C

# Additional tax policy and administrative adjustments

This annexure should be read with Chapter 4 of the *Budget Review*. It elaborates on some of the proposals contained in the chapter, clarifies certain matters and presents additional technical proposals arising from the annual tax policy process.

## Personal income tax

The proposed tax schedule in Table 4.4 in Chapter 4 more than compensates individuals for the effect of inflation. The effects of these proposals are set out in tables C.1, C.2 and C.3.

**Table C.1 Annual income tax payable and average tax rates, 2021/22 (taxpayers below 65)**

| Taxable income (R) | 2020/21 rates (R) | Proposed 2021/22 rates (R) | Tax change (R) | % change | Average tax rates | |
|---|---|---|---|---|---|---|
| | | | | | Old rates | New rates |
| 85 000 | 342 | – | -342 | -100.0% | 0.4% | 0.0% |
| 90 000 | 1 242 | 486 | -756 | -60.9% | 1.4% | 0.5% |
| 100 000 | 3 042 | 2 286 | -756 | -24.9% | 3.0% | 2.3% |
| 120 000 | 6 642 | 5 886 | -756 | -11.4% | 5.5% | 4.9% |
| 150 000 | 12 042 | 11 286 | -756 | -6.3% | 8.0% | 7.5% |
| 200 000 | 21 042 | 20 286 | -756 | -3.6% | 10.5% | 10.1% |
| 250 000 | 33 570 | 31 990 | -1 580 | -4.7% | 13.4% | 12.8% |
| 300 000 | 46 570 | 44 990 | -1 580 | -3.4% | 15.5% | 15.0% |
| 400 000 | 76 490 | 74 100 | -2 390 | -3.1% | 19.1% | 18.5% |
| 500 000 | 110 235 | 106 725 | -3 510 | -3.2% | 22.0% | 21.3% |
| 750 000 | 205 313 | 200 817 | -4 496 | -2.2% | 27.4% | 26.8% |
| 1 000 000 | 307 813 | 302 673 | -5 140 | -1.7% | 30.8% | 30.3% |
| 1 500 000 | 512 813 | 507 673 | -5 140 | -1.0% | 34.2% | 33.8% |
| 2 000 000 | 734 721 | 726 409 | -8 312 | -1.1% | 36.7% | 36.3% |

*Source: National Treasury*

**Table C.2 Annual income tax payable and average tax rates, 2021/22 (taxpayers aged 65 to 74)**

| Taxable income (R) | 2020/21 rates (R) | Proposed 2021/22 rates (R) | Tax change (R) | % change | Average tax rates | |
|---|---|---|---|---|---|---|
| | | | | | Old rates | New rates |
| 120 000 | – | – | – | – | 0.0% | 0.0% |
| 150 000 | 3 843 | 2 673 | -1 170 | -30.4% | 2.6% | 1.8% |
| 200 000 | 12 843 | 11 673 | -1 170 | -9.1% | 6.4% | 5.8% |
| 250 000 | 25 371 | 23 377 | -1 994 | -7.9% | 10.1% | 9.4% |
| 300 000 | 38 371 | 36 377 | -1 994 | -5.2% | 12.8% | 12.1% |
| 400 000 | 68 291 | 65 487 | -2 804 | -4.1% | 17.1% | 16.4% |
| 500 000 | 102 036 | 98 112 | -3 924 | -3.8% | 20.4% | 19.6% |
| 750 000 | 197 114 | 192 204 | -4 910 | -2.5% | 26.3% | 25.6% |
| 1 000 000 | 299 614 | 294 060 | -5 554 | -1.9% | 30.0% | 29.4% |
| 1 500 000 | 504 614 | 499 060 | -5 554 | -1.1% | 33.6% | 33.3% |
| 2 000 000 | 726 522 | 717 796 | -8 726 | -1.2% | 36.3% | 35.9% |

*Source: National Treasury*

**Table C.3 Annual income tax payable and average tax rates, 2021/22 (taxpayers aged 75 and over)**

| Taxable income (R) | 2020/21 rates (R) | Proposed 2021/22 rates (R) | Tax change (R) | % change | Average tax rates | |
|---|---|---|---|---|---|---|
| | | | | | Old rates | New rates |
| 150 000 | 1 107 | – | -1 107 | -100.0% | 0.7% | 0.0% |
| 200 000 | 10 107 | 8 802 | -1 305 | -12.9% | 5.1% | 4.4% |
| 250 000 | 22 635 | 20 506 | -2 129 | -9.4% | 9.1% | 8.2% |
| 300 000 | 35 635 | 33 506 | -2 129 | -6.0% | 11.9% | 11.2% |
| 400 000 | 65 555 | 62 616 | -2 939 | -4.5% | 16.4% | 15.7% |
| 500 000 | 99 300 | 95 241 | -4 059 | -4.1% | 19.9% | 19.0% |
| 750 000 | 194 378 | 189 333 | -5 045 | -2.6% | 25.9% | 25.2% |
| 1 000 000 | 296 878 | 291 189 | -5 689 | -1.9% | 29.7% | 29.1% |
| 1 500 000 | 501 878 | 496 189 | -5 689 | -1.1% | 33.5% | 33.1% |
| 2 000 000 | 723 786 | 714 925 | -8 861 | -1.2% | 36.2% | 35.7% |

*Source: National Treasury*

## Customs and excise duty

Government proposes that the customs and excise duties in the Customs and Excise Act (1964, section A of part 2 of schedule 1) be amended with effect from 24 February 2021 to the extent shown in Table C.4.

**Table C.4 Specific excise duties, 2020/21 – 2021/22[1]**

| Tariff item | Tariff subheading | Article description | 2020/21 Rate of excise duty | 2021/22 Rate of excise duty |
|---|---|---|---|---|
| **104.00** | | **PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO** | | |
| **104.01** | **19.01** | **Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:** | | |
| 104.01.10 | 1901.90.20 | Traditional African beer powder as defined in Additional Note 1 to Chapter 19 | 34,7c/kg | 34,7c/kg |
| **104.10** | **22.03** | **Beer made from malt:** | | |
| 104.10.10 | 2203.00.05 | Traditional African beer as defined in Additional Note 1 to Chapter 22 | 7,82c/li | 7,82c/li |
| 104.10.20 | 2203.00.90 | Other | R106.56/li aa | R115.08/li aa |
| **104.15** | **22.04** | **Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):** | | |
| 104.15.01 | 2204.10 | Sparkling wine | R14.36/li | R15.51/li |
| **104.15** | **2204.21** | **In containers holding 2 li or less:** | | |
| **104.15** | **2204.21.4** | **Unfortified wine:** | | |
| 104.15.03 | 2204.21.41 | With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol. | R4.39/li | R4.74/li |
| 104.15.04 | 2204.21.42 | Other | R213.13/li aa | R230.18/li aa |
| **104.15** | **2204.21.5** | **Fortified wine:** | | |
| 104.15.05 | 2204.21.51 | With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol. | R7.34/li | R7.92/li |
| 104.15.06 | 2204.21.52 | Other | R213.13/li aa | R230.18/li aa |
| **104.15** | **2204.22** | **In containers holding more than 2 li but not more than 10 li:** | | |
| **104.15** | **2204.22.4** | **Unfortified wine:** | | |
| 104.15.13 | 2204.22.41 | With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol. | R4.39/li | R4.74/li |
| 104.15.15 | 2204.22.42 | Other | R213.13/li aa | R230.18/li aa |
| **104.15** | **2204.22.5** | **Fortified wine:** | | |
| 104.15.17 | 2204.22.51 | With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol. | R7.34/li | R7.92/li |
| 104.15.19 | 2204.22.52 | Other | R213.13/li aa | R230.18/li aa |
| **104.15** | **2204.29** | **Other:** | | |
| **104.15** | **2204.29.4** | **Unfortified wine:** | | |
| 104.15.21 | 2204.29.41 | With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol. | R4.39/li | R4.74/li |
| 104.15.23 | 2204.29.42 | Other | R213.13/li aa | R230.18/li aa |
| **104.15** | **2204.29.5** | **Fortified wine:** | | |
| 104.15.25 | 2204.29.51 | With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol. | R7.34/li | R7.92/li |
| 104.15.27 | 2204.29.52 | Other | R213.13/li aa | R230.18/li aa |
| **104.16** | **22.05** | **Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:** | | |
| **104.16** | **2205.10** | **In containers holding 2 li or less:** | | |
| 104.16.01 | 2205.10.10 | Sparkling | R14.36/li | R15.51/li |

**Table C.4 Specific excise duties, 2020/21 – 2021/22 *(continued)***

| Tariff item | Tariff subheading | Article description | 2020/21 Rate of excise duty | 2021/22 Rate of excise duty |
|---|---|---|---|---|
| **104.16** | **2205.10.2** | **Unfortified:** | | |
| 104.16.03 | 2205.10.21 | With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 15 per cent by vol. | R4.39/li | R4.74/li |
| 104.16.04 | 2205.10.22 | Other | R213.13/li aa | R230.18/li aa |
| **104.16** | **2205.10.3** | **Fortified:** | | |
| 104.16.05 | 2205.10.31 | With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol. | R7.34/li | R7.92/li |
| 104.16.06 | 2205.10.32 | Other | R213.13/li aa | R230.18/li aa |
| **104.16** | **2205.90** | **Other:** | | |
| **104.16** | **2205.90.2** | **Unfortified:** | | |
| 104.16.09 | 2205.90.21 | With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 15 per cent by vol. | R4.39/li | R4.74/li |
| 104.16.10 | 2205.90.22 | Other | R213.13/li aa | R230.18/li aa |
| **104.16** | **2205.90.3** | **Fortified:** | | |
| 104.16.11 | 2205.90.31 | With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol. | R7.34/li | R7.92/li |
| 104.16.12 | 2205.90.32 | Other | R213.13/li aa | R230.18/li aa |
| **104.17** | **22.06** | **Other fermented beverages (for example, cider, perry, mead, saké); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:** | | |
| 104.17.03 | 2206.00.05 | Sparkling fermented fruit or mead beverages; mixtures of sparkling fermented beverages derived from the fermentation of fruit or honey; mixtures of sparkling fermented fruit or mead beverages and non-alcoholic beverages | R14.36/li | R15.51/li |
| 104.17.05 | 2206.00.15 | Traditional African beer as defined in Additional Note 1 to Chapter 22 | 7,82c/li | 7,82c/li |
| 104.17.07 | 2206.00.17 | Other fermented beverages, unfortified, with an alcoholic strength of less than 2.5 per cent by volume | R106.56/li aa | R115.08/li aa |
| 104.17.09 | 2206.00.19 | Other fermented beverages of non-malted cereal grains, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 9 per cent by vol. | R106.56/li aa | R115.08/li aa |
| 104.17.11 | 2206.00.21 | Other mixtures of fermented beverages of non-malted cereal grains and non-alcoholic beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 9 per cent by vol. | R106.56/li aa | R115.08/li aa |
| 104.17.15 | 2206.00.81 | Other fermented apple or pear beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 15 per cent by vol. | R106.56/li aa | R115.08/li aa |
| 104.17.16 | 2206.00.82 | Other fermented fruit beverages and mead beverages, including mixtures of fermented beverages derived from the fermentation of fruit or honey, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 15 per cent by vol. | R106.56/li aa | R115.08/li aa |
| 104.17.17 | 2206.00.83 | Other fermented apple or pear beverages, fortified, with an alcoholic strength of at least 15 per cent by volume but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.17.21 | 2206.00.84 | Other fermented fruit beverages and mead beverages including mixtures of fermented beverages derived from the fermentation of fruit or honey, fortified, with an alcoholic strength of at least 15 per cent by volume but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.17.22 | 2206.00.85 | Other mixtures of fermented fruit or mead beverages and non-alcoholic beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 15 per cent by vol. | R106.56/li aa | R115.08/li aa |

**Table C.4 Specific excise duties, 2020/21 – 2021/22 *(continued)***

| Tariff item | Tariff subheading | Article description | 2020/21 Rate of excise duty | 2021/22 Rate of excise duty |
|---|---|---|---|---|
| 104.17.25 | 2206.00.87 | Other mixtures of fermented fruit or mead beverages and non-alcoholic beverages, fortified, with an alcoholic strength of at least 15 per cent by volume but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.17.90 | 2206.00.90 | Other | R213.13/li aa | R230.18/li aa |
| **104.21** | **22.07** | **Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher; ethyl alcohol and other spirits, denatured, of any strength:** | | |
| 104.21.01 | 2207.10 | Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher | R213.13/li aa | R230.18/li aa |
| 104.21.03 | 2207.20 | Ethyl alcohol and other spirits, denatured, of any strength | R213.13/li aa | R230.18/li aa |
| **104.23** | **22.08** | **Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol.; spirits, liqueurs and other spirituous beverages:** | | |
| **104.23** | **2208.20** | **Spirits obtained by distilling grape wine or grape marc:** | | |
| **104.23** | **2208.20.1** | **In containers holding 2 li or less:** | | |
| 104.23.01 | 2208.20.11 | Brandy as defined in Additional Note 7 to Chapter 22 | R191.82/li aa | R207.17/li aa |
| 104.23.02 | 2208.20.19 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.20.9** | **Other:** | | |
| 104.23.03 | 2208.20.91 | Brandy as defined in Additional Note 7 to Chapter 22 | R191.82/li aa | R207.17/li aa |
| 104.23.04 | 2208.20.99 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.30** | **Whiskies:** | | |
| 104.23.05 | 2208.30.10 | In containers holding 2 li or less | R213.13/li aa | R230.18/li aa |
| 104.23.07 | 2208.30.90 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.40** | **Rum and other spirits obtained by distilling fermented sugarcane products:** | | |
| 104.23.09 | 2208.40.10 | In containers holding 2 li or less | R213.13/li aa | R230.18/li aa |
| 104.23.11 | 2208.40.90 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.50** | **Gin and Geneva:** | | |
| 104.23.13 | 2208.50.10 | In containers holding 2 li or less | R213.13/li aa | R230.18/li aa |
| 104.23.15 | 2208.50.90 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.60** | **Vodka:** | | |
| 104.23.17 | 2208.60.10 | In containers holding 2 li or less | R213.13/li aa | R230.18/li aa |
| 104.23.19 | 2208.60.90 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.70** | **Liqueurs and cordials:** | | |
| **104.23** | **2208.70.2** | **In containers holding 2 li or less:** | | |
| 104.23.21 | 2208.70.21 | With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.23.22 | 2208.70.22 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.70.9** | **Other:** | | |
| 104.23.23 | 2208.70.91 | With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.23.24 | 2208.70.92 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.90** | **Other:** | | |
| **104.23** | **2208.90.2** | **In containers holding 2 li or less:** | | |
| 104.23.25 | 2208.90.21 | With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.23.26 | 2208.90.22 | Other | R213.13/li aa | R230.18/li aa |
| **104.23** | **2208.90.9** | **Other:** | | |
| 104.23.27 | 2208.90.91 | With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol. | R85.25/li aa | R92.07/li aa |
| 104.23.28 | 2208.90.92 | Other | R213.13/li aa | R230.18/li aa |

**Table C.4 Specific excise duties, 2020/21 – 2021/22 *(continued)***

| Tariff item | Tariff subheading | Article description | 2020/21 Rate of excise duty | 2021/22 Rate of excise duty |
|---|---|---|---|---|
| **104.30** | **24.02** | **Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:** | | |
| **104.30** | **2402.10** | **Cigars, cheroots and cigarillos containing tobacco:** | | |
| 104.30.01 | 2402.10.10 | Imported from Switzerland | R4193.62/kg net | R4528.85/kg net |
| 104.30.03 | 2402.10.90 | Other | R4193.62/kg net | R4528.85/kg net |
| **104.30** | **2402.20** | **Cigarettes containing tobacco:** | | |
| 104.30.05 | 2402.20.10 | Imported from Switzerland | R8.70/10 cigarettes | R9.39/10 cigarettes |
| 104.30.07 | 2402.20.90 | Other | R8.70/10 cigarettes | R9.39/10 cigarettes |
| **104.30** | **2402.90.1** | **Cigars, cheroots and cigarillos of tobacco substitutes:** | | |
| 104.30.09 | 2402.90.12 | Imported from Switzerland | R4193.62/kg net | R4528.85/kg net |
| 104.30.11 | 2402.90.14 | Other | R4193.62/kg net | R4528.85/kg net |
| **104.30** | **2402.90.2** | **Cigarettes of tobacco substitutes:** | | |
| 104.30.13 | 2402.90.22 | Imported from Switzerland | R8.70/10 cigarettes | R9.39/10 cigarettes |
| 104.30.15 | 2402.90.24 | Other | R8.70/10 cigarettes | R9.39/10 cigarettes |
| **104.35** | **24.03** | **Other manufactured tobacco and manufactured tobacco substitutes; “homogenised” or “reconstituted” tobacco; tobacco extracts and essences:** | | |
| **104.35** | **2403.1** | **Smoking tobacco, whether or not containing tobacco substitutes in any proportions:** | | |
| 104.35.01 | 2403.11 | Water pipe tobacco specified in Subheading Note 1 to Chapter 24 | R231.69/kg net | R250.22/kg net |
| **104.35** | **2403.19** | **Other:** | | |
| 104.35.02 | 2403.19.10 | Pipe tobacco in immediate packings of a content of less than 5 kg | R231.69/kg net | R250.22/kg net |
| 104.35.03 | 2403.19.20 | Other pipe tobacco | R231.69/kg net | R250.22/kg net |
| 104.35.05 | 2403.19.30 | Cigarette tobacco | R391.06/kg | R422.34/kg |
| **104.35** | **2403.91** | **"Homogenised" or "reconstituted" tobacco:** | | |
| **104.35** | **2403.91.1** | **Imported from Switzerland:** | | |
| 104.35.06 | 2403.91.11 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | | R7.05/10 sticks |
| 104.35.08 | 2403.91.13 | Other | | R880.88/kg |
| **104.35** | **2403.91.9** | **Other:** | | |
| 104.35.10 | 2403.91.91 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | | R7.05/10 sticks |
| 104.35.12 | 2403.91.93 | Other | | R880.88/kg |
| **104.35** | **2403.99** | **Other:** | | |
| 104.35.14 | 2403.99.05 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | | R7.05/10 sticks |
| 104.35.15 | 2403.99.30 | Other cigarette tobacco substitutes | R391.06/kg | R422.34/kg |
| 104.35.17 | 2403.99.40 | Other pipe tobacco substitutes | R231.69/kg net | R250.22/kg net |
| 104.35.19 | 2403.99.90 | Other | R815.63/kg | R880.88/kg |

*1. The chapter references in this table refer to chapters of the schedule to the Customs and Excise Act (1964)*
*Source: National Treasury*

## Additional tax amendments

Additional tax amendments proposed for the upcoming legislative cycle are set out below. In terms of section 48 of the Customs and Excise Act, part 1 of schedule 1 is amended to the extent set out in Table C.5.

**Table C.5 Amendments to part 1 of Schedule No. 1**

**By deletion of the following:**

| Heading / subheading | CD | Article description | Statistical unit | Rate of duty | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | General | EU | EFTA | SADC | MERCOSUR | AfCFTA |
| 2403.91.10 | 8 | Imported From Switzerland | kg | 15% | free | free | free | 15% | 15% |
| 2403.91.90 | 8 | Other | kg | 15% | free | 15% | free | 15% | 15% |

**By insertion of the following:**

| Heading / subheading | CD | Article description | Statistical unit | Rate of duty | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | General | EU | EFTA | SADC | MERCOSUR | AfCFTA |
| **2403.91.1** | | **Imported from Switzerland:** | | | | | | | |
| 2403.91.11 | 8 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | kg | 15% | free | free | free | 15% | 15% |
| 2403.91.13 | 4 | Other | kg | 15% | free | free | free | 15% | 15% |
| **2403.91.9** | | **Other:** | | | | | | | |
| 2403.91.91 | 6 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | kg | 15% | free | 15% | free | 15% | 15% |
| 2403.91.93 | 2 | Other | kg | 15% | free | 15% | free | 15% | 15% |
| 2403.99.05 | 4 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | kg | 45% | free | 45% | free | 45% | 45% |

*Source: SARS*

In terms of section 48 of the Customs and Excise Act, part 2A of schedule 1 is amended to the extent set out in Table C.6.

**Table C.6 Amendments to part 2A of Schedule No. 1**

**By deletion of the following:**

| Tariff item | Tariff subheading | Article description | Rate of excise duty |
|---|---|---|---|
| 104.35.11 | 2403.91.10 | Imported from Switzerland Other | R815.63/kg |
| 104.35.13 | 2403.91.90 | Other | R815.63/kg |

**By the insertion of the following:**

| Tariff item | Tariff subheading | Article description | Rate of excise duty |
|---|---|---|---|
| **104.35** | **2403.91.1** | **Imported from Switzerland:** | |
| 104.35.06 | 2403.91.11 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | R7.05/10 sticks |
| 104.35.08 | 2403.91.13 | Other | R880.88/kg |
| **104.35** | **2403.91.9** | **Other:** | |
| 104.35.10 | 2403.91.91 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | R7.05/10 sticks |
| 104.35.12 | 2403.91.93 | Other | R880.88/kg |
| 104.35.14 | 2403.99.05 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | R7.05/10 sticks |

*Source: SARS*

In terms of section 75 of the Customs and Excise Act, part 1E of schedule 6 is amended to the extent set out in Table C.7.

**Table C.7 Amendments to part 1E of Schedule No. 6**

**By deletion of the following:**

| Rebate item | Tariff item | Rebate code | CD | Description | Extent of rebate | Extent of refund |
|---|---|---|---|---|---|---|
| 622.07 | 104.35.11 | 05.01 | 71 | Imported From Switzerland | Full duty | |
| 622.07 | 104.35.13 | 06.01 | 76 | Other | Full duty | |
| 622.07 | 104.35.15 | 07.01 | 78 | Other cigarette tobacco substitutes | Full duty | |
| 622.07 | 104.35.17 | 08.01 | 76 | Other pipe tobacco substitutes | Full duty | |
| 622.07 | 104.35.19 | 09.01 | 74 | Other | Full duty | |
| 622.12 | 104.35.11 | 05.01 | 70 | Imported from Switzerland | Full duty | |
| 622.12 | 104.35.13 | 06.01 | 79 | Other | Full duty | |
| 622.12 | 104.35.15 | 07.01 | 77 | Other cigarette tobacco substitutes | Full duty | |
| 622.12 | 104.35.17 | 08.01 | 75 | Other pipe tobacco substitutes | Full duty | |
| 622.12 | 104.35.19 | 09.01 | 73 | Other | Full duty | |
| 622.22 | 104.35.11 | 05.01 | 79 | Imported from Switzerland | | As provided in Note 4 to this Section |
| 622.22 | 104.35.13 | 06.01 | 77 | Other | | As provided in Note 4 to this Section |
| 622.22 | 104.35.15 | 07.01 | 75 | Other cigarette tobacco substitutes | | As provided in Note 4 to this Section |
| 622.22 | 104.35.17 | 08.01 | 73 | Other pipe tobacco substitutes | | As provided in Note 4 to this Section |
| 622.22 | 104.35.19 | 09.01 | 71 | Other | | As provided in Note 4 to this Section |

**By insertion of the following:**

| Rebate item | Tariff item | Rebate code | CD | Description | Extent of rebate | Extent of refund |
|---|---|---|---|---|---|---|
| 622.07 | 104.35.06 | 05.01 | 72 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | Full duty | |
| 622.07 | 104.35.08 | 06.01 | 70 | Other | Full duty | |
| 622.07 | 104.35.10 | 07.01 | 79 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | Full duty | |
| 622.07 | 104.35.12 | 08.01 | 77 | Other | Full duty | |
| 622.07 | 104.35.14 | 09.01 | 75 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | Full duty | |
| 622.07 | 104.35.15 | 10.01 | 77 | Other cigarette tobacco substitutes | Full duty | |
| 622.07 | 104.35.17 | 11.01 | 78 | Other pipe tobacco substitutes | Full duty | |
| 622.07 | 104.35.19 | 12.01 | 76 | Other | Full duty | |
| 622.12 | 104.35.06 | 05.01 | 71 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | Full duty | |
| 622.12 | 104.35.08 | 06.01 | 76 | Other | Full duty | |
| 622.12 | 104.35.10 | 07.01 | 78 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | Full duty | |
| 622.12 | 104.35.12 | 08.01 | 76 | Other | Full duty | |
| 622.12 | 104.35.14 | 09.01 | 74 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | Full duty | |
| 622.12 | 104.35.15 | 10.01 | 79 | Other cigarette tobacco substitutes | Full duty | |
| 622.12 | 104.35.17 | 11.01 | 77 | Other pipe tobacco substitutes | Full duty | |
| 622.12 | 104.35.19 | 12.01 | 75 | Other | Full duty | |
| 622.22 | 104.35.06 | 05.01 | 78 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | | As provided in Note 4 to this Section |
| 622.22 | 104.35.08 | 06.01 | 78 | Other | | As provided in Note 4 to this Section |
| 622.22 | 104.35.10 | 07.01 | 76 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | | As provided in Note 4 to this Section |
| 622.22 | 104.35.12 | 08.01 | 74 | Other | | As provided in Note 4 to this Section |
| 622.22 | 104.35.14 | 09.01 | 72 | Products intended for inhalation without combustion, put up for retail sale in the form of sticks | | As provided in Note 4 to this Section |
| 622.22 | 104.35.15 | 10.01 | 77 | Other cigarette tobacco substitutes | | As provided in Note 4 to this Section |
| 622.22 | 104.35.17 | 11.01 | 75 | Other pipe tobacco substitutes | | As provided in Note 4 to this Section |
| 622.22 | 104.35.19 | 12.01 | 73 | Other | | As provided in Note 4 to this Section |

*Source: SARS*

**Individuals, employment and savings**

*Reviewing the nature of long-service awards for fringe benefit purposes*

The Income Tax Act (1962) permits an employer to grant a long-service award (in the form of an asset or a non-cash benefit) to an employee as a no value fringe benefit provided that the value of this award does not exceed R5 000. Currently, employers recognise long service through awards in a variety of forms that could be considered non-cash benefits in terms of the act. Therefore, it is proposed that the current provisions of the act be reviewed to consider other awards within the same limit granted to employees as long-service awards.

*Curbing abuse in the employment tax incentive*

The employment tax incentive (ETI) is aimed at reducing the cost of hiring youth between the ages of 18 and 29 years old. It allows employers to reduce their pay-as-you-earn (PAYE) tax payments to the South African Revenue Service (SARS) for the first two years in which they employ qualifying employees with a monthly remuneration of less than R6 500, subject to certain limitations. Some taxpayers have devised certain schemes using training institutions to claim the ETI for students. To counter this abuse, it is proposed that the definition of an "employee" be changed in the Employment Tax Incentive Act (2013) to specify that work must be performed in terms of an employment contract that adheres to record-keeping provisions in accordance with the Basic Conditions of Employment Act (1997). These amendments will take effect from 1 March 2021.

*Clarifying the timing of disposal rules in respect of an asset acquired from a deceased estate*

When a person dies, the Estate Duty Act (1955) provides for the assets of the person to be transferred to the estate of the deceased before the assets are distributed to their heirs. The act also provides for the executors to administer this estate, which includes preparing and submitting the liquidation and distribution account to the Master of the High Court Office, and submitting the relevant tax returns – including payment of the estate duty – to SARS.

Legally, the liquidation and distribution account must remain open for inspection in the Master of the High Court Office for 21 business days. Once the liquidation and distribution account is finalised, the personal right of the heirs to claim delivery of the assets is triggered. At present, there is timing uncertainty around when the heirs are regarded as having acquired an asset from the estate of the deceased. To clarify the time of disposal of this personal right, government proposes that the legislation be changed so that the disposal by the estate occurs on the date when the liquidation and distribution account becomes final.

*Tax treatment of the cession of a right to receive an asset*

The Income Tax Act specifies certain amounts to be included in "gross income", which is defined in section 1, and certain disposals that are regarded as donations in terms of section 56. Some taxpayers have devised schemes to undermine both the abovementioned provisions. These schemes entail a service provider (for example, an employee or independent contractor) ceding the right to receive or use an asset to be received from the person to whom the services are rendered or are to be rendered. The right is generally ceded to a family trust for no consideration. In these instances, the service provider will be able to circumvent the gross income provisions as the asset would have been ceded to the trust before a value can be attached to it. In addition, the service provider will not be liable for donations tax, as it appears as though they are disposing of a worthless asset and are therefore not liable for donations tax until the services have been rendered and the employer transfers the asset to the cessionary. Moreover, the service provider will not be entitled to the asset and therefore cannot be regarded as having disposed of it. In order to address these kinds of schemes, it is proposed that changes be made to the above-mentioned tax provisions.

*Strengthening anti-avoidance rules in respect of loan transfers between trusts*

Anti-avoidance measures were introduced in 2016 to curb the transfer of growth assets to trusts using low-interest or interest-free loans, which was done to avoid estate duty on the asset's subsequent growth in value. In 2017 and in 2020, further changes were made to the tax legislation to counter new attempts to undermine these rules. Some taxpayers may continue to undermine the current rules by transferring loans – which finance high-value assets – between trusts, where the founder of one trust is related to one or more beneficiaries of the other trust. To curb this abuse, it is proposed that further changes be made to these anti-avoidance rules.

**Retirement provisions**

*Allowing members to use retirement interest to acquire annuities on retirement*

On retirement, a member of a retirement fund may receive an annuity. The annuity is to be provided with the balance of the member's retirement interest following commutation (where the member is allowed to take, or commute, a lump sum equal to a maximum of one-third of the retirement interest on retirement). The retirement fund can provide the annuity by paying it directly to the member, or purchasing it from a South African registered insurer in the name of the fund or purchasing it in the name of the retiring member. If a member opts to receive an annuity, the full value of their retirement interest following commutation must be used to provide either of the abovementioned annuities. Therefore, a member is prohibited from using their retirement interest to acquire various annuities. To increase flexibility for a retiring member and maximise the retirement capital available to provide for an annuity, government proposes expanding the amount of retirement interest that may be used to acquire annuities.

*Applying tax on withdrawals of retirement interest when an individual ceases to be a tax resident*

When an individual ceases to be a South African tax resident, retirement funds are not always subject to withdrawal tax in terms of the act. At issue is the tax treatment of retirement interest when an individual ceases to be a South African tax resident, but retains his/her investment in a South African retirement fund, and only withdraws from the retirement fund when he/she dies or retires from employment. Section 9(2)(i) of the act deems such amounts to be from a South African source, thus remaining within South African tax jurisdiction despite the individual no longer being a South African tax resident.

The challenge arises when the individual ceases to be a South African tax resident before he/she retires and becomes a tax resident of another country. When that individual withdraws from the retirement fund, due to the application of the tax treaty between South Africa and the other country, the retirement fund interest will be subject to tax in the other country as the individual will, in terms of the tax treaty, be regarded as a tax resident in that other country. The provisions of the tax treaty between South Africa and the new resident country will result in South Africa forfeiting its taxing rights. To address this anomaly, government proposes changing the legislation as follows.

When the individual ceases to be a South African tax resident, the retirement fund interest will form part of the assets that are subject to retirement withdrawal tax. The individual will be deemed to have withdrawn from the fund on the day before he/she ceases to be a South African tax resident.

If the individual ceases to be a South African tax resident but leaves his/her investment in a South African retirement fund and only withdraws from the retirement fund when he/she dies or retires from employment, then the retirement withdrawal tax (including associated interest) payment will be deferred until payments are received from the retirement fund or as a result of retirement. When the individual eventually receives payments from the fund, the tax will be calculated based on the prevailing lump sum tables or in the form of an annuity. A tax credit will be provided for the deemed retirement withdrawal tax as calculated when the individual ceased to be a South African tax resident.

*Transfers between retirement funds by members who are 55 years or older*

The Income Tax Act stipulates that any transfer by a member of a pension, provident or retirement annuity fund (who has opted to retire early) into a similar fund would be considered a taxable transfer. The policy in this regard is not intended to tax transfers from a less to a more restrictive fund, or between similar funds. To address this anomaly, government proposes allowing tax-free transfers into more or similarly restrictive funds by members who have already opted to retire.

*Clarifying the calculation of the fringe benefit in relation to employer contributions to a retirement fund*

From 1 March 2016, all employer contributions to a retirement fund on behalf of employees were considered taxable fringe benefits for the employees. If the contribution contains a defined benefit component, the fringe benefit is to be calculated in accordance with the seventh schedule of the act and the employer must provide the employee with a contribution certificate. An anomaly arises in instances where a retirement fund provides both a retirement benefit in relation to the defined contribution component and a self-insured risk benefit. The current interpretation of the legislation would result in the classification of the total contribution to the fund as a defined benefit component because self-insured risk benefits are not considered a defined contribution component. It is proposed that self-insured risk benefits be classified as a defined contribution component to ensure that retirement funds that provide both defined contribution component retirement benefits and self-insured risk benefits can provide the fringe benefit value based on the actual contribution.

**Business (general)**

*Clarifying the definition of contributed tax capital*

Contributed tax capital (CTC) is a notional and ring-fenced amount derived from contributions made as consideration for the issue of a class of shares by a company. It is reduced by any capital amount that the company subsequently transfers back to one or more shareholders of that class of shares (commonly known as a capital distribution) using the CTC received. No shareholder within a particular class of shares may receive CTC in excess of an amount per share that is derived by dividing the total CTC by the number of shares in that class immediately before the capital distribution. Some companies are allocating CTC on the basis of an alleged "share premium" contributed by a particular shareholder but not by all shareholders within the same class of shares. To curb this abuse, it is proposed that changes be made to clarify the principle that shareholders within the same class of shares should share equally in the allocation of CTC as a result of a distribution.

*Limiting potential for double taxation under the hybrid debt anti-avoidance rules*

Hybrid debt anti-avoidance rules aim to curb the unfair use of hybrid debt instruments or hybrid interest to gain tax benefits. To ensure that instruments that exhibit equity features or returns that exhibit dividend features do not benefit from interest deduction, the Income Tax Act deems any returns to be *in specie* dividends paid by the issuer on which the issuer must pay dividends tax if no dividends tax exemption applies. The provision does not deem the return to be an *in specie* dividend for the recipient of the return. These anti-avoidance rules may be overreaching as the return would be regarded as interest and thus also be taxable for the recipient, leading to economic double taxation. It is proposed that the tax legislation be amended to address this concern.

*Clarifying the meaning of "interest" under the debt relief rules*

The Income Tax Act contains debt relief rules that trigger tax consequences for a waiver, cancellation, reduction or discharge of a debt owed by a taxpayer. In 2017, rules dealing with the tax treatment of converting debt into equity were introduced, along with changes to ensure that the debt relief rules apply in all instances where a debt is settled by a debtor and the creditor received inadequate consideration for the debt claim. However, amounts of interest that are waived, cancelled, extinguished

or converted to shares are excluded from the application of the debt relief rules as it is anticipated that normal recoupment rules would apply to unpaid interest that was previously deducted. To clarify this exclusion, it is proposed that a definition of interest be included in these debt relief rules.

**Refinements to the corporate reorganisation rules**

*Refining the interaction between anti-value shifting rules and corporate reorganisation rules*

The Income Tax Act curbs the use of structures that shift value between taxpayers free of tax. The anti-value shifting rules apply to transactions involving asset-for-share exchanges. Asset-for-shares base cost rules prescribe that a base cost for assets acquired by a company in exchange for its shares be equal to the sum of the market value of the shares it issued and the amount of the capital gain triggered by the application of the anti-value shifting rule to ensure that there is no double taxation on the future disposal of the assets.

Corporate reorganisation rules allow for the tax-neutral transfer of assets between companies and qualifying persons. Qualifying asset-for-share transactions are subject to the anti-value shifting rules and such transfers are also subject to the rollover base cost rules within the corporate reorganisation rules. This raises an anomaly in the application of these rules as the capital gain triggered under the anti-value shifting rules is only added to the base cost outside of the corporate reorganisation rules. To address this anomaly, it is proposed that the tax legislation be changed to allow taxpayers to treat the capital gain as an additional base cost when applying the corporate reorganisation rules.

*Clarifying the rules that trigger additional consideration in asset-for-share transactions when a debt is assumed by a company*

The Income Tax Act allows for the tax-neutral transfer of assets that are disposed of to a company in return for shares in that company or the assumption of qualifying debt by that company. The asset-for-share transaction rules contain an anti-avoidance measure aimed at preventing a permanent loss to the fiscus (instead of a tax deferral) when a person disposes of an asset that was acquired using debt and the debt is assumed by the company acquiring that asset. For example, when a person disposes of a high-value asset and the company assumes the debt used to acquire the asset from that person, that person can only anticipate the receipt of shares up to the market value of the asset transferred net of the debt assumed. However, due to the application of the asset-for-share transaction rules, the person will have a base cost that is higher than the market value of the shares held after the transaction, thus creating a permanent loss position instead of a tax-neutral position.

To remedy this permanent loss, the anti-avoidance rule deems the person to have received additional consideration equal to the amount of the debt assumed by the company when the person subsequently disposes of the shares. However, the rules that trigger additional consideration on disposal are undermined when the shares are subsequently transferred in terms of corporate reorganisation transactions because the applicable corporate reorganisation rules will enforce the rolled-over base cost of the previous asset-for-share transaction. To prevent the rule from being undermined, it is proposed that the additional consideration be taken into account during all corporate reorganisation transactions until the shares are disposed of in a transaction that falls outside the corporate reorganisation transactions.

*Clarifying the early disposal anti-avoidance rules in intra-group transactions*

The intra-group transaction rules in the Income Tax Act allow tax to be deferred when assets are disposed of between intra-group companies. Early disposal rules apply when an acquirer disposes of an asset it acquired through an intra-group transaction within 18 months of the acquisition. The early disposal anti-avoidance rules reverse the deferral benefit by ring-fencing the gain or loss arising from the early disposal of an asset to ensure that the gain or loss is not offset against other gains and losses. In some instances, a capital gain may have been anticipated to arise from the disposal of an asset at the

date of the intra-group transaction, but a capital loss arises when the asset is disposed of early. The difference in the resultant tax consequences (capital gain or loss) of these disposals creates ambiguity in the application of the early disposal anti-avoidance rules. To address this ambiguity, it is proposed that the resultant tax consequences of an early asset disposal be clarified.

*Clarifying the interaction between early disposal anti-avoidance rules and de-grouping anti-avoidance rules in intra-group transactions*

In addition to the early disposal anti-avoidance rules outlined above, the intra-group transaction rules contain de-grouping anti-avoidance rules, which apply when the acquirer and the party disposing of an asset in terms of an intra-group transaction cease to form part of the same group of companies within six years of the transaction. The de-grouping anti-avoidance rules apply to reverse the tax benefit that was obtained in terms of the intra-group transaction by triggering the greatest capital gain, gross income or taxable income that would have arisen between the date of the intra-group transaction and the date of de-grouping. Because both of these anti-avoidance rules apply to reverse the deferred tax benefit of an intra-group transaction, it is proposed that changes be made to the tax legislation so that if one of the anti-avoidance rules applies in respect of an asset, the other will not subsequently apply.

*Extending the reversal of the nil base cost rules to apply on the sixth anniversary of an intra-group transaction*

In 2020, the intra-group transaction rules were amended to remove the potential for double taxation due to the interaction between the nil base cost anti-avoidance rules, which aim to limit the ability of taxpayers to cash out on the sale consideration from a tax-deferred intra-group transaction, and the de-grouping anti-avoidance rules, which aim to curb the possibility of group companies de-grouping soon after a tax-deferred intra-group transaction. This was achieved by reversing the nil base cost rule if the de-grouping anti-avoidance rules have applied. Like the de-grouping anti-avoidance rules, the effect of nil base cost anti-avoidance rules should not apply beyond the sixth year from the date of an intra-group transaction. It is proposed that the tax legislation be changed so that the nil base cost anti-avoidance rules only apply for six years after an intra-group transaction.

*Clarifying the interaction between the early disposal anti-avoidance rules and the nil base cost anti-avoidance rules*

Early disposal anti-avoidance rules apply when an acquirer under an intra-group transaction disposes of an asset it acquired in terms of that transaction within 18 months of acquiring it. The nil base cost anti-avoidance rules apply to limit the ability of taxpayers to cash out on the sale consideration from a tax-deferred intra-group transaction. Because the early disposal anti-avoidance rules reverse the deferral benefit of acquiring an asset through an intra-group transaction, it is proposed that the intra-group transaction rules be amended so that the nil base cost anti-avoidance rules are reversed when the early disposal anti-avoidance rules are triggered.

*Refining the provisions applicable to unbundling transactions*

The corporate reorganisation rules provide rollover relief where shares of a resident company (referred to as an unbundled company) that are held by another resident company (referred to as an unbundling company) are distributed to the shareholders of that unbundling company in accordance with their shareholding. However, these unbundling transactions are subject to anti-avoidance rules aimed at limiting tax avoidance by taxpayers when distributing shares on a tax-neutral basis. Following amendments to these rules in 2020, there is no tax deferral for an unbundling transaction of an equity share that is distributed by an unbundling company to a shareholder that is a disqualified person and holds at least 5 per cent of the equity shares in the unbundling company immediately before that unbundling transaction. Based on the "pro-rata" application of the rules, it is proposed that the tax legislation make provision for shareholders in an unbundling company that only qualifies for tax

deferral to receive an increase in the base cost of the shares in the unbundled company (in accordance with their respective shareholding) to the extent that the unbundling company did not qualify for tax deferral.

In addition, it is proposed that the limitation of expenditure incurred by a taxpayer for shares held in an unbundling company should apply only to shares that are acquired through an unbundling transaction.

*Clarifying rehypothecation of collateral within collateral arrangement provisions*

The Income Tax Act contains tax relief rules that allow for the tax-neutral transfer of collateral (listed equity shares and listed South African and foreign government bonds) between the parties to a collateral arrangement, provided that certain requirements are met. At issue is the rehypothecation, where the bank or broker-dealer (collateral taker) reuses collateral received for trading or as security for its own borrowing through a tax-neutral collateral arrangement. It is proposed that changes be made to the legislation to clarify the policy intention that further rehypothecation of the collateral received by the collateral taker can only form part of subsequent collateral arrangement transactions.

**Business (financial sector)**

*Clarifying the transfer of a policy or insurance book of business between short-term insurers*

Section 28 of the Income Tax Act, which deals with the tax treatment of short-term insurers, does not specifically address all the tax consequences that arise from the sale of an insurance book of business, so the general provisions of the act apply. However, the interpretation of the general provisions, read with section 28, may result in inequitable tax treatments of the parties to the transaction. It is proposed that these provisions be changed to address the tax treatment of transfer of liabilities as part of a short-term insurance business.

*Refining a deduction formula for taxable long-term insurer policyholder funds*

The act contains provisions in section 29A that deal with the tax treatment of long-term insurers. In 2012, changes were made to these provisions by inserting a wholly revised deduction formula for selling, administration and indirect expenses for long-term insurers. In general, this formula is based on taxable income divided by net economic income. The concept of “net economic income” for purposes of the denominator is intended to reflect total taxable income without a reduction of non-includible dividends, foreign dividends and capital gains. However, unrealised gains to be accounted for in the denominator do not specifically refer to aggregation of unrealised gains and losses and are inconsistent with dividends, foreign dividends and capital gains, which refer to an aggregation of amounts. To address this anomaly, it is proposed that these provisions be changed so that unrealised gains and losses explicitly are aggregated for all assets.

*Tax treatment of deposit insurance scheme*

In 2020, government committed to 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 also envisaged that each bank will make stipulated contributions to the scheme. Parliament has yet to pass legislation making provision for the establishment of a deposit insurance scheme. It is proposed that as soon as that legislation is passed by Parliament, changes be made to the tax legislation relating to the tax implications of the deposit insurance scheme.

**Business (incentives)**

*Amending the timeframes of compliance requirements for industrial policy projects*

Industrial policy projects approved in terms of section 12I of the Income Tax Act must comply with specific requirements within specified timeframes. The impact of the COVID-19 pandemic has hindered these projects from meeting the compliance criteria within the required time periods. Government will, therefore, consider amending the time period within which assets must be brought into use, along with the section 12I compliance period. This is aimed at accommodating approved industrial policy projects that have *bona fide* reasons for non-compliance with section 12I requirements due to business-related disruptions caused by the COVID-19 pandemic.

**International**

*Clarifying the controlled foreign company diversionary rules*

In 2011, the diversionary rules governing the outbound sale of goods by a controlled foreign company (CFC) were abolished because the transfer pricing rules could be applied instead. In 2016, government reinstated the diversionary rules for CFC outbound sale of goods due to their effectiveness in preventing base erosion and profit shifting. The 2016 diversionary rules for CFC outbound sale of goods now provide for an exemption if similar goods are purchased by the CFC, from unconnected persons to that CFC, mainly within the country in which the CFC is resident. Certain taxpayers are circumventing these rules by merely entering into a contract of purchase and sale that implies that the purchase of goods took place in the country of residence of the CFC, when this is not the case. To curb this abuse, it is proposed that these diversionary rules be amended.

*Clarifying the interaction between provisions dealing with a CFC ceasing to be a CFC and the participation exemption*

In 2020, changes were made to the Income Tax Act to reduce tax planning opportunities that may emerge from loop structures as a result of the relaxation of the approval requirement by the Reserve Bank. An amendment was made in relation to gains on the disposal of shares in a non-resident company to a non-resident that was not taxed because of the participation exemption in paragraph 64B of the eighth schedule. This amendment has the effect that the participation exemption does not apply to the disposal of shares in a CFC to the extent that the value of the CFC's assets is derived from South African assets. However, section 9H provides that where a CFC ceases to be a CFC as a direct or indirect result of the disposal of all or some of the equity shares in that CFC, the capital gain or loss realised in respect of such disposal is disregarded if the participation exemption under paragraph 64B of the eighth schedule applies. To address the interaction between section 9H and paragraph 64B, it is proposed that section 9H be amended so that a partial participation exemption in terms of paragraph 64B(6) of the eighth schedule would not affect the exclusion under section 9H(5).

*Clarifying the rules dealing with withholding tax exemption declaration*

The act contains provisions in part IV A and part IV B for withholding tax on royalties and interest respectively. According to the rules dealing with withholding tax on interest, no withholding tax on interest applies if the foreign person submits a declaration that he/she is – in terms of an agreement for the avoidance of double taxation – exempt from the tax. A similar declaration does not exist for withholding tax on royalties. To address the anomaly, it is proposed that the tax legislation be amended.

**Value-added tax**

*Zero-rating of super fine maize meal*

Schedule 2 part B of the Value-Added Tax (VAT) Act (1991) provides for a list of zero-rated items, which include the following grades of maize meal: super maize meal, special maize meal, sifted maize meal or unsifted maize meal. The grading of maize products is regulated by Agricultural Products Standards Act (1990), which allows for 18 grades of maize products, including those mentioned above to be zero rated. In 2016, another grade of maize meal, super fine maize meal, was added to the list regulated by the Agricultural Products Standards Act. To align the VAT Act with the Agricultural Products Standards Act, it is proposed that schedule 2 part B of the VAT Act be amended to include super fine maize meal in the list of grades of maize meal that qualify for zero rating.

*Introducing measures to address undue VAT refunds on gold*

The 2020 *Budget Review* noted that schemes and malpractice to claim undue VAT refunds have been detected in the value chain relating to gold exports. It is proposed that regulations providing for a domestic reverse charge mechanism for industry, under section 74(2) of the VAT Act, be issued. It is also proposed that the mechanism be included in the VAT Act to deal with such malpractice. Under the mechanism, a vendor that acquires gold from another vendor would declare and pay to SARS the VAT charged on the acquisition.

*Aligning the provisions of the VAT Act with the New Insurance Act*

The New Insurance Act (2017) categorises insurance policies into life and non-life policies, and makes provision for micro-insurance. The VAT Act currently provides for the VAT treatment of both life (referred to as “long-term insurance policy” in the VAT Act) and non-life (referred to as “insurance” in the VAT Act) policies. However, the VAT Act does not make provision for micro-insurer conducting a micro-insurance business. It is proposed that the VAT Act be amended to make provision for the VAT treatment of micro-insurance.

*VAT treatment of temporary letting of residential immovable property*

Property developers are entitled to deduct input tax on the VAT costs incurred to build residential property for sale. However, where the developer is unable to sell the residential property and temporarily leases it out until a buyer is found, the developer is required to make an output tax adjustment based on the open market value of the property when the property is let for the first time. An announcement was made in the 2010 *Budget Review* to investigate and determine an equitable value and rate of claw-back for developers as the current treatment is disproportionate to the exempt temporary rental income. However, no subsequent changes were made to the VAT Act. It is proposed that the VAT Act be amended to resolve this matter.

**Carbon tax**

*Clarifying renewable energy premium beneficiaries*

In the first phase of the carbon tax until 31 December 2022, renewable electricity purchases can be offset against the carbon tax liability of electricity generators that are liable for the carbon tax. Concerns have been raised that the Carbon Tax Act (2019) is unclear about who is eligible for the renewable energy premium tax deduction. To address this concern, it is proposed that changes be made to section 6(2)(c) of the Carbon Tax Act to clarify that only entities that conduct electricity generation activities and purchase additional primary renewable energy directly under the Renewable Energy Independent Power Procurement Programme or from private independent power producers with a power purchase agreement are eligible to claim the tax deduction for their renewable energy purchases. The amendment will take effect from 1 January 2021.

It is also proposed that changes be made in the Carbon Tax Act to include a formula for calculating the amount of the renewable energy premium, which will be deducted as follows:

Renewable energy deduction = quantity of renewable energy purchased (kilowatt hour) × rate (rand) for technology, as per the renewable energy notice gazetted in June 2020.

*Aligning fugitive emissions activities covered under Carbon Tax Act*

The Carbon Tax Act defines the tax base in terms of section 4(1), where companies use company-specific emission methodologies to calculate their greenhouse gas emissions, and section 4(2), where country-specific emission factors or default emissions factors prescribed by the Intergovernmental Panel on Climate Change (IPCC) in its 2006 guidelines can be used to calculate emissions. In 2019, changes were made in the Carbon Tax Act to replace section 4(2)(b)(iii), which provides the formula and applicable emission factors to be used to calculate fugitive emissions. This covered emission activities, IPCC Code 1B1 for solid fuels including coal mining and handling, and IPCC Code 1B2 for oil and natural gas in the 2006 guidelines. However, IPCC activity Code 1B3 for other emissions from energy production was unintentionally excluded from section 4(2). To ensure alignment between the greenhouse gas emissions covered under sections 4(1) and 4(2) of the Carbon Tax Act, it is proposed that an additional category be included under the Carbon Tax Act to cover the IPCC code 1B3 activities for other emissions from energy production.

*Clarifying the definition of carbon capture and sequestration*

The Carbon Tax Act allows taxpayers to deduct sequestered emissions as verified and certified by the Department of Environment, Forestry and Fisheries from their fuel combustion-related greenhouse gas emissions for a tax period. This covers carbon capture and storage in geological reservoirs and biological sequestration. Government has clarified that for combustion activities where carbon capture and storage technologies are used, the net greenhouse emissions should be reported to the Department of Environment, Forestry and Fisheries. To address possible double benefits for the same sequestered emissions, it is proposed that the definition of greenhouse gas emissions sequestration be amended to remove carbon capture and storage in geological reservoirs from the scope of the deduction.

In November 2020, the Department of Environment, Forestry and Fisheries published a methodological guideline for quantifying greenhouse gas emissions sequestration in the forestry industry. Due to concerns about the permanence of sequestered emissions in harvested wood products and the robustness of the available emissions calculation methodologies, it is proposed that only actual forestry plantation sequestered emissions should be eligible for the deduction under the Carbon Tax Act.

*Clarifying the carbon budget allowance*

The Department of Environment, Forestry and Fisheries has gazetted the extension of the voluntary carbon budget system, which became effective from 1 January 2021 and ends on 22 December 2022, and the piloting of new methodologies for determining company-level carbon budgets. Section 12(1) of the Carbon Tax Act permits a taxpayer to claim a carbon budget allowance of 5 per cent if they participate in the carbon budget system during or before the tax period. To address any ambiguity due to the new voluntary carbon budget system, it is proposed that reference to “before the tax period” be replaced with the specific timeframe for the carbon budget (that is, 1 January 2021 to 31 December 2022), as determined by the department.

*Progress on waste tyre greenhouse gas emissions*

The Carbon Tax Act covers greenhouse gas emissions from waste incineration emissions and the relevant emission factors for different types of waste fuels are set out in schedule 1 of the act. At issue is whether emissions due to the use of waste tyres are subject to the carbon tax as schedule 1 does not

include a waste tyre fuel type and the relevant emission factors. The schedule is aligned with the technical guidelines of the Department of Environment, Forestry and Fisheries, which do not include emission factors for waste tyres. The Department of Environment, Forestry and Fisheries will develop appropriate emission factors for waste tyres for possible inclusion in the 2022 *Budget Review*.

*Aligning schedule 2 emissions activities and thresholds with the greenhouse gas emission reporting regulations of the Department of Environment, Forestry and Fisheries*

In September 2020, the Department of Environment, Forestry and Fisheries gazetted the amended National Greenhouse Gas Emission Reporting Regulations, including new activities required to report emissions and changes to emissions reporting thresholds. To ensure alignment between the activities covered under the Carbon Tax Act and the amended regulations, the following changes are proposed in schedule 2 of the Carbon Tax Act. These amendments will take effect from 1 January 2021.

**Table C.8 Activities to be amended in schedule 2**

| Changes in regulations | IPCC activities |
|---|---|
| Change to the threshold | 1A2m brick manufacturing: threshold change from 4 million to 1 million bricks/month<br>Emissions now reportable:<br>2A4a ceramics, 2A4b soda ash, and 2A4d other (production capacity ≥ 50 tonnes/month)<br>2B10 chemicals industry other (production capacity ≥ 20 tonnes/month)<br>2C7 metal industry other (production capacity ≥ 50 tonnes/month)<br>2G1B electrical equipment (production capacity ≥ 50 kilograms/year) |
| Inclusion of new activities | 1A2n manufacture of ceramic products by firing, in particular roofing tiles, tiles, stoneware or porcelain (production capacity ≥ 5 tonnes/day) |
| Exempted activities now reportable to the Department of Environment, Forestry and Fisheries (thresholds) | 3A2 manure management (threshold: 40 000 places for poultry)<br>3C1a biomass burning in forest lands, 3C4 direct nitrous oxide emissions from managed soils, and 3C5 indirect nitrous oxide emissions from managed soils (owning ≥ 100 hectares of plantation)<br>3D1 harvest wood products (harvest wood products produced from timber harvested from forest owner registered for reporting [see threshold defined in 3B1a and 3B1b])<br>5B other (none) |

*Source: SARS*

**Customs and excise duty**

*Postponing the collection of export taxes on scrap metal*

In 2020, export tax on scrap metals was introduced in the Customs and Excise Act (1964). It was envisaged that this export tax would take effect from 1 March 2021. The export tax on scrap metals was aimed at replacing the current price preference system, which was introduced in 2013. It is proposed that the effective date of the export tax on scrap metals be postponed to 1 August 2021 to allow SARS and taxpayers' systems to be ready and because the price preference system has been extended to 31 July 2021 or the date on which the export tax is fully implemented at a rate that is higher than 0 per cent, whichever date comes first.

*Clarifying the regulation and reporting of consolidated air cargo for exports*

Section 6(1)(hC) of the Customs and Excise Act authorises the Commissioner to make rules prescribing the places where de-grouping depots may be established, to which air cargo may be removed from a transit shed before due entry for certain activities. The provisions, however, do not currently contemplate the consolidation of air cargo at de-grouping depots for export. It is proposed that section 6(1)(hC) be amended to regulate the consolidation of air cargo for export at de-grouping depots.

*Amending the accreditation system*

SARS is amending the current accreditation system to more closely reflect the requirements of the SAFE Framework of Standards issued by the World Customs Organisation. In light of these developments, it is proposed that the Customs and Excise Act be amended accordingly.

*Adjusting the minimum thresholds for payment of refunds and underpayments of duties*

Section 76(5) of the Customs and Excise Act makes provision for the minimum thresholds for the payment of refunds by SARS, which are 50 cents for goods imported by post, R5 for goods imported and R2 in the case of excisable goods. In turn, section 47(1) provides for the same minimum thresholds in respect of underpayments of customs duties by taxpayers. To ease the administrative burden on SARS and taxpayers, it is proposed that these minimum thresholds be increased.

*Clarifying provisions dealing with less serious offences and punishment*

Under section 79(1)(e) of the Customs and Excise Act, anyone who pretends to be an officer is guilty of an offence and liable on conviction to a fine or imprisonment. The act does not specifically deal with the unlawful use or possession of a customs uniform as an offence. It is proposed that section 79 be amended to include this as an offence.

*Progress with the review of the diesel refund administration*

The 2020 *Budget Review* announced the intention to refine the first draft of the diesel refund notes and rules to the Customs and Excise Act that was published for public comment in early 2020, based on the outcome of further industry engagements. These public consultations were postponed as a result of the COVID-19 pandemic and resultant lockdown restrictions. To maintain the momentum of the review process, SARS revised the draft legislation to incorporate relevant comments and technical inputs received from various stakeholders. The second draft was published on 9 February 2021 for public comment and will, where necessary, be informed by virtual industry-specific consultations during the year.

**Tax administration**

*Tax-deductible donations*

The information required by law in the receipts issued for tax-deductible donations is limited and entities issuing the receipts are not required to provide third-party data on the donations to SARS on a systematic basis. SARS has detected that receipts are being issued by entities that are not approved to do so. To ensure that only valid donations are claimed and to enhance SARS' ability to pre-populate individuals' returns, it is proposed that the information required in the receipts be extended and third-party reporting be extended in future to cover the receipts issued.

*Aligning periods for refunds of dividends tax for cash and in-kind dividends*

SARS will only pay a valid refund of dividends tax if the claim is submitted within three years from the date of payment of a cash dividend. However, the corresponding period for a dividend in kind ends three years from the date of payment of the tax. It is proposed that the period within which a taxpayer may claim a dividends tax refund for in-kind dividends also be determined with reference to the date of payment of the dividend.

*Aligning the period allowed for farmers to replace livestock sold and tax administration rules*

Farmers are allowed to deduct the cost of livestock purchased, within a fixed period, to replace livestock sold in a previous year of assessment on account of drought, fire or other specified reasons, by

reopening the assessment for the previous year of assessment. It is proposed that the period during which assessments may be reopened and document retention requirements be aligned.

*Administrative non-compliance penalties for non-submission of six-monthly employees' tax returns*

SARS may impose a penalty for the non-submission of the six-monthly employees' tax returns by employers. The penalty is calculated as a percentage of the employees' tax for the period covered by the return. Where the employees' tax for the period is not known to SARS, due to the non-submission of monthly or six-monthly returns, the penalty can only be imposed retrospectively. This undermines the purpose and deterrent effect of the non-compliance penalty. It is proposed that SARS be enabled to raise the penalty on an alternative basis in such cases, for example through an estimate of the employees' tax with an adjustment once the actual employees' tax is known.

*Provisional taxpayers with years of assessment of six months or shorter*

Provisional taxpayers are required to make provisional tax payments within six months after the commencement of a year of assessment and then again by the end of the year of assessment. Currently, no provision is made for instances where a taxpayer has a short year of assessment, whether by reason of death, ceasing to be a tax resident, a company being incorporated during a year or a change of a company's financial year. It is proposed that a first provisional tax payment and return not be required when the duration of a year of assessment does not exceed six months.

*Review of advance tax ruling system*

Taxpayers may approach SARS to obtain advance rulings on proposed transactions, which are binding on SARS, to enhance taxpayer certainty. In line with its strategic objectives, SARS has invited public comment on the advance tax ruling process for binding rulings to assess whether it can be improved. Legislative amendments may be required to give effect to improvements identified during the consultation process.

*Review of voluntary disclosure programme*

Taxpayers may approach SARS to regularise their tax affairs to avoid criminal prosecution, understatement penalties and certain administrative non-compliance penalties. The voluntary disclosure provisions will be reviewed in 2021 to ensure that they align with SARS' strategic objectives and the policy objectives of the programme.

## Technical corrections

In addition to the amendments described above, the 2021 tax legislation will make various technical corrections, which mainly cover inconsequential items – typing errors, grammar, punctuation, numbering, incorrect cross-references, updating and removing obsolete provisions, removing superfluous text, and incorporating regulations and commonly accepted interpretations into formal law. Technical corrections also include changes to effective dates and the proper coordination of transitional tax changes.

Other technical corrections relate to modifications following the implementation of the tax law. Although tax amendments go through an intensive comment and review process, new issues arise once the law is applied (including obvious omissions and ambiguities). These issues typically arise when tax returns are prepared for the first time after the tax legislation is applied. These technical corrections are limited to recent legislative amendments.