + 5% of the amount above R500 000
R750 000 and above	R20 500 + 7% of the amount above R750 000

4. *Venture Capital:* Access to equity finance by small and medium sized businesses is a key challenge, especially for high risk start-ups. In an attempt to overcome this difficulty, an incentive is proposed to pool investment funds for the small businesses into a vehicle to be known as a Venture Capital Company. Parties making investments into a Venture Capital Company will be eligible for a 100 per cent deduction for the initial investment subject to certain limitations. The ordinary rules for recoupments and determination of the capital or revenue nature of disposals will apply. In order to qualify for this deductible investment status, a Venture Capital Company must invest in a portfolio of small business company shares. Special rules will apply so as to accommodate junior mining exploration companies.

5. *Industrial Policy Projects:* The 2008 Budget Review provides for R5.0 billion of foregone tax revenue (over three years) in support of Governments' Industrial Policy Action Plan to attract new investments and to upgrade/expand existing plant and equipment. The tax incentive will comprise an additional deduction for fixed capital investments and an

additional deduction for employee training. This dual tax incentive will require pre-approval from an inter-departmental committee with different criteria applying for greenfields projects and brownfields/upgrade projects. The level of the deductions offered under the incentive will depend on whether the project obtains ordinary or preferred status against a set of criteria that, inter alia, take into account energy efficiency, cleaner production technology, business linkages, employment creation and skills training.

6. *Low-Cost Housing:* While Government has made significant progress towards providing low-cost housing, a large gap continues to exist beyond entry level housing for low-income earners. This gap mainly appears to be a supply-side problem. In order to provide a supply-side stimulus, an accelerated depreciation regime is proposed at a rate of 10 per cent per annum, thereby increasing after-tax returns for the providers of low-cost housing, defined as houses to the value of R200 000 excluding land and apartments to the value of R250 000. This higher rate of depreciation should assist landlords and employers to increase the supply of low-cost housing for rental. To ensure that such low-cost rental houses (social housing) are made available at reasonable rentals, the providers of such low-cost houses for rental will be expected to rent such houses at affordable rentals. A 10 per cent write-off is also proposed for employers who sell employer provided low-cost housing to employees on loan account.

7. *Urban Development Zones*: The draft Bills also revisit the accelerated depreciation regime for buildings within Urban Development Zones. Firstly, the accelerated depreciation regime will be extended for another 5 years until 31 March 2014. Secondly, municipalities with approved Urban Development Zones may seek extension of existing areas if properly motivated. Thirdly, the rate of depreciation for new buildings will be increased to a rate of 20 per cent for the first year, followed by 8 per cent for each of the remaining 10 years (as opposed to the current 20 per cent for the first year followed by a 5 per cent rate over 16 years). Low-income housing (and improvements), defined as houses to the value of R200 000 excluding land and apartments to the value of R250 000, within an urban development zone will receive a 5 per cent depreciation uplift.

It should be noted that a few miscellaneous items raised in the 2008 Budget Review remain outstanding. Most notably, anti-avoidance legislation relating to funnel schemes as announced in the media statement on 19 March 2008 is still under discussion with expected release in August 2008.

Public Comments and Parliamentary Hearings

The National Treasury is scheduled to brief the Parliament's Portfolio Committee on Finance on the draft legislation on 19 August 2008. Parliament is requesting public comment on the draft Bill and will commence public hearings on 20 August 2008. Comments can be submitted to the Parliamentary Portfolio Committee on Finance and members of the public are also invited to send comments directly to the National Treasury. Comments to the National Treasury should be sent to Greg Smith by email at greg.smith@treasury.gov.za. Comments are preferred before the briefing to the Portfolio Committee on Finance on 19 August 2008 but must be received by no later than 29 August 2008. In order to facilitate the processing of these comments, all comments must be provided in the order listed as per the attached Annexure.

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ANNEXURE

A. Retirement Issues

1. Taxation of withdrawals from retirement funds
2. Allocations to spouses on divorce
3. Default withdrawals
4. Transfers from pension to provident funds

B. Employers and Employees

1. Repayable employee benefits
2. Personal use of business cell-phones and computers
3. Consolidation of deemed employee regimes
4. Deductions in respect of learnerships
5. Payroll giving

C. Individuals

1. Deductions in respect of disability expenses
2. Broad-based employee share schemes

D. Corporate and Commercial

1. STC Reforms
    a. Conversion from STC to dividend tax
    b. Revised dividend definition
    c. Dividend tax withholding regime
2. Passive holding companies
3. Company reorganisations
    a. De-grouping charge
    b. Elections and reorganisations
4. Share issue anomalies
5. Intellectual property arbitrage

E. Small Business

1. Small Business Presumptive Tax
2. Venture Capital Company Regime

F. Miscellaneous Income Tax

1. Allowances / incentives in respect of industrial policy projects
2. Depreciation allowances for residential units (rental)
3. Urban development zones
4. Employer sales of low-cost housing to employees
5. License payments
6. Donations to multilateral humanitarian organisations
7. Promotion of biodiversity

G. Value-Added Tax

1. Industrial development zones
2. Vocational training
3. Public-private partnerships
4. Supply of the right to receive money under a rental agreement
5. Land reform transactions
6. Storage warehouses

H. Estate Duty

1. General anti-avoidance rule
2. Time limits for assessment
3. Life insurance and pension benefits

I. Customs and Excise

J. Stamp Duties Act

K. Other

L. Clause-by-Clause technical comments