national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

PUBLICATION OF TAX POLICY DISCUSSION DOCUMENTS FOR COMMENT

National Treasury has published three discussion documents on tax policy for public comment. The discussion documents are:

(i) What is the Most Appropriate Tax Regime for the Oil and Gas Industry –Tax Policy Discussion Paper for Public Comment
(ii) Reviewing the design, implementation and impact of South Africa's Research and Development Tax Incentive
(iii) Taxation of electronic nicotine and non-nicotine delivery systems (Vaping)

Discussion Document:
What is the Most Appropriate Tax Regime for the Oil and Gas Industry – Tax Policy Discussion Paper for Public Comment

In the 2019 and 2021 Budget Reviews, Government announced its intention to review the tax regime for the upstream petroleum industry.

The Upstream Petroleum Resources Development (UPRD) Bill was tabled in Parliament on 1 July 2021 by the Minister of Mineral Resources and Energy. Today, the government is publishing the discussion document titled *What is the Most Appropriate Tax Regime for the Oil and Gas Industry – Tax Policy Discussion Paper for Public Comment*.

The objective of the paper is to evaluate whether the tax regime for the upstream petroleum industry is suitably designed to create a balance between attracting investment, generating an appropriate level of government revenue and addressing our climate challenges.

The government values and understands the importance of certainty and transparency for investors. It is within this spirit that this discussion paper is being published for public comment. It aims to lay the foundation for working towards a tax regime that is adaptive to changing circumstances and complementary to the UPRD Bill so that investors have a clear understanding of the overall fiscal terms.

The government is inviting investors' views on its content so that we can have a regime where both government and investors gain a fair share while promoting appropriate management of our finite and non-renewable oil and gas resources, and taking into account our commitments to address climate change and other pertinent environmental challenges.

The government is seeking to balance the need to invest in less carbon-intensive transition fuels with providing a fiscal and tax regime that is attractive enough for companies to explore for and produce oil and gas, but at the same time avoids incentivising assets that could be stranded due to stricter climate commitments and environmental regulations. While gas is a fossil fuel, its emissions are around 50 per cent less than coal and it could act as an important transition fuel as the economy transforms and shifts to lower-carbon, renewable and energy-efficient technologies. This would also help to facilitate a just transition to a lower-carbon economy and ensure energy security of supply and affordable energy that is accessible by all.

The current tax regime for the upstream oil and gas sector in South Africa is relatively generous when compared to other countries. This is evident from a global comparison of 86 countries and is noted by external parties, such as the International Monetary Fund and the private sector. The government considered a number of options to revise the tax regime.

Based on the economic analysis in the modelling exercise (which included a number of different tax regime options); key tax principles; and considering other countries' fiscal regimes alongside their geology and proven reserves, the key proposal is moving to a flat-rate royalty for oil and gas companies.

The economic analysis shows that after factoring in the proposed adjustments in the UPRD Bill, trying to increase the tax take by any other means would reduce the attractiveness of South Africa as an investment destination for upstream petroleum exploration. Given South Africa's NDC commitments and rapid emission reductions required by 2030, and the global commitment to reduce reliance on coal and phase out inefficient fossil fuel subsidies, the extraction of gas could assist in South Africa's just transition to cleaner means of producing electricity.

The document is available on the National Treasury website at (www.treasury.gov.za).

The due date for written comments

National Treasury and the Department of Mineral Resources and Energy welcome comments from interested parties. The final date for sending comments is **25 January 2022**. Please send written comments to hayley.reynolds@treasury.gov.za and 2022AnnexCProp@treasury.gov.za. These comments may be made public. Please clearly indicate in your submission if you prefer your comments to remain confidential. A public workshop will be held to which all commentators will be invited.

Discussion Document

Reviewing the design, implementation and impact of South Africa's Research and Development Tax Incentive

In the 2021 Budget Review, National Treasury announced its intention to review the research and development (R&D) tax incentive. The National Treasury and the Department of Science and Innovation would like to call on interested parties to make comments on a paper published today, titled *Reviewing the design, implementation and impact of South Africa's Research and Development Tax Incentive*. The public is also requested to provide additional inputs through an online survey. A link to the survey is included in the document.

Government values and understands the importance of certainty as the incentive is approaching its sunset date of 30 September 2022. The objective of this discussion paper and online survey is to evaluate whether the incentive should continue beyond this sunset date and, if it continues, whether the current policy design is still suitable. The decisions on the continuance or improvement of the incentive will be made based on evidence provided in respect of the value and the impact made by the incentive to date.

The R&D tax incentive aims to encourage private sector R&D investment. An R&D provision was introduced in the Income Tax Act, 1962 (the ITA) in 2003. The current R&D tax incentive under section 11D of the ITA was introduced in 2006 and has undergone various design changes to better tailor it to meet its objectives. The most significant of these changes was the introduction of a pre-approval process in 2012. The pre-approval process is administered by the Department of Science and Innovation (DSI), supported by an adjudication committee comprising officials from the DSI, the South African Revenue Service (SARS) and National Treasury. The adjudication committee evaluates applications and makes recommendations to the Minister of Higher Education, Science and Innovation. Once an R&D project has been approved by the Minister of Higher Education, Science and Innovation, a company can deduct 150 per cent of its qualifying R&D expenditure.

At the onset of the pre-approval process, teething problems were experienced due to a large backlog of applications. A joint Government-Industry Task Team was set up to review the incentive in 2015. All the recommended administrative measures have since been implemented by the DSI and concerted efforts were made to improve turnaround times for applicants. To better understand whether the incentive is meeting its intended objective, an Impact Evaluation of the R&D Tax Incentive was commissioned jointly by the National Treasury and the then Department of Science and Technology and completed in 2019. The Impact Evaluation was undertaken by the World Bank and exposed gaps in data that influenced final conclusions on the value and contribution of the South African R&D tax incentive. An internal Synthesis Analysis report has been developed by the Department of Science and Innovation (DSI) to complement the Impact Evaluation report. The internal Synthesis Analysis report draws on findings and observations from other independent studies about the design and efficacy of tax-based incentives for R&D in South Africa and internationally.

In the 2020 and 2021 Budget Reviews, Government announced its intention to restructure the current corporate tax regime, which entails lowering the corporate tax rate and broadening the tax base. Evaluating existing tax incentives forms part of this work as they narrow the tax base. The findings from the internal Synthesis Analysis report show that R&D tax incentives are recognised globally as an important tool to have in a policy mix that encourages R&D activity in a country.

This discussion paper will help government to better understand stakeholders' insights and concerns when it comes to the R&D tax incentive. The online survey deals with the key design characteristics of the incentive and responses will assist government to determine appropriate changes to the incentive should it continue beyond the sunset date.

Further announcements on this incentive will be made in the 2022 Budget.

The document is available on the National Treasury website at (www.treasury.gov.za).

The due date for written comments

National Treasury and the Department of Science and Innovation welcome comments from interested parties. The final date for sending comments is **25 January 2022**. Please send written comments to Londiwe.khoza@treasury.gov.za, Christel.Wolmarans@dst.gov.za and TaxIncentiveReviews@Treasury.gov.za. These comments may be made public. Please clearly indicate in your submission if you prefer your comments to remain confidential. A public workshop will be held to which all commentators will be invited.

Discussion Document:
Taxation of electronic nicotine and non-nicotine delivery systems (Vaping)

National Treasury today publishes a discussion paper outlining a proposal on the taxation of electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS). This follows the announcement by the Minister of Finance in the 2021 February Budget that the National Treasury will publish a discussion paper on the proposal to tax ENDS/ENNDS. In the previous two budgets, government signalled its intention to start taxing these new products.

ENDS/ENNDS are part of new generation products that have been introduced in the market either as harm reduction or reduced-risk products compared to traditional tobacco products. These products are battery-powered devices that vaporise liquid solutions that may contain nicotine, as well as varying compositions of flavourings, propylene glycol, vegetable glycerin, and other ingredients, to create an aerosol which the user inhales. The market for ENDS/ENNDS is still at its infancy in many developing countries like South Africa but is expected to grow. In other markets, the growth in the consumption of these products has been observed amongst the youth and has raised concerns on its impact on youth initiation of smoking and tobacco use. Furthermore, there are concerns regarding their potential to undermine global tobacco control efforts, and public health in general, considering that these products are not harmless.

Unlike conventional tobacco products, these products are mostly unregulated in South Africa, hence the Department of Health has also started a process of amending the current tobacco control legislation to include these products in the regulatory framework. Similarly, other governments around the world have started a process of regulating the consumption and use of ENDS/ENNDS through tax and non-tax measures. A number of countries have already started implementing tax measures on ENDS/ENNDS in the form of a specific excise duty and/or an ad valorem duty.

This discussion paper outlines the policy rationale and excise design options for the proposed taxation of ENDS/ENNDS and its publication is intended to ask for your comments. This process is important in assisting government to develop a sensible excise policy framework for these new generation products. After comments and submissions are received, a virtual workshop and other engagements will be arranged with stakeholders for further discussions and consideration of the comments. The details of these engagements will be communicated at a later stage.

The document is available on the National Treasury website at (www.treasury.gov.za).

The due date for written comments

Please forward your written comments to the email address: Vaping_tax@treasury.gov.za by close of business on **25 January 2022.**

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