Tax Proposals

BUDGET 2011

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Overview

Raising sufficient revenue to support projected expenditure on government's economic and social priorities will require adjustments to the tax and expenditure framework over the medium to long term. This framework should contribute towards sustainable economic growth and job creation, while addressing the significant disparities in South African society through its redistributive function.

The 2009 recession sharply reduced the income available for public expenditure, with nominal tax revenues declining in 2009/10. Revenues have improved in 2010/11 and are expected to track modest real economic growth over the medium term. Recent data suggests a strong recovery in customs duties and value-added tax (VAT) revenues during 2010/11, but the recovery in corporate income tax revenue is lagging.

The 2011 Budget tax proposals are intended to broaden the tax base in support of inclusive growth. Businesses will receive tax breaks to support skills development and job creation, particularly for young workers. Various loopholes will be closed and tax equity will be improved by reforming the tax treatment of contributions to medical schemes and contributions to retirement funds. The new dividends tax will be implemented, replacing the secondary tax on companies. Consumption-related taxes, which also address environmental and health concerns, will be increased.

Main tax proposals

The main tax proposals include:

- Personal income tax relief of R8.1 billion
- A third rebate for individuals 75 years and older
- Conversion of medical tax deductions to tax credits
- Transfer duty relief
- Higher taxes on fuel
- Higher taxes on alcohol and tobacco
- Taxation of gambling winnings.

Relief for individuals

Income tax relief for individuals

The Budget 2011 proposes direct tax relief to individuals of R8.1 billion through adjustments to personal income tax brackets and rebates. These adjustments compensate for the effects of inflation (fiscal drag).

In addition to the primary and secondary rebates, a third rebate of R2 000 per year is proposed for taxpayers 75 years and older, increasing the tax threshold for eligible individuals to R104 261.

Taxpayers with an annual taxable income of up to R270 000 will receive 50 per cent of this relief, those with an annual taxable income between R270 000 and R580 000 receive 33 per cent, those between R580 000 and R1 million receive 12 per cent and those with taxable income above R1 million receive 5 per cent.

Personal income tax provides the foundation for an equitable tax system. In 2011/12, 14.3 per cent of individual taxpayers – those with annual income between R270 000 and R580 000 – will account for 33 per cent of revenues from personal income taxes, and the 5.7 per cent of individuals with an annual taxable income above R580 000 will account for 39 per cent of personal income tax revenues.

The primary rebate is increased to R10 755 per year for all individuals. The secondary rebate, which applies to individuals aged 65 years and over, is increased to R6 012 per year. A third rebate, which applies to individuals aged 75 years and over, is introduced at R2 000 per year. The resulting income tax threshold, below which individuals are not liable for personal income tax, is increased to R59 700 of taxable income per year for those below the age of 65, and to R93 150 per year for those aged 65 and over. The tax threshold for individuals aged 75 years and over is R104 261. The rates for the 2010/11 tax year and those proposed for 2011/12 are set out below.

Personal income tax rate and bracket adjustments

2010/11		2011/12	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
R0 - R140 000	18% of each R1	R0 - R150 000	18% of each R1
R140 001 - R221 000	R25 200 + 25% of the amount above R140 000	R150 001 - R235 000	R27 000 + 25% of the amount above R150 000
R221 001 - R305 000	R45 450 + 30% of the amount above R221 000	R235 001 - R325 000	R48 250 + 30% of the amount above R235 000
R305 001 - R431 000	R70 650 + 35% of the amount above R305 000	R325 001 - R455 000	R75 250 + 35% of the amount above R325 000
R431 001 - R552 000	R114 750 + 38% of the amount above R431 000	R455 001 - R580 000	R120 750 + 38% of the amount above R455 000
R552 001 and above	R160 730 + 40% of the amount above R552 000	R580 001	R168 250 + 40% of the amount above R580 000
Rebates		**Rebates**	
Primary	R10 260	Primary	R10 755
Secondary	R5 675	Secondary	R6 012
Tax threshold		Third rebate	R2 000
Below age 65	R57 000	**Tax threshold**	
Age 65 and over	R88 528	Below age 65	R59 750
		Age 65 and over	R93 150
		Age 75 and over	R104 261

The proposed tax schedule compensates individuals for the effect of inflation on income tax liabilities and results in reduced tax liability for taxpayers at all income levels. These tax reductions are set out below.

Income tax payable by individuals younger than 65 years

Taxable income (Rands)	2010 rates (Rands)	Proposed rates (Rands)	Tax deduction (Rands)	% reduction
60 000	540	45	-495	-91.7%
65 000	1 440	945	-495	-34.4%
70 000	2 340	1 845	-495	-21.2%
75 000	3 240	2 745	-495	-15.3%
80 000	4 140	3 645	-495	-12.0%
85 000	5 040	4 545	-495	-9.8%
90 000	5 940	5 445	-495	-8.3%
100 000	7 740	7 245	-495	-6.4%
120 000	11 340	10 845	-495	-4.4%
150 000	17 440	16 245	-1 195	-6.9%
200 000	29 940	28 745	-1 195	-4.0%
250 000	43 890	41 995	-1 895	-4.3%
300 000	58 890	56 995	-1 895	-3.2%
400 000	93 640	90 745	-2 895	-3.1%
500 000	130 710	127 095	-3 615	-2.8%
750 000	229 670	225 495	-4 175	-1.8%
1 000 000	329 670	325 495	-4 175	-1.3%

Income tax payable by individuals aged 65 but below 75 years

Taxable income (Rands)	2010 rates (Rands)	Proposed rates (Rands)	Tax deduction (Rands)	% reduction
90 000	265	–	-265	-100.0%
100 000	2 065	1 233	-832	-40.3%
120 000	5 665	4 833	-832	-14.7%
150 000	11 765	10 233	-1 532	-13.0%
200 000	24 265	22 733	-1 532	-6.3%
250 000	38 215	35 983	-2 232	-5.8%
300 000	53 215	50 983	-2 232	-4.2%
400 000	87 965	84 733	-3 232	-3.7%
500 000	125 035	121 083	-3 952	-3.2%
750 000	223 995	219 483	-4 512	-2.0%
1 000 000	323 995	319 483	-4 512	-1.4%

Income tax payable by individuals aged 75 years and older

Taxable income (Rands)	2010 rates (Rands)	Proposed rates (Rands)	Tax deduction (Rands)	% reduction
100 000	2 065	–	-2 065	-100.0%
120 000	5 665	2 833	-2 832	-50.0%
150 000	11 765	8 233	-3 532	-30.0%
200 000	24 265	20 733	-3 532	-14.6%
250 000	38 215	33 983	-4 232	-11.1%
300 000	53 215	48 983	-4 232	-8.0%
400 000	87 965	82 733	-5 232	-5.9%
500 000	125 035	119 083	-5 952	-4.8%
750 000	223 995	217 483	-6 512	-2.9%
1 000 000	323 995	317 483	-6 512	-2.0%

Medical deductions and conversion to medical tax credits

Taxpayer contributions to medical schemes up to a specified monetary threshold are tax deductible, as are qualifying out-of-pocket medical expenses. The 2011 Budget proposes to increase the monthly monetary threshold for tax-deductible contributions to medical schemes from R670 to R720 for the first two beneficiaries, and from R410 to R440 for each additional beneficiary. This will become effective on 1 March 2011.

The monthly deductions for contributions to medical schemes and for qualifying out-of-pocket medical expenses will be converted into tax credits effective 1 March 2012. A tax credit provides for more equitable tax relief, as the relative value of the relief does not increase as the marginal tax rate of the individual increases, as is currently the case. A discussion document on these credits will be published by the end of March 2011.

National health insurance

Government expects that national health insurance (NHI) will be phased in over 14 years. While initial allocations are made in the 2011 Budget, the NHI system will require funding over and above current revenues allocated to public health. Preliminary analysis indicates that the phasing in of a payroll tax (payable by employers), an increase in the VAT rate and a surcharge on individuals' taxable income could be considered as funding options. The feasibility and practicality of co-payments or user charges will also be explored. Announcements about specific funding instruments will be made in the 2012 Budget.

Savings

Interest income is not taxed up to a certain threshold. As from 1 March 2011, government will increase the tax-free interest-income annual threshold from R22 300 to R22 800 for individuals below 65 years, and from R32 000 to R33 000 for individuals 65 years and over. The foreign interest-income threshold will remain at R3 700.

Several countries use tax incentives to encourage people to save towards specific goals such as education, healthcare, housing or retirement, or to promote general savings. Government will explore two incentivised savings schemes – one for housing (deposit for first-time homeowners) and another for higher education – as alternatives to tax-free interest-income thresholds.

The possibility of a more consistent tax treatment of all forms of income from capital, such as interest, dividends and capital gains, will also be considered.

Social security and retirement reforms

Tax treatment of contributions to retirement funds

Taxpayers are allowed income tax deductions for contributions to pension and retirement annuity funds. In addition, employers may contribute to retirement funds on behalf of employees. These contributions by employers are not currently taxed in the hands of employees. Several changes are proposed to improve tax administration and promote greater equity in the income tax system. From 1 March 2012:

- An employer's contribution on behalf of an employee will be deemed a taxable fringe benefit in the hands of the employee. Individuals will be allowed to deduct up to 22.5 per cent of their taxable income for contributions to pension, provident and retirement annuity funds.
- To ensure greater equity, two thresholds will be established – a minimum annual deduction of R12 000 and an annual maximum of R200 000.
- The base on which contributions to retirement funds and other social security taxes is calculated will be streamlined.

To protect workers' savings, government proposes to subject lump-sum withdrawals from provident funds to the one-third limit applying to pension and retirement annuities. The implementation date of any changes in the rules governing provident funds will be subject to thorough consultation with trade unions and other interested parties, and vested rights will be protected.

Enhanced competition for provision of living annuities

Living annuities can only be provided by long-term insurers. To encourage competition, government proposes to broaden the list of service providers allowed to provide these annuities to include collective investment schemes and the National Treasury's retail savings bond scheme.

Review tax treatment of risk benefits

To ensure equity, the tax system should not treat lump-sum payments more favourably than annuity payments. Government proposes that any compensation from the Road Accident Fund and its no-fault successor, whether as a lump-sum payment or an annuity, be exempted from income tax. At the same time, alignment of the tax treatment of risk benefits paid by private-sector funds will be investigated.

Taxation of lump sum benefits upon retirement

As from 1 March 2011, government will increase the tax-free lump sum benefit upon retirement from R300 000 to R315 000. The revised rates for the taxation of lump sums upon retirement and involuntary retrenchments are set out below.

Proposed rates Taxable lump sum	Rate of tax
0 - R315 000	0 per cent of amount
R315 001 - R630 000	R0 plus 18 per cent of amount exceeding R315 000
R630 001 - R945 000	R56 700 plus 27 per cent of amount exceeding R630 000
R945 001 and above	R141 750 plus 36 per cent of amount exceeding R945 000

Adjustment of monetary thresholds

In addition to the measures mentioned above, government proposes to increase capital gains exclusion amounts as follows as from 1 March 2011:

- For individuals and special trusts from R17 500 to R20 000 annually
- On death from R120 000 to R200 000
- On disposal of a small business when a person is over 55 years old from R750 000 to R900 000

The annual trading income exemption for public benefit organisations will increase from R150 000 to R200 000, and for recreational clubs from R100 000 to R120 000.

Gambling

Government proposes that with effect from 1 April 2012 all gambling winnings above R25 000, including those from the National Lottery, be subject to a final 15 per cent withholding tax. Similar gambling taxes exist in India, the Netherlands and the United States.

Business taxes

Dividends tax

The dividends tax will take effect on 1 April 2012, replacing the secondary tax on companies. The introduction of the tax should correct the impression that a tax on dividends is another tax on businesses: legally and economically, it will be a tax on individuals and non-resident shareholders.

Closure of dividend schemes

Several dividend schemes undermine the tax base. One method involves the use of dividend cessions, where taxpayers effectively purchase tax-free dividends without any stake in the underlying shares. Another scheme involves the receipt of dividends from shares in which the taxpayer has no meaningful economic risk (e.g. has an offsetting derivative position). Some arrangements make use of preference shares that generate allegedly tax-free dividends, while the dividends are indirectly generated from interest-yielding debt. All these schemes will be closed by treating the dividends at issue as ordinary revenue.

Internal company restructuring

The Income Tax Act (1962) provides special rules for debt cancellation and similar adjustments. Government will consider exempting otherwise taxable gains or ordinary revenue imposed on the debtor if the debt is cancelled or reduced. Relief will be limited to insolvent debtors to ensure that this does not give rise to tax avoidance.

Venture capital company

Many small and medium-sized businesses find it difficult to access equity finance. This led government to introduce the concept of a venture capital company into the Income Tax Act. The response to this vehicle has been poor and the provisions will be reviewed.

Islamic finance

The 2010 Budget announced that the taxation of Islamic financial products would be aligned with conventional financial instruments. Provisions were introduced to cover several instruments. This year the rules will address ijara products, which act like commercial finance leases. Amendments to legislation will facilitate the issue of Islamic-compliant government bonds.

Research and development tax incentive

The research and development (R&D) tax incentive is intended to encourage innovation and job creation. Government proposes to streamline the current incentive, introducing an approval process by the Department of Science and Technology before a taxpayer can claim this incentive. This should limit opportunities for retrospective reclassification of spending.

Promoting skills development and job creation

Learnership tax incentive

The learnership tax incentive, designed to support youth employment, will expire in September 2011. The tax expenditure associated with this incentive is estimated to have amounted to R324 million in 2007/08, but its effectiveness is difficult to assess. Government proposes to extend the incentive for five years, subject to an analysis of its effectiveness by businesses, sector and training authorities, and the Department of Higher Education and Training. The review will take place during 2011.

Youth employment subsidy

To support job creation, a youth employment subsidy in the form of a tax credit costing R5 billion over three years will be introduced. It will be administered by the South African Revenue Service (SARS) through the PAYE system to limit abuse, ensure maximum liquidity and ease business compliance.

Industrial development zones

To support the objectives of the industrial policy action plan and the New Growth Path, businesses making greenfield and/or brownfield investments qualify for tax relief. Greenfield investments in industrial development zones (IDZs) qualify for additional relief. Government will consider expanding incentives for labour-intensive projects in IDZs.

International taxation

Gateway into Africa – headquarter regime

During 2010, tax rules were amended to enable regional investments to flow through South Africa without being taxed. These measures were intended to encourage the development of regional investment banks and holding companies in South Africa. However, current rules could lead to double taxation. There are also concerns about the manner of imposition of residence-based taxation. These concerns will be reviewed.

Refinement of controlled foreign company legislation

The main purpose of controlled foreign company rules is to prevent South African residents from shifting passive income offshore. Some provisions are overly complex and can interfere with normal business conduct, while others create unintended loopholes. Adjustments will focus the rules without compromising their purpose.

Transfer duty

Government proposes to increase the transfer duty exemption threshold from R500 000 to R600 000. A rate of 3 per cent will be applicable to the value from R600 001 to R1 000 000; an amount of R12 000 plus 5 per cent to the value between R1.0 and R1.5 million; and an amount of R37 000 plus 8 per cent to amounts above R1.5 million. This revised rate structure will apply to properties acquired under purchase agreements concluded on or after 23 February 2011. It will also be applicable to legal persons (close corporations, companies and trusts).

Excise duties on tobacco and alcohol

The proposed adjustments to alcohol and tobacco taxes are as follows:

- The current indirect tax burden (excise duties plus VAT) as a percentage of the weighted average retail selling price for wine, clear beer and spirits at 23, 33, and 43 per cent respectively will be maintained for 2011/12. Excise duties on alcoholic beverages will be increased by between 4.5 and 10.0 per cent.
- The targeted total tax burden on tobacco products (excise duties plus VAT) is 52 per cent. Accordingly, the 2011 Budget proposes a 6 per cent increase on the excise duty for cigars, a 9 per cent increase for cigarettes, a 8.2 per cent increase for cigarette tobacco and a 10.3 per cent increase for pipe tobacco.

In the 2010 Budget, the Minister of Finance announced a review of the excise duty structure for alcoholic beverages. A discussion document will be published for public comment in July 2011.

Ad valorem excise duties

Passenger cars and light commercial vehicles are subject to a “luxury” excise tax that increases with the price of the vehicle. Government proposes to increase the maximum nominal ad valorem excise tax rate on these vehicles from 20 per cent to 25 per cent.

Ad valorem excise duties on monitors were abolished in 2004 based on the assumption that they were used as computer screens. However, some monitors are also used as televisions, which are subject to ad valorem tax. Ad valorem excise duties on monitors will be reinstated at a flat rate of 7 per cent. These amendments will take effect on 1 April 2011.

Changes in specific excise duties

Product	Current excise duty rate	Proposed excise duty rate	Percentage change Nominal	Real
Malt beer	R 50.20 / litre of absolute alcohol	R 53.97 / litre of absolute alcohol (91.75c	*7.51%*	*2.71%*
Traditional African beer	7.82c / litre	7.82c / litre	*0.00%*	*-4.80%*
Traditional African beer powder	34.70c / kg	34.70c / kg	*0.00%*	*-4.80%*
Unfortified wine	R 2.14 / litre	R 2.32 / litre	*8.41%*	*3.61%*
Fortified wine	R 4.03 / litre	R 4.33 / litre	*7.44%*	*2.64%*
Sparkling wine	R 6.67 / litre	R 6.97 / litre	*4.50%*	*-0.30%*
Ciders and alcoholic fruit beverages	R 2.52 / litre (85.69c / average 340ml can)	R 2.71 / litre (92.14c / average 340ml can)	*7.54%*	*2.74%*
Spirits	R 84.57 / litre of absolute alcohol	R 93.03 / litre of absolute alcohol	*10.00%*	*5.20%*
Cigarettes	R 8.94/ 20 cigarettes	R 9.74/ 20 cigarettes	*8.95%*	*4.15%*
Cigarette tobacco	R 9.73/ 50g	R 10.53/ 50g	*8.18%*	*3.38%*
Pipe tobacco	R 2.70/ 25g	R 2.98/ 25g	*10.25%*	*5.45%*
Cigars	R 47.66 / 23g	R 50.52 / 23g	*6.00%*	*1.20%*

It is proposed that the customs and excise duties in the Customs and Excise Act 91 (schedule 1, part 2 of section A) be amended with effect from 23 February 2011 to the extent shown below.

Specific excise duties

Tariff item	Tariff heading	Description	2010/11 Present rate of duty Excise	Customs	2011/12 Proposed rate of duty Excise	Customs
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:				
.10		Traditional African beer powder as defined in Additional Note 1 to Chapter	34.7c/kg	34.7c/kg	34.7c/kg	34.7c/kg
104.10	22.03	Beer made from malt:				
.10		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/l	7.82c/l	7.82c/l	7.82c/l
.20		Other	R 50.20/l of absolute alcohol	R 50.20/l	R 53.97/l of absolute alcohol	R 53.97/l
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):				
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:				
.02		Sparkling	R 6.67/l	R 6.67/l	R 6.97/l	R 6.97/l
.03		Unfortified wine of heading 22.04, with an alcoholic strength by volume exceeding 6.5 per cent vol. but not exceeding 16,5 per cent vol.	R 2.14/l	R 2.14/l	R 2.32/l	R 2.32/l

Tariff item	Tariff heading	Description	2010/11 Present rate of duty Excise	2010/11 Present rate of duty Customs	2011/12 Proposed rate of duty Excise	2011/12 Proposed rate of duty Customs
.04		Unfortified wine of heading 22.05, with an alcoholic strength by volume exceeding 6.5 per cent vol. but not exceeding 15 per cent vol.	R2.14/li	R2.14/li	R2.32/l	R2.32/l
.05		Fortified wine of heading 22.04 and 22.05 with an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4.03/l	R4.03/l	R4.33/l	R4.33/l
.06		Other			R93.03/li aa	R93.03/li aa
104.17	22.06	Other fermented beverages (for example, cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:				
.03		Sparkling beverages			R6.97/l	R6.97/l
.05		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/l	7.82c/l	7.82c/l	7.82c/l
.15		Other fermented beverages, unfortified, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2.52/l	R2.52/l	R2.71/l	R2.71/l
.16		Other fermented beverages, unfortified, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2.52/li	R2.52/li	R2.71/l	R2.71/l
.17		Other fermented beverages, fortified, with an alcoholic streng by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R5.15/l	R5.15/l	R38.00/li aa	R38.00/li aa
.22		Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2.52/li	R2.52/li	R2.71/l	R2.71/l
.25		Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2.52/li	R2.52/li	R2.71/l	R2.71/li
.90		Other	R84.57/li aa	R84.57/li aa	R93.03/li aa	R93.03/li aa
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength;				
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:				
.10		Wine spirits, manufactured by the distillation of wine	R84.57/li aa	R84.57/li aa	R93.03/li aa	R93.03/li aa
.15		Spirits, manufactured by the distillation of	R84.57/li aa	R84.57/li aa	R93.03/li aa	R93.03/li aa
.25		Spirits, manufactured by the distillation of	R84.57/li aa	R84.57/li aa	R93.03/li aa	R93.03/li aa
.29		Other spirits	R84.57/li aa	R84.57/li aa	R93.03/li aa	R93.03/li aa
		Liiqueurs and other spirituous beverages:				
.41		With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.			R38.00/li aa	R38.00/li aa
.42		Other	R84.57/li aa	R84.57/li aa	R93.03/li aa	R93.03/li aa

Tariff item	Tariff head-ing	Description	2010/11 Present rate of duty Excise	Customs	2011/12 Proposed rate of duty Excise	Customs
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:				
	2402.10	Cigars, cheroots and cigarillos containing tobacco:				
.01	2402.10.10	Imported from Switzerland	n/a	R2 072.31	n/a	R2 196.65
			/kg net		/kg net	
.03	2402.10.90	Other	R2 072.31	R2 072.31	R2 196.65	R2 196.65
			/kg net		/kg net	
	2402.20	Cigarettes containing tobacco:				
.05	2402.20.10	Imported from Switzerland	n/a	R4.47	n/a	R4.87
			/10 cigarettes		/10 cigarettes	
.07	2402.20.90	Other	R4.47	R4.47	R4.87	R4.87
			/10 cigarettes		/10 cigarettes	
	402.90.1	Cigars, cheroots and cigarillos of tobacco substitutes:				
.09	2402.90.12	Imported from Switzerland	n/a	R2 072.31	n/a	R2 196.65
			/kg net		/kg net	
.11	2402.90.14	Other	R2 072.31	R2 072.31	R2 196.65	R2 196.65
			/kg net		/kg net	
	402.90.2	Cigarette of tobacco substitues:				
.13	2402.90.22	Imported from Switzerland	n/a	R4.47	n/a	R4.87
			/10 cigarettes		/10 cigarettes	
.15	2402.90.24	Other	4.5	4.5	4.9	4.9
			/10 cigarettes		/10 cigarettes	
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:				
	2403.10	Smoking tobacco, whether or not containing tobacco substitutes in any proportions:				
.01	2403.10.10	Pipe tobacco, in immediate packings of a content of less than 5 kg	R108.08	R108.08	R119.16	R119.16
			/kg net		/kg net	
.03	2403.10.20	Other pipe tobacco	R108.08	R108.08	R119.16	R119.16
			/kg net		/kg net	
.05	2403.10.30	Cigarette tobacco	R194.60	R194.60	R210.51	R210.51
			/kg net		/kg net	
	2403.99	Other:				
.07	2403.99.30	Other cigarette tobacco substitutes	R194.60	R194.60	R210.51	R210.51
			/kg net		/kg net	
.09	2403.99.40	Other pipe tobacco substitutes	R108.08	R108.08	R119.16	R119.16
			/kg net		/kg net	

** Please note that the Notes to Part 1 of Schedule No. 1 will be amended to provide for the following:*

1. *"Fortified wine" means wine which is the final product of the alcoholic fermentation of the **must of fresh grapes**, to which a spirit obtained by distilling grape wine or grape marc has been added to such an extent that the alcohol strength by volume thereof is at least 15,0 per cent vol. but not exceeding 22 per cent vol.*
2. *Tariff item 104.20.41 shall only apply to liqueurs, cordials and other spirituous beverages with a-*
   *(a) **fermented** alcoholic base*
   (other than those made from beer of heading 22.03 or wine of headings 22.04 and 22.05); or
   *(b) **wine spirit** base,*
   to which other non-alcoholic ingredients have been added.

Fuel taxes

Government proposes to increase the general fuel levy by 10c/l on both petrol and diesel effective from 6 April 2011. The RAF levy will be increased by 8c/l to 80c/l on the same date.

Total combined fuel taxes on petrol and diesel

c / litre	2009/10 93 Octane petrol	2009/10 Diesel	2010/11 93 Octane petrol	2010/11 Diesel	2011/12 93 Octane petrol	2011/12 Diesel
General fuel levy	150.00	135.00	167.50	152.50	177.50	162.50
Road Accident Fund levy	64.00	64.00	72.00	72.00	80.00	80.00
Customs and excise levy	4.00	4.00	4.00	4.00	4.00	4.00
Illuminating paraffin marker	0.00	0.01	0.00	0.01	0.00	0.01
Total	**218.00**	**203.01**	**243.50**	**228.51**	**261.50**	**246.51**
Pump price: Gauteng (as in February)[1]	643.00	649.35	785.00	701.85	884.00	814.05
Taxes as % of pump price	*33.9%*	*31.3%*	*31.0%*	*32.6%*	*29.6%*	*30.3%*

1. Diesel (0.05% sulphur) wholesale price (retail price not regulated.)

Environmental taxation

Carbon tax discussion paper

As part of its response to climate change, government is considering a carbon tax. A discussion paper entitled Reducing Greenhouse Gas Emissions: The Carbon Tax Option was published for public comment in December 2010. Comments are due by the end of February 2011. The design features of a proposed tax and a schedule for its introduction will be announced in the 2012 Budget.

Electricity levy

Government proposes to increase the levy applied to electricity generated from non-renewable and nuclear energy sources by 0.5c/kWh to 2.5c/kWh from 1 April 2011. Some of this revenue will be set aside to fund the rehabilitation of roads damaged as a result of the haulage of coal for electricity generation. The increase should have no impact on electricity tariffs, because it has already been taken into account in the National Energy Regulator tariff structure.

International air passenger departure tax

From 1 October 2011, the air passenger departure tax on flights to Southern African Customs Union member states and other international destinations will increase from R80 and R150 per passenger respectively to R100 and R190 per passenger.

Tax administration

Review of the turnover tax for micro businesses

The turnover tax was implemented in 2009 to broaden the tax base and simplify tax for micro businesses with annual turnover up to R1 million. Only about 7 700 businesses have registered for this approach, of which 88 per cent were previously registered for income tax. The tax rates will be adjusted from 1 March 2011 so that a micro business only becomes liable to pay turnover tax if its turnover exceeds R150 000 (currently R100 000) a year.

From 1 March 2012, micro businesses that register for VAT will no longer be barred from registering for turnover tax. The three-year bar on voluntary deregistration from the turnover tax will also be lifted. SARS will be empowered to register unregistered micro businesses that it detects for the turnover tax.

Tax payments by individuals with more than one source of income

The Minister of Finance has received several letters from widows and widowers who have experienced increases in their tax liability subsequent to the death of a spouse. This happens in cases where the surviving spouse receives a pension from the pension fund of the deceased, from which little or no PAYE is deducted. SARS will contact such taxpayers and advise them to ask their insurance company or employer to deduct additional taxes.

Voluntary disclosure programme

To encourage taxpayers to come forward to regularise their tax affairs without the imposition of additional tax, penalties and interest, the voluntary disclosure programme that began in November 2010 will remain open until 31 October 2011. More than 1 200 applicants have already come forward under the programme.

Tax Administration Bill

The Tax Administration Bill, which incorporates several generic administrative provisions from different tax acts into one piece of legislation, will be introduced in the National Assembly during 2011.

Customs

SARS has launched its customs modernisation programme. Customs codes aligned with procedures prescribed in the Kyoto Convention have been introduced, and during 2011 automated inspection services and electronic acquittals will be implemented. Later this year, two bills will be introduced to Parliament to provide an internationally aligned legal framework that will support customs modernisation.

Audit

SARS plans to make greater use of data provided by credit bureaus to build detailed taxpayer profiles and identify non-compliance. SARS is also extending its cooperation with other tax administrations in the areas of information exchange, skills transfer and audit.

Miscellaneous tax amendments

Provided below is a series of miscellaneous tax amendments proposed for the upcoming tax legislative cycle. These amendments eliminate small anomalies to ensure a more workable tax system within the current framework (these amendments do not represent fundamental policy shifts).

Employment, individuals and savings

The anti-avoidance rules regarding share incentive schemes are constantly being refined. Well-established anti-avoidance rules exist to ensure that executives cannot readily convert salary (taxable as ordinary revenue) into capital gain. Nonetheless, this area of the law continues to give rise to tax issues because of the variety of plans and sizeable sums involved. At present, two sets of issues have emerged.

- It is arguable whether deferred taxation of share incentive schemes should give rise to the Skills Development Levy or required Unemployment Insurance Fund contributions once employees have left the employment that gave rise to the shares. The goal would be to free ex-employees of these ancillary dispensations.
- Employer-provided employment trusts appear to result in unintended double taxation and allow for the conversion of disguised salary into tax-free dividends. The goal is to ensure that one level of ordinary tax properly applies.

Refinement of employer-provided long-term insurance plans

In 2010, amendments were introduced to clarify the legal distinction between plans that protect employers against lost profits and plans covering employees (and their families) against death and disability. This distinction is important because plans for the benefit of employees should trigger fringe benefit tax for them (while employer coverage has no adverse consequence for employees). Despite these changes, certain ambiguities and peripheral issues remain, relating to potential capital gain and the use of employer plans to fund the buy-out of key deceased shareholders/ partners. It is proposed that these concerns are rationalised.

Exemption for private employment compensation entities

Compensation for death or personal injury suffered under contract of employment is largely regulated by the 1993 Compensation for Occupational Injuries and Diseases Act (COIDA). Most employees are covered by the government-controlled Compensation Fund. In addition, contributions and payouts by two privately-owned entities (both of which predate the Compensation Fund) are equally covered by COIDA. The provision of the same income and VAT exemptions as the Compensation Fund is being considered, as these entities are offering the same benefits.

Termination of the capital gain foreign currency rules

To ensure theoretical consistency, capital profits from foreign currency adjustments should be fully taxed when they are realised. Because taxing currency based on realisation can be extremely onerous, a currency pooling concept was introduced that defers any foreign currency capital gain/loss until that foreign currency is converted into a different currency. Despite this deferral, taxing individuals on their currency gains is simply impractical. The cost of compliance typically outweighs any revenue to the fiscus. Given these concerns, it is proposed that the capital gain charge for foreign currency be completely removed.

Relief for long-term commuting by the judiciary

Employees receive tax relief for company vehicles associated with work travel, but not for private travel or ordinary commuting to work. Even though this exclusion for commuting is theoretically sound, it creates unfair results for judges presiding over multiple courts or over a court that is located a long distance from the judge's home. Government provides judges with vehicles to cover these costs, and it is proposed that this unusual work-travel arrangement be eligible for tax relief.

Business

Completion of dividends tax

The new dividends tax is set to replace the secondary tax on companies from 1 April 2012. To date, most issues have been resolved with the assistance of public consultation. In 2011, final issues will be resolved, most notably:

- Inbound foreign dividends – The proposed taxation of inbound foreign dividends remains unresolved. Generally, foreign dividends are taxable at varying levels. Some dividends are exempt and others are taxable at top marginal rates (40 per cent or 28 per cent). Given the proposed changes to the taxation of domestic dividends, the exemptions and rates need to be adjusted in line with the new dividends tax.

- Foreign-owned South African branches – Foreign-owned South African branches are currently subject to tax at a 33 per cent rate instead of the standard 28 per cent rate for local companies. The 33 per cent rate serves as a simplified alternative to a branch profits tax for physical branch repatriations. However, this higher level of tax is only made possible by certain exceptions made to various non-discriminatory provisions within tax treaties. At this stage, it must be determined whether the change from a secondary tax on companies for dividends to a new dividends tax renders these exceptions null-and-void for treaty purposes, thereby calling into question the 33 per cent branch rate as a whole. When the new dividends tax comes into effect, it is proposed that this rate be reduced if discriminatory.

Revised tax rules for capital distributions and for pre-2001 capital gain assets

Dividend distributions are subject to the secondary tax on companies, while capital distributions are subject to the capital gains tax. The capital gains tax impact on capital distributions has had a checkered history. In essence, the most appropriate (and internationally acceptable) result is for capital distributions to reduce the distributing share base cost, with gains only taking effect once base cost is exceeded. However, this result has proven elusive over the years, as the pre-2001 capital gains tax rules prevent taxpayers from knowing the base cost of pre-2001 assets until disposal. Therefore, a revised and simplified system for determining the base cost of pre-2001 assets will be considered that does not require the base-cost determination of pre-2001 to be deferred until disposal. If this is achieved, the rules for capital distributions can be realigned with international practice.

Transfer of contingent liabilities

If a business is acquired as a going concern, the purchaser often assumes contingent liabilities (such as warranty obligations). These acquisitions may be taxable or tax-free. The seller is relieved of these liabilities and they are removed from the seller's books. The impact of these contingent liabilities is an issue that needs to be addressed. In the case of taxable asset acquisitions, a set of explicit rules will be established to ensure these transfers do not give rise to double deductions or double inclusions. In the case of tax-deferred reorganisations, it is proposed that contingent liabilities be completely transferred from seller to buyer.

Taxation of debt

The tax rules for interest were altered several years ago to close certain avoidance schemes. However, this alteration has given rise to technical difficulties, especially concerning debt with indefinite or indeterminable maturities. This problem exists because the interest calculation requires a set term period that is lacking. It is therefore proposed that a special calculation be used in these circumstances to reach an appropriate yield without reliance on a set a term date. It is also proposed that the disposal of debt instruments before their maturity generate ordinary revenue because the gain or loss reflects implied interest differentials to overall market rates.

Film incentive revision

Film investors are entitled to claim a full upfront deduction for production and post-production expenditure incurred due to film ownership costs. Unfortunately, this incentive has been widely abused over the years by many taxpayers who claimed deductions based on artificial expenditure. Due to previous weaknesses in the incentive, taxpayers inflated their expenditure by borrowing through artificial non-recourse loans or by incurring excessive costs imposed by connected persons. In view of these difficulties, the incentive will be transformed into a tax incentive that encourages profits.

Income tax relief for international shipping

National Treasury announced the intention to provide tax relief for the shipping industry in the 2005 Budget Review to stimulate South African shipping transport. While National Treasury remains committed in this regard, it is fully understood that tax is only one contributing factor to the shortfall in the South African shipping register. A working group consisting of all relevant government stakeholders was formed to reformulate government's policies and rebuild South Africa's shipping industry. This effort will lead to engagement with the industry and a revision of legislation, including tax relief (such as a proposed tonnage tax).

Government grants to private stakeholders

The Income Tax Act exempts certain government grants if they are approved by the Minister of Finance. This approval depends on a list of factors, but the main issue is distinguishing between: (i) grants representing an indirect form of compensation for goods and/or services that should be taxed, and (ii) other grants designed as a subsidy mainly for the benefit of the grantee. It is proposed that a new set of clear and transparent principles be established to determine this distinction.

International

Offshore cell companies

In 2010, National Treasury announced its intent to review offshore cell companies due to concerns of large-scale avoidance. After discussions with stakeholders, it is proposed that offshore cells be taxed according to their substance – as multiple-investment entities. This will trigger imputed income for each party controlling each offshore cell. Consideration will also be given to enhancing the recoupment system when funds are directly or indirectly returned to the insured parties paying the premiums.

Completion of the cross-border withholding tax

In 2010, South Africa enacted a 10 per cent withholding tax on cross-border interest payable by residents to foreign persons, while retaining the current exemption for cross-border portfolio debt. The new tax will become effective from January 2013 (the delay caused by the need to renegotiate certain tax treaties). In the meantime, the withholding enforcement mechanisms will be adjusted to enhance future South African Revenue Service (SARS) enforcement and taxpayer compliance.

Tax treaty coordination of similar taxes

Tax treaties apply to income tax and similar taxes. The scope of the term "similar taxes" is an issue, especially when the different treaties have differing lists of similar taxes. It is proposed that the income tax be amended to list all similar taxes (including the impending dividends tax and interest withholding tax) as explicitly eligible for tax treaty relief.

Company-structured management investment funds

Mutual and private equity funds are showing an increased interest in Africa, including the use of South African management to channel these funds. Unfortunately, this use of South African management triggers significant additional South African tax, even though the investment funds have a foreign origin and destination. While tax changes in 2010 have sought to alleviate certain intermediary partnership and conduit entities, the vast majority of funds use offshore intermediary companies that fall outside this new relief. It is proposed that these intermediary companies receive tax relief from the effective management test to remove the negative tax consequences associated with South African management.

South African multinational offshore restructurings

Many South African multinationals seek to restructure their offshore operations. These restructurings often occur when multinationals acquire foreign companies with inconveniently located subsidiaries and move to more efficient locations within the South African multinational group. In light of the current economic downturn, these restructurings have accelerated to reduce costs and increase efficiency. Because many of these offshore restructurings give rise to immediate tax, even if the restructured offshore entities remain wholly under the control of the South African group, it is proposed that tax relief be provided in these circumstances.

Currency transactions indirectly connected to certain foreign hedges

Foreign currency held for business use is largely taxed on an annual mark-to-market basis with certain exemptions and deferrals until actual disposition. For example, certain loans to offshore foreign subsidiaries fall outside the mark-to-market regime, as do certain currency hedges against the purchase of foreign shares. In essence, once certain assets linked to currency gains and losses are exempt, all linked instruments should also be exempt. It is proposed that a further set of linked arrangements be excluded from mark-to-market taxation. These newly exempt arrangements will include foreign bank loans used to fund further intra-group loans, the latter of which already fall outside mark-to-market taxation.

Value-added tax

VAT and transfer duty nexus

A notional VAT input credit may be claimed when a VAT vendor buys a fixed property from a non-VAT vendor. To combat abuse, this notional VAT input is currently limited to the transfer duty paid by the purchasing VAT vendor. It is proposed that the notional VAT input credit be delinked from the transfer duty payable, and that the quantum of the notional VAT input credit is set equal to the tax fraction (14/114) of the lower of the:

- Selling price (consideration) payable for the property
- Open-market value of the property
- Current municipal value of the property
- VAT-inclusive acquisition price, including improvements, by the non-vendor selling the property.

Synchronising VAT and customs for temporary import relief

The VAT exemption for temporary imports is encountering operational barriers in the case of customs duty-free imported goods. This is due to coordination issues between the VAT and customs rules. The lack of relief for temporary imports is causing problems for mining and manufacturing operations that temporarily import and upgrade foreign goods, which undermines South Africa's ability to export value-added goods. To address this issue, technical adjustments will be made to the applicable customs item number to accommodate duty-free goods.

Minimum exemption for imported services

VAT is payable on the import of goods and services into South Africa. VAT provides for a R100 minimum threshold exemption for certain imported goods, but lacks any minimum threshold exemption for imported services. A similar exemption will be introduced for the import of services, easing SARS enforcement and taxpayer compliance. Both exemptions will be set at R500.

Value correction for warehoused goods entered for home consumption

If goods in a storage warehouse are sold to a buyer and the buyer subsequently enters the goods for home consumption, VAT (and possibly customs) applies. However, the VAT Act fails to specify the value on which VAT is calculated in this case. Due to this lack of specificity, many taxpayers claim that the value is based upon entry into the warehouse, not the actual sales value. It is proposed that actual sales value be used as the most accurate value.

Relief for outstanding debt between group members

Most VAT vendors operate on an invoice (i.e. accrual) basis for calculating output tax and input credits. When a VAT vendor makes a purchase, the vendor has a "grace period" of 12 months to pay the invoice, failing which the purchaser must return the input tax claimed to SARS on the theoretical assumption that the debt will probably never be paid. Purchases between VAT vendors within a single group of companies are an issue, as the 12-month period is often commercially unrealistic with intra-group loans clearing at a later date (e.g. two to three years later). Relief from this 12-month claw-back is being considered; provided the selling group member is prevented from claiming a VAT refund before the purchaser is subject to the claw-back of VAT input credits.

Removal of mining right conversion rules

The Mineral and Petroleum Resources Development Act (2002) requires holders of old-order mineral rights to convert their rights into new-order rights after approval by the Department of Mineral Resources. New-order mineral production rights cannot last for more than 30 years, but holders can obtain approval for renewal. Although the current zero rating for conversions and renewals is designed to protect mineral-rights holders from being subject to VAT due to regulatory compliance, the zero rating is unnecessary and misplaced. These conversions and renewals should simply be viewed as a non-event (i.e. a non-supply) in line with common law and without specific legislative relief. It is proposed that the zero rating for mineral-right conversions or renewals be removed to prevent the distortion of collateral VAT issues (e.g. the VAT turnover calculation).

Manufacturer/producer rebates for retail goods

Manufacturers (or producers) may issue coupons that customers redeem when purchasing goods from dealers (or retailers). These coupons (often referred to as a rebate) are used to offset the purchase price of the goods. The question of how to fully account for these three-party relationships in VAT terms is an issue. More specifically, the customer should be prevented from claiming input credits for this full amount. These input credits should only be available for the non-coupon consideration actually incurred by the customer.

Revised starting date for alternative apportionment methods (administration)

If a vendor utilises goods or services for both taxable and other non-taxable purposes (mixed purposes), only a portion of the VAT may be claimed as input tax credits. In this regard, SARS has prescribed the use of the turnover-based method as the default method, and SARS has the discretion to approve alternative methods with retrospective effect. In theory, however, any retroactive input credits caused by the alternative method should be accompanied by a reduction in income tax offsets for the same prior periods. But this corresponding income tax reduction rarely occurs, with taxpayers receiving VAT refunds without any corresponding tax increase (i.e. without amending previously submitted tax returns). It is proposed that retroactive changes of apportionment be limited to periods within current open years of income tax assessment.

Limiting month-end cut-off changes

Vendors account for VAT according to tax periods that generally end on the last day of a calendar month, and the VAT Act allows a vendor to change the month-end cut-off date to another fixed date. This other fixed date must be within 10 days before or after the month end. However, some vendors are regularly changing their end dates solely to reduce VAT. These constant changes were never intended and are a drain on SARS enforcement. It is therefore proposed that end dates should not be changed more than once per 12-month period.

Securities transfer tax

Clarifying the broker exemption

Members of a stock exchange (brokers) are exempt from securities transfer tax. While the exemption has existed for years, its initial intent is not entirely clear. Upon review of industry practice, it appears that the exemption is used by brokers as market makers for shares to enhance liquidity and to facilitate the role of banking institutions. It is now proposed that the exemption be revised to clarify that it applies solely to players engaged as market makers.

Technical corrections

In addition to the amendments described above, the 2011 tax amendment bills (like all annual amendment bills) will contain various technical corrections. The main thrust of these technical corrections is to cover inconsequential items. These items remedy typing errors, grammar, punctuation, numbering, misplaced cross-references, misleading headings and definitions, differences between the two language texts of legislation, updating or removing obsolete provisions, the removal of superfluous text and the incorporation of regulations and commonly accepted secondary interpretations into formal law. Technical corrections further include changes to effective dates and the proper coordination of transitional tax changes.

A final set of technical corrections relates to modifications that account for practical implementation of the tax law. Although tax amendments go through an intensive comment and review process, new issues arise (including obvious omissions and ambiguities) once the law is applied. Issues of this nature typically arise when returns are prepared for the first time after legislation is implemented. Technical corrections of this nature are almost exclusively limited to recent legislative changes.

Tax policy research projects

The following tax policy research projects are under way:

- Taxation of financial derivatives.
- Taxation of long-term insurers.
- Housing tax incentive for developers. To increase the supply of affordable housing (below R300 000), the feasibility of an income tax credit for developers will be explored.
- Provincial motor vehicle licence fees. Minimum national standards to include an environmental tax component in provincial licence fee structures will be considered.
- VAT treatment of public passenger transport services. The VAT treatment of public passenger transport, rail, bus and taxi, will be reviewed with the objective to facilitate higher levels of investments in passenger transport infrastructure.
- VAT and educational accommodation. VAT treatment and apportionment rules concerning educational institutions that provide contract research and student accommodation will be reviewed.
- Estate duty. The effectiveness of estate duty (20 per cent on the net value of estates in excess of R3.5 million) is being reviewed, with several options under consideration.

- User charges and other fees. Mechanisms for the setting of user charges and administrative fees will be reviewed. The setting of such fees should be transparent and subject to public consultation, particularly where these are not regulated by an independent agency.

Impact of tax proposals on 2011/12 revenue

R million	Effect of tax proposals
Taxes on individuals and companies	**-8 350**
Personal income tax	-8 850
Adjustment in personal tax rate structure	*-8 100*
Adjustment in monetary thresholds	*-750*
Business taxes	500
Closure of dividend cession schemes	*500*
Taxes on property	**-750**
Adjustment in transfer duties	-750
Indirect taxes	**4 985**
Increase in general fuel levy	1 900
Increase in excise duties on tobacco products	1 785
Increase in Ad valorem excise duties	150
Increase in electricity levy	1 150
Budget 2011/12 proposals	**- 4 115**

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