

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 4.5 in Chapter 4 partially 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, 2018/19 (taxpayers below 65)

| Taxable income (R) | 2017/18 rates (R) | Proposed 2018/19 rates (R) | Tax change (R) | % change | Average tax rates | |
|--------------------|-------------------|----------------------------|----------------|----------|-------------------|-----------|
| | | | | | Old rates | New rates |
| 85 000 | 1 665 | 1 233 | -432 | -25.9% | 2.0% | 1.5% |
| 90 000 | 2 565 | 2 133 | -432 | -16.8% | 2.9% | 2.4% |
| 100 000 | 4 365 | 3 933 | -432 | -9.9% | 4.4% | 3.9% |
| 120 000 | 7 965 | 7 533 | -432 | -5.4% | 6.6% | 6.3% |
| 150 000 | 13 365 | 12 933 | -432 | -3.2% | 8.9% | 8.6% |
| 200 000 | 23 174 | 22 265 | -910 | -3.9% | 11.6% | 11.1% |
| 250 000 | 36 174 | 35 265 | -910 | -2.5% | 14.5% | 14.1% |
| 300 000 | 49 347 | 48 265 | -1 083 | -2.2% | 16.4% | 16.1% |
| 400 000 | 80 347 | 78 972 | -1 375 | -1.7% | 20.1% | 19.7% |
| 500 000 | 115 824 | 113 807 | -2 017 | -1.7% | 23.2% | 22.8% |
| 750 000 | 212 490 | 210 473 | -2 017 | -0.9% | 28.3% | 28.1% |
| 1 000 000 | 314 990 | 312 973 | -2 017 | -0.6% | 31.5% | 31.3% |
| 1 500 000 | 519 990 | 517 973 | -2 017 | -0.4% | 34.7% | 34.5% |
| 2 000 000 | 744 990 | 742 973 | -2 017 | -0.3% | 37.2% | 37.1% |

Source: National Treasury

Table C.2 Annual income tax payable and average tax rates, 2018/19 (taxpayers aged 65 to 74)

| Taxable income (R) | 2017/18 rates (R) | Proposed 2018/19 rates (R) | Tax change (R) | % change | Average tax rates | |
|--------------------|-------------------|----------------------------|----------------|----------|-------------------|-----------|
| | | | | | Old rates | New rates |
| 120 000 | 484 | – | -484 | -100.0% | 0.4% | 0.0% |
| 150 000 | 5 884 | 5 220 | -664 | -11.3% | 3.9% | 3.5% |
| 200 000 | 15 693 | 14 552 | -1 142 | -7.3% | 7.8% | 7.3% |
| 250 000 | 28 693 | 27 552 | -1 142 | -4.0% | 11.5% | 11.0% |
| 300 000 | 41 866 | 40 552 | -1 314 | -3.1% | 14.0% | 13.5% |
| 400 000 | 72 866 | 71 259 | -1 607 | -2.2% | 18.2% | 17.8% |
| 500 000 | 108 343 | 106 094 | -2 249 | -2.1% | 21.7% | 21.2% |
| 750 000 | 205 009 | 202 760 | -2 249 | -1.1% | 27.3% | 27.0% |
| 1 000 000 | 307 509 | 305 260 | -2 249 | -0.7% | 30.8% | 30.5% |
| 1 500 000 | 512 509 | 510 260 | -2 249 | -0.4% | 34.2% | 34.0% |
| 2 000 000 | 737 509 | 735 260 | -2 249 | -0.3% | 36.9% | 36.8% |

Source: National Treasury

Table C.3 Annual income tax payable and average tax rates, 2018/19 (taxpayers aged 75 and over)

| Taxable income (R) | 2017/18 rates (R) | Proposed 2018/19 rates (R) | Tax change (R) | % change | Average tax rates | |
|--------------------|-------------------|----------------------------|----------------|----------|-------------------|-----------|
| | | | | | Old rates | New rates |
| 150 000 | 3 393 | 2 646 | -747 | -22.0% | 2.3% | 1.8% |
| 200 000 | 13 203 | 11 978 | -1 225 | -9.3% | 6.6% | 6.0% |
| 250 000 | 26 203 | 24 978 | -1 225 | -4.7% | 10.5% | 10.0% |
| 300 000 | 39 376 | 37 978 | -1 398 | -3.5% | 13.1% | 12.7% |
| 400 000 | 70 376 | 68 685 | -1 690 | -2.4% | 17.6% | 17.2% |
| 500 000 | 105 853 | 103 520 | -2 332 | -2.2% | 21.2% | 20.7% |
| 750 000 | 202 518 | 200 186 | -2 332 | -1.2% | 27.0% | 26.7% |
| 1 000 000 | 305 018 | 302 686 | -2 332 | -0.8% | 30.5% | 30.3% |
| 1 500 000 | 510 018 | 507 686 | -2 332 | -0.5% | 34.0% | 33.8% |
| 2 000 000 | 735 018 | 732 686 | -2 332 | -0.3% | 36.8% | 36.6% |

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 21 February 2018 to the extent shown in Table C.4.

Table C.4 Specific excise duties, 2017/18 – 2018/19¹

| Tariff item | Tariff subheading | Article description | 2017/18 Rate of excise duty | 2018/19 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 | R86.39/li aa | R95.03/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 | R11.46/li | R12.43/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. | R3.61/li | R3.91/li |
| 104.15.04 | 2204.21.42 | Other | R175.19/li aa | R190.08/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. | R6.17/li | R6.54/li |
| 104.15.06 | 2204.21.52 | Other | R175.19/li aa | R190.08/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. | R3.61/li | R3.91/li |
| 104.15.15 | 2204.22.42 | Other | R175.19/li aa | R190.08/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. | R6.17/li | R6.54/li |
| 104.15.19 | 2204.22.52 | Other | R175.19/li aa | R190.08/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. | R3.61/li | R3.91/li |
| 104.15.23 | 2204.29.42 | Other | R175.19/li aa | R190.08/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. | R6.17/li | R6.54/li |
| 104.15.27 | 2204.29.52 | Other | R175.19/li aa | R190.08/li aa |

Table C.4 Specific excise duties, 2017/18 – 2018/19¹ (continued)

| Tariff item | Tariff subheading | Article description | 2017/18 Rate of excise duty | 2018/19 Rate of excise duty |
|---------------|-------------------|---|-----------------------------------|-----------------------------------|
| 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 | R11.46/li | R12.43/li |
| 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. | R3.61/li | R3.91/li |
| 104.16.04 | 2205.10.22 | Other | R175.19/li aa | R190.08/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. | R6.17/li | R6.54/li |
| 104.16.06 | 2205.10.32 | Other | R175.19/li aa | R190.08/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. | R3.61/li | R3.91/li |
| 104.16.10 | 2205.90.22 | Other | R175.19/li aa | R190.08/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. | R6.17/li | R6.54/li |
| 104.16.12 | 2205.90.32 | Other | R175.19/li aa | R190.08/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 | R11.46/li | R12.43/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 | R86.39/li aa | R95.03/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. | R86.39/li aa | R95.03/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. | R86.39/li aa | R95.03/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. | R86.39/li aa | R95.03/li aa |

Table C.4 Specific excise duties, 2017/18 – 2018/19¹ (continued)

| Tariff item | Tariff subheading | Article description | 2017/18 Rate of excise duty | 2018/19 Rate of excise duty |
|---------------|-------------------|---|-----------------------------|-----------------------------|
| 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. | R86.39/li aa | R95.03/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. | R71.82/li aa | R76.08/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. | R71.82/li aa | R76.08/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. | R86.39/li aa | R95.03/li aa |
| 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. | R71.82/li aa | R76.08/li aa |
| 104.17.90 | 2206.00.90 | Other | R175.19/li aa | R190.08/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 | R175.19/li aa | R190.08/li aa |
| 104.21.03 | 2207.20 | Ethyl alcohol and other spirits, denatured, of any strength | R175.19/li aa | R190.08/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 | R149.23/li aa | R171.07/li aa |
| 104.23.02 | 2208.20.19 | Other | R175.19/li aa | R190.08/li aa |
| 104.23 | 2208.20.9 | Other: | | |
| 104.23.03 | 2208.20.91 | Brandy as defined in Additional Note 7 to Chapter 22 | R149.23/li aa | R171.07/li aa |
| 104.23.04 | 2208.20.99 | Other | R175.19/li aa | R190.08/li aa |
| 104.23 | 2208.30 | Whiskies: | | |
| 104.23.05 | 2208.30.10 | In containers holding 2 li or less | R175.19/li aa | R190.08/li aa |
| 104.23.07 | 2208.30.90 | Other | R175.19/li aa | R190.08/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 | R175.19/li aa | R190.08/li aa |
| 104.23.11 | 2208.40.90 | Other | R175.19/li aa | R190.08/li aa |
| 104.23 | 2208.50 | Gin and Geneva: | | |
| 104.23.13 | 2208.50.10 | In containers holding 2 li or less | R175.19/li aa | R190.08/li aa |
| 104.23.15 | 2208.50.90 | Other | R175.19/li aa | R190.08/li aa |
| 104.23 | 2208.60 | Vodka: | | |
| 104.23.17 | 2208.60.10 | In containers holding 2 li or less | R175.19/li aa | R190.08/li aa |
| 104.23.19 | 2208.60.90 | Other | R175.19/li aa | R190.08/li aa |
| 104.23 | 2208.70 | Liqueurs and cordials: | | |
| 104.23 | 2208.70.2 | In containers holding 2 li or less: | | |

Table C.4 Specific excise duties, 2017/18 – 2018/19¹ (continued)

| Tariff item | Tariff subheading | Article description | 2017/18 Rate of excise duty | 2018/19 Rate of excise duty |
|---------------|-------------------|--|-----------------------------------|-----------------------------------|
| 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. | R71.82/li aa | R76.08/li aa |
| 104.23.22 | 2208.70.22 | Other | R175.19/li aa | R190.08/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. | R71.82/li aa | R76.08/li aa |
| 104.23.24 | 2208.70.92 | Other | R175.19/li aa | R190.08/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. | R71.82/li aa | R76.08/li aa |
| 104.23.26 | 2208.90.22 | Other | R175.19/li aa | R190.08/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. | R71.82/li aa | R76.08/li aa |
| 104.23.28 | 2208.90.92 | Other | R175.19/li aa | R190.08/li aa |
| 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 | R3298.56/kg net | R3578.94/kg net |
| 104.30.03 | 2402.10.90 | Other | R3298.56/kg net | R3578.94/kg net |
| 104.30 | 2402.20 | Cigarettes containing tobacco: | | |
| 104.30.05 | 2402.20.10 | Imported from Switzerland | R7.15/10 cigarettes | R7.76/10 cigarettes |
| 104.30.07 | 2402.20.90 | Other | R7.15/10 cigarettes | R7.76/10 cigarettes |
| 104.30 | 2402.90.1 | Cigars, cheroots and cigarillos of tobacco substitutes: | | |
| 104.30.09 | 2402.90.12 | Imported from Switzerland | R3298.56/kg net | R3578.94/kg net |
| 104.30.11 | 2402.90.14 | Other | R3298.56/kg net | R3578.94/kg net |
| 104.30 | 2402.90.2 | Cigarettes of tobacco substitutes: | | |
| 104.30.13 | 2402.90.22 | Imported from Switzerland | R7.15/10 cigarettes | R7.76/10 cigarettes |
| 104.30.15 | 2402.90.24 | Other | R7.15/10 cigarettes | R7.76/10 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 | R182.24/kg net | R197.73/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 | R182.24/kg net | R197.73/kg net |
| 104.35.03 | 2403.19.20 | Other pipe tobacco | R182.24/kg net | R197.73/kg net |
| 104.35.05 | 2403.19.30 | Cigarette tobacco | R321.45/kg | R348.77/kg |
| 104.35 | 2403.99 | Other: | | |
| 104.35.07 | 2403.99.30 | Other cigarette tobacco substitutes | R321.45/kg | R348.77/kg |
| 104.35.09 | 2403.99.40 | Other pipe tobacco substitutes | R182.24/kg net | R197.73/kg net |

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.

Individuals, employment and savings

Splitting of medical fees tax credits

The Income Tax Act (1962) provides a tax rebate (medical tax credit) for individuals. The medical tax credit consists of two components: medical scheme fees for approved medical scheme contributions and additional medical expenses for out-of-pocket medical payments. Government is concerned that some taxpayers may be excessively benefiting from this rebate, specifically in instances where multiple taxpayers contribute toward the medical scheme or expenses of another person (for example, adult children jointly contributing to their elderly mother's medical scheme). Where taxpayers carry a share of the medical scheme, contribution or medical cost, it is proposed that the medical tax credit should also be apportioned between the various contributors.

Clarifying the tax treatment and obligations of funds managed by bargaining councils

Bargaining councils were consulted in 2017 regarding the correct tax treatment of employee and employer contributions to, and payments from, bargaining council funds. A general consensus emerged that the majority of existing funds can be accommodated by withholding taxes on contributions at the employer level, which also has the best administrative architecture in place. Transitional arrangements can be considered for a small minority of more complicated fund types to ensure smooth implementation.

Removing the fringe benefit for preferential interest rates to employees for housing

In 2014, legislative changes were made to remove the fringe benefit that previously applied to employees with remuneration below R250 000 for the acquisition of low-cost housing with a value below R450 000. In line with government policy to promote the provision of housing, it is proposed that the relief from this fringe benefit tax be extended to loans at preferential interest rates, which are solely for housing use, made to employees who satisfy the same remuneration criteria for loans with a value of less than R450 000.

Retirement reforms

Tax treatment of contributions to retirement funds situated outside South Africa: The Income Tax Act currently exempts all retirement benefits from a foreign source for employment rendered outside of South Africa from taxation. The interaction of this exemption with double taxation agreements and other provisions of the Income Tax Act will be reviewed to ensure that the principle of allowing deductible contributions only in cases where benefits are taxable is upheld.

Align tax treatment of preservation funds upon emigration: Upon formal emigration an individual is able to withdraw the full value of their retirement annuity, after paying the applicable taxes. Government will consider aligning the tax treatment of different types of retirement fund withdrawals in such circumstances.

Allowing transfers to pension and provident preservation funds after retirement: In 2017, amendments were made to allow the transfer of pension or provident fund amounts to a retirement annuity fund after the retirement date of an employee. These amendments expanded the choice of available retirement funds if an individual decided to postpone retirement. Pension preservation and provident preservation funds were excluded as the administration required to disallow once-off withdrawals from these funds was considered too onerous. Industry consultations indicate that the system changes will not be burdensome, thus it is proposed that transfers to pension preservation and provident preservation funds be catered for in the legislation.

Rectifying tax anomalies on the transfer of retirement funds: The transfer of fund amounts between, or within, retirement funds at the same employer has inadvertently led to a tax liability for members, due to the current wording of the legislation. In principle, there should be no additional tax consequence for members if the transfers refer to amounts that have already been contributed to the retirement fund. Legislative amendments will be retrospectively introduced to correct these unintended tax liabilities.

Business (general)

Amendments resulting from the application of debt relief rules

In 2017, the Income Tax Act was amended to address the tax consequences of applying debt relief rules. Government has noted concerns about unintended consequences that may arise from the application of these tax amendments. It is proposed that further amendments be made to address these concerns.

Refining anti-avoidance rules dealing with share buybacks and dividend stripping

In 2017, anti-avoidance rules dealing with share buybacks and dividend stripping were strengthened. One of the legislative provisions specified that anti-avoidance rules would override corporate reorganisation rules to prevent taxpayers from stripping dividends out of a target company, and thereby devaluing the company, before a reorganisation transaction. It has come to government's attention that these changes may affect some legitimate transactions and arrangements. As a result, it is proposed that the interaction of these anti-avoidance rules and some of the corporate reorganisation rules be reviewed. In addition, anti-avoidance rules dealing with share buybacks and dividend stripping regarding preference shares should be clarified.

Refining rules for debt-financed acquisitions of controlling interest in an operating company

Following the proposed suspension of intra-group transactions in 2012, a special interest deduction was introduced instead of allowing implementation of debt push-down structures. Companies can claim this deduction if they used debt funding to acquire a qualifying controlling interest in an operating company. In 2015, the legislation was amended to prevent the abuse of this deduction. To qualify for this deduction, an operating company is now defined as a company where at least 80 per cent of its receipts and accruals constitute income for tax purposes. However, amendments to the current provisions are needed to clarify when this test should be applied. In addition, it is proposed that the legislation be reviewed to determine whether this test should be applied when an operating company transfers its business as a going concern to a company that forms part of the same group of companies as that operating company.

Addressing the abuse of collateral lending arrangement provisions

Since 2015, tax relief has been provided for the transfer of listed shares or both local and foreign government bonds in collateral lending arrangements. If a listed share is transferred as collateral in a lending arrangement, there are no income tax and securities transfer tax implications for 24 months. However, this means that foreign shareholders can reduce their dividends tax rate to zero by taking out a loan with a South African resident company and using the listed shares as collateral. The resident company receives a tax-free dividend and afterwards, per the collateral agreement, pays an amount (called a manufactured dividend) based on the dividend received by that resident company to that foreign company, free of dividends tax. It is proposed that legislation be amended to prevent this abuse.

Business (financial sector)*Clarifying the tax treatment of doubtful debts*

In 2015, the South African Revenue Service (SARS) Commissioner's discretion in administering the Income Tax Act was reviewed and amended in anticipation of the move to a self-assessment income tax system. In 2015, the Commissioner's discretion on a doubtful debts allowance under section 11(j) of the act was deleted with effect from a date to be announced. The intention of such a deletion was that, in future, the allowance would be claimed according to criteria set out in a public notice issued by the Commissioner. However, no criteria have been formulated for the claiming of the allowance. To provide certainty, it is proposed that the criteria for determining the allowance should instead be included in the Income Tax Act.

Clarifying tax amendments relating to long-term insurers

The Income Tax Act was amended to introduce the risk policy fund for long-term insurers, effective from 2016. The tax treatment of long-term insurers was also amended due to the introduction of the solvency assessment and management framework. Recent amendments affecting the risk policy fund did not take effect when the fund was introduced. It is proposed that the effective date of the relevant amendments be so changed.

Review of the provisions of the Income Tax Act referring only to the Johannesburg Stock Exchange

Certain provisions of the Income Tax Act refer to the Johannesburg Stock Exchange (JSE) Limited or JSE Limited listing requirements. Following the introduction of additional stock exchanges in South Africa, it is proposed that the relevant tax provisions be reviewed to include the newly introduced stock exchanges, subject to certain regulatory and transparency criteria.

Clarifying tax treatment of amounts received by portfolios of collective investment schemes

In 2009, the Income Tax Act was amended to provide for collective investment schemes operating on behalf of investors with participatory interests. Amounts (other than capital amounts) are taxable in the portfolio of a collective investment scheme unless they are distributed to participatory interest holders within 12 months of accrual. Some collective investment schemes are trading frequently and arguing, contrary to current case law, that the profits are of a capital nature. It is proposed that the current rules be clarified to provide certainty on the treatment of trading profits in this context.

Business (incentives)*Review of venture capital company rules*

The uptake of government's venture capital companies tax incentive regime, which aims to encourage investment in small and medium-sized business, has grown significantly over the past two years. However, administrative and technical issues are obstructing increased uptake. It is proposed that the legislation be amended to address rules relating to the investment income threshold limitations in the qualifying company test, as well as when the controlled company test needs to be applied. The rules relating to the connected person test also need to be reviewed, specifically the rule for retroactive withdrawal of venture capital company status.

Reviewing the write-off period for electronic communication cables

Most companies that provide telecommunications infrastructure have been moving from copper to fibre optic cables. To align the tax system with technological advances and international practice, government proposes reducing the period over which electronic communication lines and fibre optic cables are written off. Government will consider further alignment between taxpayers that own these assets and those with the right to use them.

Increasing the distribution period for small business funding entities

The Income Tax Act requires small business funding entities to distribute or incur an obligation to distribute 25 per cent of all amounts received or accrued from assets held during the tax year, excluding amounts from disposing of any of the assets held during the same tax year. However, practical difficulties arise when the small business funding entity receives an amount on the last day of the year of assessment and is consequently required to distribute or incur an obligation to distribute on the same day. It is proposed that small business funding entities be required to distribute 25 per cent of all amounts received or accrued from assets held during the tax year within 12 months of the end of the relevant tax year.

International

Overlap in the treatment of dividend in section 1 and section 31 of the Income Tax Act

There is potential overlap between the treatment of a dividend as defined under section 1 and the treatment of a dividend under the transfer pricing provisions of section 31 of the act. To remove this anomaly, it is proposed that an amount should be treated as a dividend *in specie* (an amount distributed to shareholders in a form other than cash) for purposes of applying the transfer pricing provisions of section 31, unless the amount already constitutes a dividend as defined in section 1.

Reversing exchange difference for exchange items disposed of at a loss

Currently, the Income Tax Act provides for the reversal of foreign currency exchange differences when an exchange item¹ becomes irrecoverable. It does this by reversing any exchange gains and losses relating to the portion of the exchange item that has become irrecoverable. However, the legislation does not provide relief where an exchange item is disposed of at a loss as a result of market forces and not because the debtor is unable to pay. It is proposed that the application of this relief be clarified.

Review of the definition of “international shipping income”

The definition of a South African ship limits the application of the income exemption for international shipping to South African ships only. The limitation may create unintended operational issues where a South African operator uses a replacement ship on a short-term basis, and no South African ship is available. For example, a South African shipping company may occasionally use a third-party vessel when their South African ship is undergoing maintenance, or experiencing port delays or fleet rotations. If this ship is not registered as South African, then the operator will lose the tax exemption. It is proposed that the definition of “international shipping income” be reviewed to take the issue described above into account under certain circumstances.

Taxation of short-term insurers

The Income Tax Act provisions regulating the taxation of short-term insurance apply only to short-term insurers resident in South Africa. However, the Insurance Act (2017) permits foreign reinsurers to operate reinsurance businesses in South Africa through branches rather than subsidiaries. In view of this development, the relevant provisions will be extended to apply to non-residents operating short-term insurance business through branches in South Africa.

Extension of the application of controlled foreign company rules to foreign companies held through foreign trusts and foundations

The Taxation Laws Amendment Act (2017) extended the application of controlled foreign company rules to foreign companies held through foreign trusts and foreign foundations. The draft Taxation Laws Amendment Bill (2017) developed related rules to classify distributions of discretionary foreign trusts or foreign foundations to individuals and trusts as income of the South African resident beneficiaries. This

¹ As defined in the Income Tax Act.

was done to discourage the use of trusts to defer tax or recharacterise the nature of income. However, due to the complexity and broadness of the proposal, the specific rules were withdrawn and postponed to 2018. These rules will now be considered.

Interest paid to the non-resident beneficiary of a trust

In the current tax rules regarding interest paid to a non-resident beneficiary from a trust, it is unclear who bears the withholding obligation after vesting. Furthermore, the rules dealing with trust income and beneficiaries do not deem the trust to have paid interest to beneficiaries if they are non-residents. A rule will be considered to address this anomaly.

Value-added tax

Insertion of the definition of “face value of a debt transferred”

A VAT-registered vendor is permitted to claim a deduction for VAT on taxable supplies that have to be written off, as they were provided on credit and the debt is irrecoverable, per section 22(1) of the VAT Act (1991). If the vendor cedes or sells the debt that has been written off on a non-recourse basis for an amount that is less than the amount owing, then the sale of the debt is exempt from VAT and the vendor is not required to make any adjustments to the previous VAT deduction. It has come to government’s attention that some vendors (such as collection agents or banks) that buy the book debt in terms of the abovementioned arrangement then attempt to claim a further VAT deduction if they write off all or part of this debt in future. This results in a double VAT deduction, which is against the intention of the legislation, as seen in the definition of “face value of a debt transferred” in the Explanatory Memorandum to the Taxation Laws Amendment Bill (1997). To prevent this double VAT deduction, it is proposed that the term “face value of a debt transferred” be defined in the VAT Act to take into account the policy rationale explained in the explanatory memorandum.

Postponing the abolishment of the zero-rating of the supply of goods and services for the national housing programme

In 2015, amendments were made to the VAT Act to abolish the zero-rating of the supply of goods and services for government’s national housing programme, with effect from 1 April 2017. In 2017, the legislation was amended to postpone the abolishment date for a further two years to 1 April 2019, as both the National Treasury and municipalities were not ready to enforce this change. Due to budgetary constraints, it is now proposed to postpone the effective date for this amendment indefinitely. Once confirmed, the Minister of Finance will publish the effective date in the Government Gazette.

Tax administration

Income tax

Adjusting “official rate of interest” in the Income Tax Act: The “official rate of interest” is the current repurchase rate plus 100 basis points (7.75 per cent). This rate is used to quantify the fringe benefit of low interest rate loans provided by employers and the amount of a donation for low interest loans to trusts by connected persons. Given that interest rates lower than prime are now uncommon, it is proposed that the official rate be increased to a level closer to the prime rate of interest. This would allow the benefit of lower rates to be measured with reference to a rate that approximates the rate offered by commercial banks to low-risk clients.

Dividends tax

Repeal of requirement to submit returns by persons who received exempt dividends: In order to ease the administrative burden, it is proposed that the requirement for a person receiving a tax-exempt dividend to submit a return be repealed.

Value-added tax

Correction of tax invoices: In some cases, a vendor may issue a tax invoice that includes incorrect information in addition to correct VAT, value and supply information. As the document issued by the vendor does not qualify as a tax invoice, the recipient is unable to use it to deduct input tax, and may request a new version with the correct information so that it qualifies as a tax invoice. An amendment is proposed to clarify that, under the circumstances described above, a vendor that cancels the initial document and reissues an invoice with the correct information will not be committing an offence. The amendment will also require the vendor to maintain a proper audit trail across the initially issued document, the manner of cancellation and the reissued invoice.

Credit notes for supplies after sale of an enterprise as a going concern: It is proposed that an amendment be made to clarify issuance of credit notes when an enterprise is sold as a going concern. In this case the purchaser of the enterprise will be allowed to issue a credit note for goods supplied by the seller of the enterprise and returned to the purchaser.

Special returns for VAT purposes to be retained by vendors and be available on audit: An amendment is proposed that will require a vendor to retain relevant material instead of submitting special returns to SARS.

Separate treatment of branches or divisions of a juristic person for VAT debt-collection purposes: The VAT legislation allows a vendor to register branches or divisions of a juristic person separately. Furthermore, the legislation regards such branches or divisions as separate enterprises, even though they are operated by a single person. An amendment is proposed to provide legal certainty that the provisions for collecting VAT debt will apply across all branches and divisions.

Extension of joint and several liability for VAT to members of a joint venture: An amendment is proposed to provide legal certainty that the members of a joint venture may also be jointly and severally liable for the VAT debts of that venture.

Tax treatment of cryptocurrency transactions: Cryptocurrencies are addressed by existing provisions in South African tax law. Cryptocurrencies pose risks to the income tax system as they are extremely volatile and their sustainability is uncertain. At the same time, the supply of cryptocurrency can cause administrative difficulties in the VAT system. To address these issues, it is proposed that the income tax and VAT legislation be amended.

The Tax Administration Act

Notification of commencement of an audit

It is proposed that a taxpayer be notified at the start of an audit as part of efforts to keep all parties informed.

Deregistration of non-compliant tax practitioners

An amendment is proposed to ensure that non-compliant tax practitioners are deregistered. If a tax practitioner has not complied on a continuous or repetitive basis and does not correct their behaviour after being notified by the SARS Commissioner, they will be deregistered as a tax practitioner.

Specific excise duties

Holistic reform of the diesel refund administration system and separation from the VAT system

The 2015 *Budget Review* announced the holistic reform of the diesel refund administration system. The National Treasury and SARS published a discussion document for public comment in February 2017. Extensive comments were received and processed. In 2018, the National Treasury and SARS will engage with affected industries and other role players as a next step in the reform process. These

stakeholder-specific consultations will inform the design of the new diesel refund administration system, which will be announced in Budget 2019.

The reform will also separate the diesel refund system from the VAT system. The introduction of a separate diesel refund system will supersede provisions of the VAT Act that refer specifically to the diesel refund system. It is proposed that section 16(3)(l) of the VAT Act be repealed with effect from the date at which the new diesel refund system commences.

The Diamond Export Levy Act

Rectifying an anomaly in the diamond export levy thresholds

The Diamond Export Levy Act (2007) distinguishes between large, medium and small producers, based on turnover thresholds. The larger the producer, the more stringent the requirements for sales to local cutters and polishers. To avoid penalties, at least 40 per cent of the value of large producers' sales must be sold to diamond beneficiation licence holders (local cutters and polishers). Medium-sized producers must sell at least 15 per cent to licence holders. As diamonds are traded solely in US dollars, and depreciation against the dollar since 2007 has effectively halved the turnover thresholds in US dollar terms. It is proposed that the thresholds are adjusted to reflect the original US dollar equivalents to retain the policy intent.

■ Technical corrections

In addition to the amendments described above, the 2018 tax legislation will include 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.

A final set of technical corrections relate 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 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. Technical corrections of this nature are limited to recent legislative changes.

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